

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COMMONWEALTH OF)
PENNSYLVANIA,)
v. Plaintiff,) Civil Action No. 2:17-cv-04540 (WB)
JOSEPH R. BIDEN, in his official)
capacity as President of the United States,)
et al.,¹)
Defendants.)

**MOTION FOR A STAY OF PROCEEDINGS OR, IN THE ALTERNATIVE, AN ORDER
HOLDING THE PENDING DISPOSITIVE MOTIONS IN ABEYANCE**

Federal Defendants hereby move for a stay of proceedings or, in the alternative, an order holding the pending dispositive motions in abeyance, until April 30, 2021, to allow new leadership at Federal Defendant agencies and the U.S. Department of Justice to evaluate the issues presented by this case.

1. This case involves a challenge to final rules the defendant agencies issued in 2018 expanding the prior religious exemption to the contraceptive coverage requirement and creating a new moral exemption. *See Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA*, 83 Fed. Reg. 57,536 (Nov. 15, 2018); *Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA*, 83 Fed. Reg. 57,592 (Nov. 15, 2018).
2. This Court entered a preliminary injunction; the judgment was reversed and remanded by the Third Circuit on August 21, 2020, following the Supreme Court's decision in *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S. Ct. 2367 (2020).

¹ President Biden, Acting Secretary of Health and Human Services Norris Cochran, Acting Secretary of Labor Al Stewart, and Secretary of Treasury Janet Yellen have been substituted as defendants, in their official capacities, by operation of Federal Rule of Civil Procedure 25(d).

3. The Court has before it fully briefed dispositive motions. *See, e.g.*, ECF Nos. 252, 254, 255.
4. The Court has the inherent power to stay this case to save “time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). Relatedly, the Court has the power to hold motions in abeyance. *See, e.g., Bracey v. Lancaster Foods LLC*, 2019 WL 1129436, at *6 (D. Md. Mar. 12, 2019), *appeal dismissed*, 2020 WL 7385192 (4th Cir. Dec. 16, 2020).
5. New leadership at the federal defendant agencies—the U.S. Department of Health and Human Services, the U.S. Department of Labor, and the U.S. Department of the Treasury—and the U.S. Department of Justice is currently in the process of arriving and needs additional time to evaluate the issues that this case presents. It would therefore conserve the resources of the Court and the parties to stay the case or, in the alternative, hold the pending dispositive motions in abeyance, until April 30, 2021, while the agencies undertake this evaluation.
6. Federal Defendants propose to file a status report with the Court on or before April 30, 2021.
7. On March 2, 2021, in a similar case in the Northern District of California, *State of California v. Cochran*, 17-cv-5783 (N.D. Cal.), the Court decided to hold pending dispositive motions in abeyance until April 30, 2021. The Court also instructed Federal Defendants to file a status report on or before April 30, 2021.
8. Plaintiffs’ counsel represents that Plaintiffs oppose any motion for a stay, or to hold the pending dispositive motions in abeyance, that is filed before the status conference scheduled for March 11, 2021. Counsel for the intervenor, The Little Sisters of the Poor, states that their client opposes this motion.
9. Therefore, the Government hereby moves for a stay of proceedings in this case or an order holding the pending dispositive motions in abeyance, until April 30, 2021, to permit new leadership to evaluate the issues presented by this case.

DATED: March 5, 2021

Respectfully submitted,

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/s/ Justin M. Sandberg

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CERTIFICATE OF SERVICE

I hereby certify that, on March 5, 2021, 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 5th day of March, 2021.

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

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[PROPOSED] ORDER

The Court, having considered the Federal Defendants' motion to stay proceedings in this case, hereby GRANTS the motion and STAYS the case until April 30, 2021. Federal Defendants shall file a status report on or before April 30, 2021.

IT IS SO ORDERED, this _____ day of _____, 2021.

HON. WENDY BEETLESTONE
United States District Judge