

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

BAGLY, *et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND  
HUMAN SERVICES, *et al.*,

Defendants.

Civil Action No. 20-cv-11297-PBS

**JOINT MOTION TO MODIFY BRIEFING SCHEDULE ON MOOTNESS**

Plaintiffs and Defendants hereby respectfully file this joint motion for an order under Fed. R. Civ. P. 6(b), modifying the briefing schedule on mootness, ECF No. 160. The parties submit the following in support of this motion:

1. A Final Rule implementing Section 1557 of the Affordable Care Act was made available for public inspection on April 26, 2024, and was published in the Federal Register on May 6, 2024. *Nondiscrimination in Health Programs and Activities*, 89 Fed. Reg. 37,522 (May 6, 2024).
2. On June 5, 2024, the Court ordered briefing as to whether the case is moot “if the parties disagree on mootness.” ECF No. 160.
3. The parties disagree on mootness, as set forth in the June 12, 2024 joint status report.
4. The time for the parties to submit briefing on mootness has not yet expired. The parties’ current deadline is June 21, 2024. ECF No. 160.
5. The parties propose a seriatim briefing schedule on mootness. This proposed schedule will promote both the cogency of Plaintiffs’ and Defendants’ arguments, as the parties will be able to respond to the arguments advanced by opposing counsel, and judicial economy, as no additional

motions for leave of Court to file a reply brief will be needed.

6. The parties therefore move to modify the briefing schedule. The parties have met and conferred and jointly propose the below-outlined schedule, with the hearing date to be reset by the Court. Counsel respectfully requests that the hearing date be scheduled either before August 28, 2024, or after September 11, 2024, in consideration of counsel for Defendants' unavailability during this period.

<b>Event</b>	<b>Due Date</b>
<b>Defendants' opening brief</b>	June 24, 2024
<b>Plaintiffs' response brief</b>	July 22, 2024
<b>Defendants' reply brief</b>	August 12, 2024
<b>Hearing Date</b>	_____, 2024

7. Alternatively, if the Court wishes to order simultaneous briefing on mootness, the parties propose that their briefs be submitted on July 12, 2024, with the hearing date to be reset by the Court.

8. This motion is not being made for the purpose of delay. It is made based on the need to adequately brief the issues presented, the press of other business for Plaintiffs' and Defendants' counsel, and the parties' interest in aiding the Court in its decision on mootness.

THEREFORE, the parties respectfully request that the Court issue an order modifying the briefing schedule on mootness.

A proposed order is attached.

Dated: June 12, 2024

Respectfully submitted,

/s/ Gregory F. Noonan

Gregory F. Noonan  
(BBO# 651035)  
Safa Osmani  
(BBO# 697034)  
HOGAN LOVELLS US LLP  
125 High Street  
Boston, MA 02110  
(617) 371-1000  
gregory.noonan@hoganlovells.com  
safa.osmani@hoganlovells.com

Jessica L. Ellsworth\*  
Jo-Ann Sagar\*  
HOGAN LOVELLS US LLP  
555 Thirteenth Street, NW  
Washington, DC 20004  
(202) 637-5600  
jessica.ellsworth@hoganlovells.com  
jo-ann.sagar@hoganlovells.com

Peter William Bautz\*  
HOGAN LOVELLS US LLP  
390 Madison Avenue  
New York, NY 10017  
(212) 918-3000  
peter.bautz@hoganlovells.com

Sydney Duncan\*  
Shayna Medley\*  
TRANSGENDER LEGAL DEFENSE &  
EDUCATION FUND  
520 8th Avenue, Suite 2204  
New York, NY 10018  
(646) 898-2205  
sduncan@transgenderlegal.org  
smedley@transgenderlegal.org

Dale Melchert\*  
TRANSGENDER LAW CENTER  
P.O. Box 70976  
Oakland, CA 94612  
(510) 407-6367  
dale@transgenderlawcenter.org

Michelle Banker\*  
Alison Tanner\*  
Kenna Titus\*  
NATIONAL WOMEN'S LAW CENTER  
1350 Eye Street NW, Suite 700  
Washington, DC 20002  
(202) 588-5180  
mbanker@nwlc.org  
atanner@nwlc.org  
kstitus@nwlc.org

Lynly Egyes\*  
TRANSGENDER LAW CENTER  
594 Dean Street  
Brooklyn, NY 11238  
(973) 454-6325  
lynly@transgenderlawcenter.org

Maryanne I. Tomazic\*  
CENTER FOR HEALTH LAW AND POLICY  
INNOVATION  
Harvard Law School  
1585 Massachusetts Avenue  
Cambridge, MA 02138  
(617) 496-1668  
mtomazic@law.harvard.edu

*\*Admitted Pro Hac Vice  
Counsel for Plaintiffs*

/s/ Liam C. Holland  
Liam C. Holland (BBO# 704799)  
United States Department of Justice, Civil  
Division  
Federal Programs Branch  
P.O. Box 883  
Washington, DC 20044  
(202) 514-4964  
liam.c.holland@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on June 12, 2024, a copy of the foregoing was filed and served via ECF on all counsel of record.

/s/ Gregory F. Noonan  
Gregory F. Noonan

**LOCAL RULE 7.1(a)(2) CERTIFICATION**

Pursuant to Rule 7.1(a)(2), undersigned counsel hereby certifies that counsel for Plaintiffs conferred with counsel for Defendants, who assents to this Motion.

/s/ Gregory F. Noonan  
Gregory F. Noonan

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**[PROPOSED] ORDER**

Upon consideration of the parties' Joint Motion to Modify the Briefing Schedule on Mootness, and for good cause shown, it is hereby

ORDERED that the parties' Joint Motion is GRANTED. Defendants shall file an opening brief on mootness on June 24, 2024, with Plaintiffs' response brief due on July 22, 2024, and Defendants' reply due on August 12, 2024; and it is further

ORDERED that argument will be heard on \_\_\_\_\_, 2024.

**SO ORDERED.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Honorable Patti B. Saris  
United States District Judge