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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff,

v.

ALEX M. AZAR II, Secretary of U.S. Department of Health and Human Services; ROGER SERVERINO, Director, Office for Civil Rights, Department of Health and Human Services; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; and DOES 1-25,

Defendants.

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No. C 19-02405 WHA  
*Related to*  
No. C 19-02769 WHA  
No. C 19-02916 WHA

**ORDER RE STIPULATED  
REQUEST AND BRIEFING  
SCHEDULE**

With respect to the stipulated request, the Court enters the following order:

1. Pursuant to 5 U.S.C. § 705, this order approves the stipulated request and hereby orders that the effective date of the rule titled Protecting Statutory Conscience Rights in Health Care; Delegations of Authority, 84 Fed. Reg. 23, 170 (May 21, 2019) is postponed to **NOON ON NOVEMBER 22, 2019.**
2. This order further approves the stipulated request to hold the preliminary injunction motions in abeyance. The preliminary injunction briefing schedule is **VACATED.**
3. The parties' requested summary judgment schedule is too generous to counsel and too stingy to the Court, meaning the judge is left with too

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little time to hold a hearing and make a ruling by November 22.

Accordingly, the following schedule will be used.

- a. **JULY 22, 2019:** HHS lodges the administrative record.
- b. **AUGUST 21, 2019 AT NOON:** Defendants file their motion for summary judgment.
- c. **SEPTEMBER 12, 2019 AT NOON:** Plaintiffs file their opposition and cross-motion for summary judgment.
- d. **SEPTEMBER 26, 2019 AT NOON:** Defendants file their reply and opposition.
- e. **OCTOBER 10, 2019 AT NOON:** Plaintiffs file their reply.
- f. **OCTOBER 30, 2019 AT 8:00A.M.:** The Court holds a hearing on the cross-motions. The parties will hold available the entire day because the Court may have trial on that day, and this hearing may be postponed until later in the afternoon.

Defendants shall file a single opening brief limited to **40 PAGES** in 12 point font. The Court realizes that on motions for preliminary injunction, the Court allowed defendants to file a 55-page opposition brief. However, that excessive page limit was allowed only because defendants found themselves in a bind and needed to recycle essentially the same brief used in a different court.

Plaintiffs shall file a single opposition and cross-motion for summary judgment limited to **40 PAGES** in 12 point font.

Defendants' reply/opposition shall be limited to **20 PAGES** in 12 point font. Plaintiffs' reply shall be limited to **20 PAGES** in 12 point font. Replies shall not include declarations or evidentiary exhibits unless they are genuine rebuttals to points that could not have been foreseen in the immediately preceding brief.

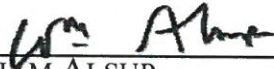
Defendants' amicus briefs shall be filed at or before their motion for summary judgment is due. Plaintiffs' amicus briefs shall be filed at or before their opposition and cross-motion for

1 summary judgment is due. Each amicus brief is limited to **15 PAGES** in 12 point font. There  
2 shall be no attachments or declarations.

3 Any declarant in any declaration must make themselves promptly available for  
4 deposition. The foregoing schedule presumes that a proper administrative record will be filed  
5 and that there will be no substantive litigation concerning the scope of the administrative record.  
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8 **IT IS SO ORDERED.**  
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11 Dated: July 1, 2019.

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14 WILLIAM ALSUP  
15 UNITED STATES DISTRICT JUDGE  
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United States District Court  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff,

v.

ALEX M. AZAR II, Secretary of U.S. Department of Health and Human Services; ROGER SERVERINO, Director, Office for Civil Rights, Department of Health and Human Services; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; and DOES 1-25,

Defendants.


No. C 19-02405 WHA  
*Related to*  
No. C 19-02769 WHA  
No. C 19-02916 WHA

**ORDER RE STIPULATED REQUEST**

In light of the parties' stipulated request, the motion for preliminary injunction is held in abeyance. No brief is due on July 1, 2019. A further order will address the remainder of the stipulated request.

**IT IS SO ORDERED.**

Dated: June 29, 2019.

  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE



1 JOSEPH H. HUNT  
Assistant Attorney General

2 MICHELLE BENNETT  
Assistant Branch Director  
3 Civil Division

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10 *Attorneys for Defendants*

11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**  
13 **SAN FRANCISCO DIVISION**

14 CITY AND COUNTY OF SAN  
FRANCISCO,

15 Plaintiff,

16 vs.

17 ALEX M. AZAR II, et al.,

18 Defendants.

19 STATE OF CALIFORNIA, by and through  
ATTORNEY GENERAL XAVIER  
BECERRA,

20 Plaintiff,

21 vs.

22 ALEX M. AZAR II, et al.,

23 Defendants.

24 COUNTY OF SANTA CLARA et al.,

25 Plaintiffs,

26 vs.

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

28 Defendants.

No. C 19-02405 WHA  
*Related to*  
No. C 19-02769 WHA  
No. C 19-02916 WHA

**STIPULATED REQUEST FOR AN  
ORDER TO POSTPONE RULE'S  
EFFECTIVE DATE; HOLD  
PLAINTIFFS' MOTIONS FOR A  
PRELIMINARY INJUNCTION IN  
ABEYANCE; AND SET SUMMARY  
JUDGMENT BRIEFING SCHEDULE  
[5 U.S.C. § 705]**

Hon. William Alsup  
Hearing: July 17, 2019, 8:00 a.m.

Phillip Burton Federal Building & United  
States Courthouse, Courtroom 12, 19th  
Floor,  
450 Golden Gate Ave., San Francisco, CA  
94102

1 Subject to the Court’s approval and pursuant to Local Civil Rules 6-2 and 7-12, the parties through  
2 their undersigned counsel of record HEREBY STIPULATE as follows:

- 3 1. At present, Defendants’ opposition to Plaintiffs’ motions for a preliminary injunction is due on  
4 July 1, 2019, Plaintiffs’ reply is due on July 8, 2019, and a hearing is scheduled on July 17, 2019.
- 5 2. The U.S. Department of Health and Human Services (HHS) stipulates to the requested  
6 postponement of the effective date of the rule titled Protecting Statutory Conscience Rights in  
7 Health Care; Delegations of Authority, 84 Fed. Reg. 23,170 (May 21, 2019) [hereinafter Final  
8 Rule], until November 22, 2019. HHS stipulates to this delay because it is the most efficient way  
9 to adjudicate the Final Rule on the merits. HHS does not concede that Plaintiffs are “likely to  
10 succeed on the merits, that [they are] likely to suffer irreparable harm in the absence of preliminary  
11 relief, that the balance of equities tips in [their] favor, [or] that an injunction is in the public  
12 interest.” *See Winter v. NRDC*, 555 U.S. 7, 20 (2008).
- 13 3. Plaintiffs maintain that—for the reasons expressed in their motions for a preliminary injunction  
14 and their opposition to Defendants’ motion to hold their motions for preliminary injunction in  
15 abeyance—they would suffer various irreparable injuries were the Rule’s effective date not  
16 postponed.
- 17 4. The parties request that the Court issue an order, pursuant to 5 U.S.C. § 705, that the effective date  
18 of the Final Rule is postponed until November 22, 2019.
- 19 5. The parties further request, in light of this postponement, that the Court hold Plaintiffs’ motions  
20 for a preliminary injunction in abeyance, vacate the preliminary injunction briefing schedule and  
21 hearing date set forth in its June 27, 2019 order, and enter the following schedule:
  - 22 a. July 22, 2019: HHS lodges the administrative record.
  - 23 b. September 5, 2019: Defendants file their motion for summary judgment.
  - 24 c. September 27, 2019: Plaintiffs file their opposition and cross-motion for summary  
25 judgment.
  - 26 d. October 11, 2019: Defendants file their reply and opposition.
  - 27 e. October 25, 2019: Plaintiffs file their reply.



f. November 7, 2019 (or another date that is convenient for the Court and that will permit a decision before November 22, 2019): The Court holds a hearing on the cross-motions.

Dated: June 28, 2019

Respectfully Submitted,

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*of the D.C. Bar. To be admitted pro hac vice*  
\*\*\**Application for admission pro hac vice in*  
*process.*



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**[PROPOSED] ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED. Pursuant to 5 U.S.C. § 705, the effective date of the Final Rule is postponed until November 22, 2019. Plaintiffs' motions for a preliminary injunction are held in abeyance, the preliminary injunction briefing schedule and hearing date set forth in the Court's June 27, 2019 order is vacated, and the schedule set forth in the above stipulation is entered. This order is without prejudice to the merits, which will be adjudicated following briefing on the parties' cross-motions for summary judgment.

Dated: \_\_\_\_\_

\_\_\_\_\_  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

**RULE 5-1(i)(3) ATTESTATION**

I, Benjamin T. Takemoto, attest pursuant to Rule 5-1(i)(3) of the Local Rules of Practice in Civil Proceedings before the United States District Court for the Northern District of California that I have obtained the concurrence in the filing of the above joint case management statement from Sara J. Eisenberg, counsel for the City and County of San Francisco, Neli N. Palma, counsel for the State of California, and Miriam R. Nemetz, counsel for the plaintiffs in *County of Santa Clara v. HHS*.

/s/ Benjamin T. Takemoto  
Benjamin T. Takemoto

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Assistant Attorney General

2 MICHELLE BENNETT  
3 Assistant Branch Director  
Civil Division

4 REBECCA M. KOPPLIN  
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6 BENJAMIN T. TAKEMOTO  
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11 *Attorneys for Defendants*

12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
14 **SAN FRANCISCO DIVISION**

15 CITY AND COUNTY OF SAN  
16 FRANCISCO,

17 Plaintiff,

18 v.

19 ALEX M. AZAR II, *in his official capacity as*  
20 *Secretary of Health and Human Services,*  
21 ROGER SEVERINO, *in his official capacity*  
22 *as Director of the United States Department of*  
23 *Health and Human Services Office for Civil*  
24 *Rights, and*  
25 UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,

26 Defendants.

No. C 19-02405 WHA  
*Related to*  
No. C 19-02769 WHA  
No. C 19-02916 WHA

**DECLARATION OF BENJAMIN T.  
TAKEMOTO IN SUPPORT OF THE  
PARTIES' STIPULATION**

Hon. William Alsup  
Hearing: July 17, 2019, 8:00 a.m.

Phillip Burton Federal Building & United  
States Courthouse, Courtroom 12, 19th  
Floor,  
450 Golden Gate Ave., San Francisco, CA  
94102

1 I, Benjamin T. Takemoto, declare as follows:

- 2 1. I am a trial attorney at the Federal Programs Branch of the Civil Division of the United States  
3 Department of Justice. I represent Defendants in this case.
- 4 2. The statements made herein are based on my personal knowledge and on information made  
5 available to me in the course of my representation of Defendants.
- 6 3. The requested schedule is warranted in light of the delayed effective date of the Final Rule. There  
7 is no longer an imminent need to resolve Plaintiffs' motions for a preliminary injunction.  
8 Furthermore, the parties and the Court will benefit from a more deliberate briefing schedule that  
9 addresses the merits of this case.
- 10 4. There has been one previous time modification in this case: the Court extended the deadline for  
11 Defendants' opposition to Plaintiffs' motions for a preliminary injunction from June 26, 2019 to  
12 July 1, 2019.
- 13 5. The requested schedule would obviate the need for the preliminary injunction briefing schedule  
14 and hearing date set forth in the Court's June 27, 2019 order.

15 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and  
16 correct.

17 Executed on June 28, 2019.

/s/ Benjamin T. Takemoto  
BENJAMIN T. TAKEMOTO