

No. 20-10093

In the United States Court of Appeals for the Fifth Circuit

FRANCISCAN ALLIANCE, INC., ET AL.,
Plaintiffs-Appellants,

v.

ALEX AZAR III, SECRETARY OF THE UNITED STATES
DEPARTMENT OF HEALTH AND HUMAN SERVICES, ET AL.,
Defendants-Appellees,

v.

AMERICAN CIVIL LIBERTIES UNION OF TEXAS, ET AL.,
Intervenors-Appellees.

On Appeal from the U.S District Court for the
Northern District of Texas, Wichita Falls Division
No. 7:16-cv-00108-O

**PLAINTIFFS-APPELLANTS' UNOPPOSED MOTION FOR
EXTENSION OF TIME TO FILE OPENING BRIEF**

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cians of Illinois, LLC*

In accordance with Federal Rule of Appellate Procedure 27 and Fifth Circuit Rule 31.4, plaintiffs-appellants Franciscan Alliance, Inc., Christian Medical & Dental Society, and Specialty Physicians of Illinois, LLC, respectfully move for a 30-day extension of time on the deadline to file their opening brief. This motion is unopposed. The current deadline is May 6, 2020. Appellants previously received an extension from the original deadline of April 6.

1. There is good cause for extension occasioned by extraordinary circumstances. *See* 5th Cir. R. 31.4.1, 31.4.3.2. In particular, the extension is necessary in light of significant disruption due to COVID-19 and other litigation deadlines. Counsel for appellants represents the petitioners in two cases currently before the Supreme Court in which oral argument was initially set to be held in March and April but has been reset in light of COVID-19 for early May. One, in which appellants' counsel Mark Rizeni is counsel of record for the petitioners at the Supreme Court, is set for May 6—the current due date for appellants' opening brief here. *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, No. 19-431, 19-454. The other is set for May 11. *Our Lady of Guadalupe School v. Morrissey-Berru*, Nos. 19-267, 19-348.

2. The extension is also necessary in light of appellants' counsel's briefing deadlines in other litigation, including a Supreme Court reply brief

due April 26 (in *Little Sisters of the Poor, supra*); a Second Circuit opening brief due April 27 (in *New York v. U.S. Dep't of Health & Human Servs.*, No. 19-4254); and reply briefs on dispositive motions due on May 5, May 12, and May 13, in cases pending before the Southern District of Indiana (*Starkey v. Roman Catholic Archdiocese of Indianapolis, Inc.*, No. 1:19-cv-03153-RLY-TAB), Western District of Michigan (*St. Vincent Catholic Charities v. Ingham County Bd. of Comm'rs*, No. 1:19-cv-1050-RJJ-PJG), and Southern District of Indiana (*Fitzgerald v. Roncalli High School, Inc.*, No. 1:19-cv-04291-RLY-TAB), respectively.

3. In addition, the wife of appellants' lead counsel is due to give birth May 13.

4. Appellants have conferred with defendants- and intervenors-appellees, and no party opposes the relief sought in this motion. Its purpose is responding to the extraordinary circumstances resulting from COVID-19 and other litigation deadlines. It is not sought for delay, and no party will be prejudiced if the extension is granted.

CONCLUSION

For the foregoing reasons, appellants respectfully move that the time for filing their opening brief be extended by 30 days, to and including June 5, 2020.

Respectfully submitted,

/s/ Luke W. Goodrich

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CERTIFICATE OF CONFERENCE

On April 23, 2020, undersigned counsel conferred with counsel for defendants-appellees and intervenors-appellees, who advised that they do not oppose this request for extension of time to file appellants' opening brief.

/s/ Luke W. Goodrich
Luke W. Goodrich
Attorney for Plaintiffs-Appellants

CERTIFICATE OF COMPLIANCE

This motion complies with: (1) the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 416 words; and (2) the typeface and type style requirements of Rule 27(d)(1)(E) because it has been prepared in a proportionally spaced typeface (14-point Century Schoolbook) using Microsoft Word.

/s/ Luke W. Goodrich
Luke W. Goodrich
Attorney for Plaintiffs-Appellants

CERTIFICATE OF SERVICE

I certify that on April 24, 2020, I filed the foregoing motion by causing a digital version to be filed electronically via the Court's CM/ECF system. The participants in this case are registered CM/ECF users, and service will be accomplished by the CM/ECF system.

I further certify that: (1) any required privacy redactions have been made in compliance with Fifth Circuit Rule 25.2.13; (2) the electronic submission is an exact copy of any required paper document in compliance with Fifth Circuit Rule 25.2.1; and (3) the document has been scanned for viruses.

/s/ Luke W. Goodrich

Luke W. Goodrich
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