

**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.)

RESPONSE TO MOTION TO LIFT STAY

Plaintiff has filed a motion (ECF No. 81) asking the Court to lift the stay that it entered (ECF No. 73) pending resolution of Federal Defendants' appeal of an order preliminarily enjoining two interim final rules (IFRs). *See Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA*, 82 Fed. Reg. 47,792 (Oct. 13, 2017); *Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA*, 82 Fed. Reg. 47,838 (Oct. 13, 2017). (Plaintiff has also requested a status conference.) The Commonwealth intends to challenge the final versions of these rules, ECF No. 81 at 3, which were recently issued by the U.S. Departments of Health and Human Services, Labor, and the Treasury after receiving and considering thousands of comments. *See Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act*, 83 Fed. Reg. 57,536 (Nov. 15, 2018); *Moral Exemptions and Accommodations for Coverage of*

Certain Preventive Services Under the Affordable Care Act, 83 Fed. Reg. 57,592 (Nov. 15, 2018). Federal Defendants deferred taking a substantive position on Plaintiff's motion to lift the stay and for a status conference until the parties had filed briefs in the Third Circuit addressing the effect, if any, of the issuance of the final rules on the appeal. In light of these filings, and to avoid any unnecessary delays in vindicating the IFRs and final rules, Federal Defendants do not oppose Plaintiff's motion to lift the stay and for a status conference at the Court's earliest convenience.

Date: December 7, 2018

Respectfully submitted,

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s/ Justin M. Sandberg
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Counsel for Federal Defendants

CERTIFICATE OF SERVICE

I hereby certify that, on December 7, 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 7th day of December, 2018.

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