

**THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COMMONWEALTH OF )  
PENNSYLVANIA, )  
v. Plaintiff, ) Civil Action No. 2:17-cv-04540 (WB)  
DONALD J. TRUMP, in his official )  
capacity as President of the United States; )  
ALEX M. AZAR II, in his official )  
capacity as Secretary of Health and )  
Human Services; UNITED STATES )  
DEPARTMENT OF HEALTH AND )  
HUMAN SERVICES; STEVEN T. )  
MNUCHIN, in his official capacity as )  
Secretary of the Treasury; UNITED )  
STATES DEPARTMENT OF THE )  
TREASURY; RENE ALEXANDER )  
ACOSTA, in his official capacity as )  
Secretary of Labor; and UNITED STATES )  
DEPARTMENT OF LABOR, )  
Defendants. )

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**MOTION FOR STAY OF DISTRICT COURT PROCEEDINGS PENDING APPEAL**

Defendants hereby request a stay of further proceedings in the district court pending resolution of their appeal of the preliminary injunction entered in this case on December 15, 2017. The proposed stay would not affect the preliminary injunction, which would remain in place pending further action from the Court of Appeals. Moreover, the parties would file a status report after the Third Circuit rules, or after the U.S. Departments of Health and Human Services, Treasury, and Labor issue a new or modified rule or set of rules to finalize, replace, or amend the ones at issue in this litigation. Plaintiff does not oppose this request.

“A United States district court has broad power to stay proceedings.” *Bechtel Corp. v. Local 215, Laborers' Int'l Union of N. Am., AFL-CIO*, 544 F.2d 1207, 1215 (3d Cir. 1976). Indeed, “the power to stay proceedings is incidental to the power inherent in every court to control the

disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. North American Co.*, 299 U.S. 248, 254-55 (1936).

The appellate proceedings are relevant to, and could have a dispositive effect, on the district court litigation. For example, defendants have argued that a preliminary injunction is inappropriate because the Court lacks jurisdiction to entertain this suit. If the appellate court agrees, then any further proceedings in this Court will be unnecessary – and unwarranted. Moreover, the Third Circuit’s views of plaintiff’s likelihood of success on the merits could affect the Court’s view of defendants’ pending motion to dismiss and, if one becomes necessary, its summary judgment motion. Waiting for the court of appeals to weigh in before deciding these motions, then, could obviate the need for the Third Circuit to remand the case to this Court for additional proceedings if the appellate court views the case differently than this Court. A stay would, in short, protect the Court and the parties from unnecessarily, or imprudently, expending time or resources on this case. Plaintiff does not oppose this request.

For the above stated reasons, defendants ask the Court to stay the proceedings in this case, vacating all pending deadlines and hearings, until defendants’ appeal of the order instituting the preliminary injunction is resolved.

Dated: February 8, 2018

Respectfully Submitted,

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/s/ Justin M. Sandberg

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**CERTIFICATE OF SERVICE**

I hereby certify that, on February 8, 2018, a copy of the forgoing document was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

DATED this 8th day of February, 2018.

*s/ Justin M. Sandberg*  
JUSTIN M. SANDBERG  
Senior Trial Counsel  
United States Department of Justice