

IN THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

COMMONWEALTH OF PENNSYLVANIA,

Plaintiff-Appellee,

v.

PRESIDENT, UNITED STATES OF  
AMERICA et al.,

Defendants-Appellants,

and

LITTLE SISTERS OF THE POOR SAINTS  
PETER AND PAUL HOME,

Intervenor-Defendant-Appellant.

Nos. 17-3752 and 18-1253

**CONSENT AMENDED MOTION TO STAY BRIEFING SCHEDULE**

On November 9, 2018, the federal defendants and the Commonwealth of Pennsylvania moved the Court to stay the briefing schedule in these appeals pending the parties' filing of motions to govern further proceedings and the Court's disposition of those motions. At the time the motion was filed, the government and intervenor the Little Sisters had already filed their opening briefs, and Pennsylvania's response brief was due November 14, 2018. The only other party to this appeal, intervenor Little Sisters of the Poor, did not oppose the motion.

1. Because the Court had not yet ruled on the motion as of November 14, the Commonwealth that day filed an unopposed motion requesting the Court to make the Commonwealth's brief due one week after the Court rules on the November 9 motion to stay the briefing schedule, or if the motion to stay is granted, until the stay expires.

2. Both the November 9 motion to stay, and the Commonwealth's November 14 motion, remain pending at the time of the filing of this motion.

3. The November 9 motion to stay noted that in a separate letter submitted to the Court on the same date, the government proposed that the parties file motions to govern further proceedings by November 20, 2018. *See Motion, ¶ 4.*

4. Despite the federal government's best efforts, the federal defendants are still not yet in a position to provide their view on how the litigation should proceed in light of the final rules that were published in the Federal Register on November 15, 2018. The federal defendants consequently now propose that motions to govern be filed by Wednesday, November 28.

5. Because the November 9 motion to stay reflected the government's proposal that motions to govern be filed by November 20, the government files this amended motion for a stay of the briefing schedule to incorporate the government's current proposal that motions to govern now be filed by November 28, 2018.

6. Counsel for the Commonwealth and for Intervenor Little Sisters of the Poor have authorized us to represent that their clients consent to this motion.

## CONCLUSION

For the foregoing reasons, the Court should stay the current briefing deadlines pending the Court's disposition of motions to govern further proceedings and the issuance of a revised briefing schedule.

Respectfully submitted,

SHARON SWINGLE

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NOVEMBER 2018

## **CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 32(g), I hereby certify that this motion complies with the requirements of Rule 27(d)(1)(E) because it has been prepared in 14-point Century Schoolbook, a proportionally spaced font, and that it complies with the type-volume limitation of Rule 27(d)(2)(A), because it contains 389 words, according to the count of Microsoft Word.

/s/ Lowell V. Sturgill Jr.

Lowell V. Sturgill Jr.

*Counsel for the Federal*

*Government*

## **CERTIFICATE OF SERVICE**

I hereby certify that on November 19, 2018, I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the Third Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Lowell V. Sturgill Jr.

Lowell V. Sturgill Jr.