

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff-Appellant,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES; ALEX MICHAEL AZAR,
II, IN HIS OFFICIAL CAPACITY AS
SECRETARY OF HEALTH AND HUMAN
SERVICES; U.S. DEPARTMENT OF THE
TREASURY; STEVEN T. MNUCHIN, IN HIS
OFFICIAL CAPACITY AS SECRETARY OF
THE TREASURY; U.S. DEPARTMENT OF
LABOR; R. ALEXANDER ACOSTA, IN HIS
OFFICIAL CAPACITY AS SECRETARY OF
LABOR,

No. 18-1514

Defendants-Appellees.

**RESPONSE TO FEDERAL DEFENDANTS' MOTION FOR
STAY OF BRIEFING IN LIGHT OF LAPSE IN APPROPRIATIONS**

The Commonwealth of Massachusetts responds to the federal defendants' motion to stay briefing:

1. The Commonwealth takes no position on the federal defendants' request for a stay.

2. If this Court were to grant the federal defendants' request for a stay, the Commonwealth respectfully requests that the appeal be moved forward expeditiously once the stay is lifted.

3. The Commonwealth filed its opening brief with the Court on September 17, 2018.

4. The federal defendants subsequently filed two assented-to motions seeking to extend and then to stay the briefing schedule.

5. The federal defendants additionally filed a Motion to Govern Further Proceedings asking that the appeal be permitted to move forward after they issued Final Rules that replace the Interim Final Rules originally challenged by the Commonwealth.

6. On December 21, 2018, this Court issued an order allowing the appeal to continue and directing the federal defendants to file their brief by January 9, 2019.

7. The Final Rules go into effect on January 14, 2019.

8. For these reasons, if this Court were to grant the federal defendants' motion, the Commonwealth requests that the federal defendants receive no more than seven (7) calendar days from the date that new appropriations go into effect to file their brief with this Court.

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS
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Dated: January 3, 2019

CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2019 the foregoing document will be filed and served electronically through the CM/ECF system on the following counsel, who are registered as ECF filers:

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January 3, 2019