IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES HOUSE OF REPRESENTATIVES,)
Plaintiff,)
v.) Case No. 14-cv-01967-RMC
SYLVIA MATHEWS BURWELL, in her official capacity as Secretary of the United States Department of Health and Human Services, et al.,)))
Defendants.))

OPPOSITION OF PLAINTIFF UNITED STATES HOUSE OF REPRESENTATIVES TO MOTION OF ECONOMIC AND HEALTH POLICY SCHOLARS FOR LEAVE TO FILE BRIEF AS AMICI CURIAE IN SUPPORT OF DEFENDANTS

Plaintiff United States House of Representatives ("House") respectfully opposes, on timeliness grounds, the Motion of Economic and Health Policy Scholars for Leave to File Brief as *Amici Curiae* in Support of Defendants (Dec. 8, 2015) (ECF No. 58) ("Motion for Leave").

This case was filed more than a year ago, on November 21, 2014. Defendants filed their motion to dismiss on January 26, 2015. The Court heard oral argument on that motion on May 28, 2015, and ruled on that motion on September 9, 2015. On October 19, 2015, the Court denied defendants' 28 U.S.C. § 1292(b) motion, and established a schedule for briefing on the merits. All aspects of this case, including these developments in particular, have been widely reported. Accordingly, it is a given that the proposed amici have been aware of this case from the outset and could have sought leave to participate as amici in a timely fashion. They did not.

The parties are now in the middle of the merits briefing schedule, having filed their

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¹ In that motion, defendants stressed that this matter was worthy of expedited review, a position shared by the House.

motions for summary judgment on December 2, 2015. That briefing schedule is very tight, particularly the opposition round which culminates on January 4, 2016, because the opposition round spans the holiday season. The House's attorneys already have conformed their holiday plans to meet the schedule set by the Court.

Under these circumstances, the House urges the Court to deny the Motion for Leave because it is not timely and because permitting the filing of amici memoranda now will disrupt the current briefing schedule. Given that an appeal from a final judgment in this matter is very likely, the proposed amici will have ample opportunity to present their views at a later date.

If, however, the Court determines to grant the Motion for Leave, the House respectfully requests that the Court modify the current briefing schedule to provide the House with adequate time to respond thoroughly to matters raised in the proposed Brief *Amici Curiae* for Economic and Health Policy Scholars in Support of Defendants (as well as the proposed Brief of Amici Curiae Members of Congress in Support of Defendants' Motion for Summary Judgment, filed yesterday, should the Court also grant the Members' motion for leave). The House requests that the schedule be modified as follows: (i) oppositions to be due by January 15, 2016, and (ii) replies to be due by January 29, 2016.

Respectfully submitted,

/s/ Jonathan Turley
JONATHAN TURLEY, D.C. Bar No. 417674
2000 H Street, N.W.
Washington, D.C. 20052
(202) 285-8163
jturley@law.gwu.edu

KERRY W. KIRCHER, General Counsel
D.C. Bar No. 386816
WILLIAM PITTARD, Deputy General Counsel
D.C. Bar No. 482949
TODD B. TATELMAN, Sr. Assistant Counsel

ELENI M. ROUMEL, Assistant Counsel ISAAC B. ROSENBERG, Assistant Counsel D.C. Bar No. 998900 KIMBERLY HAMM, Assistant Counsel D.C. Bar No. 1020989

OFFICE OF GENERAL COUNSEL U.S. HOUSE OF REPRESENTATIVES 219 Cannon House Office Building Washington, D.C. 20515 (202) 225-9700 (telephone) (202) 226-1360 (facsimile)

Counsel for Plaintiff United States House of Representatives

December 9, 2015

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CERTIFICATE OF SERVICE

I certify that on December 9, 2015, I served one copy of the foregoing Opposition of

Plaintiff United States House of Representatives to Motion of Economic and Health Policy

Scholars for Leave to File Brief as Amici Curiae in Support of Defendants by CM/ECF on all

registered parties.

/s/ Sarah Clouse

Sarah Clouse