

Case No. 19-10754

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

RICHARD W. DEOTTE, on behalf of himself and others similarly situated;
YVETTE DEOTTE; JOHN KELLEY; ALISON KELLEY; HOTZE HEALTH &
WELLNESS CENTER; BRAIDWOOD MANAGEMENT, INCORPORATED, on
behalf of itself and others similarly situated,

Plaintiffs – Appellees,

v.

STATE OF NEVADA,

Movant – Appellant.

On Appeal from the United States District Court
for the Northern District of Texas
Case No. 4:18-CV-825-O

**APPELLANT'S NON-OPPOSITION TO APPELLEES' MOTION
TO SUSPEND BRIEFING AND STAY THE APPEAL**

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APPELLANT'S NON-OPPOSITION TO APPELLEES' MOTION TO SUSPEND BRIEFING AND STAY THE APPEAL

Nevada acknowledges that the Supreme Court granted certiorari in *Little Sisters of the Poor v. Pennsylvania*, No. 19-431, and *Trump v. Pennsylvania*, No. 19-454, which pertain to federal rulemaking on the same Affordable Care Act contraception provisions at issue in this case. Nevada also acknowledges that the petitioners in those cases, including the federal government, seek to provide religious objectors—similarly situated to Appellees—the same protections Appellees obtained from the district court's nationwide class action judgment at issue in this appeal.¹

Nevada disagrees with Appellees' assertion that a Supreme Court ruling allowing the Trump Administration's rules to take effect will eliminate any possible argument that could support Nevada's standing to appeal the district court's injunction and final judgment. Mot. at 2. Instead, Nevada submits that such a Supreme Court ruling would make the district court's nationwide class action judgment moot, which would also moot this appeal. If faced with these circumstances, which are not due to the actions of any current party to this case, this Court should vacate the district court's judgment as moot. *United States v.*

¹ The two rulemaking cases also address additional protections for “moral” objectors, which are not at issue in this case.

Munsingwear, Inc., 340 U.S. 36, 39-40 (1950) (vacatur appropriate where review of the judgment was prevented through happenstance).

Under such circumstances, Nevada is not opposed to suspending briefing and staying the appeal pending the Supreme Court's decisions on the two federal rulemaking cases.

CONCLUSION

The State of Nevada does not oppose Appellees' motion.

Dated: January 27, 2020,

SUBMITTED BY:

s/Heidi Parry Stern
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CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF System on January 27, 2020. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: January 27, 2020.

s/Heidi Parry Stern
An employee of the Office of the Nevada
Attorney General

CERTIFICATE OF COMPLIANCE

1. This document complies with the word limit of FED. R. APP. P. 32(a)(7)(B) because, excluding the parts of the document exempted by FED. R. APP. P. 32(f), this document contains 251 words.
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Dated: January 27, 2020.

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