

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

TEXAS, WISCONSIN, ALABAMA,
ARKANSAS, ARIZONA, FLORIDA,
GEORGIA, INDIANA, KANSAS,
LOUISIANA, PAUL LePAGE, Governor of
Maine, Governor Phil Bryant of the State of
MISSISSIPPI, MISSOURI, NEBRASKA,
NORTH DAKOTA, SOUTH CAROLINA,
SOUTH DAKOTA, TENNESSEE, UTAH,
WEST VIRGINIA, NEILL HURLEY, and
JOHN NANTZ,

Plaintiffs,

v.

UNITED STATES OF AMERICA, UNITED
STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES, ALEX AZAR, in his
Official Capacity as SECRETARY OF
HEALTH AND HUMAN SERVICES,
UNITED STATES INTERNAL REVENUE
SERVICE, and DAVID J. KAUTTER, in his
Official Capacity as Acting COMMISSIONER
OF INTERNAL REVENUE,

Defendants.

CALIFORNIA, CONNECTICUT, DISTRICT
OF COLUMBIA, DELAWARE, HAWAII,
ILLINOIS, KENTUCKY,
MASSACHUSETTS, MINNESOTA by and
through its Department of Commerce, NEW
JERSEY, NEW YORK, NORTH CAROLINA,
OREGON, RHODE ISLAND, VERMONT,
VIRGINIA, and WASHINGTON,

Intervenor-Defendants.

Civil Action No. 4:18-cv-
00167-O

**INTERVENOR-DEFENDANTS' (1) MOTION FOR EXPEDITED
CONSIDERATION, (2) CLARIFICATION OR STAY, AND (3)
ENTRY OF PARTIAL FINAL JUDGMENT UNDER RULE 54(b) OR
CERTIFICATION UNDER 28 U.S.C. § 1292(b)**

The Intervenor-Defendants the States of California, Connecticut, Delaware, Hawaii, Illinois, Kentucky, Massachusetts, Minnesota, New Jersey, New York, North Carolina, Oregon, Rhode Island, Vermont, Virginia, and Washington, and the District of Columbia respectfully move this Court for:

- (1) Expedited consideration of this Motion because the Defendant States and the public will be irreparably injured absent an immediate clarification or stay.
- (2) An order clarifying that the December 14, 2018 Order (ECF No. 211) does not relieve the parties to this litigation—or any other State, entity, or individual—of their rights and obligations under the Patient Protection and Affordable Care Act (ACA) until appellate review is complete; or, in the alternative, an order staying the effect of the December 14, 2018 Order (ECF No. 211) pending appeal; and
- (3) An order directing the entry of a partial final judgment under Federal Rule of Civil Procedure 54(b), in accordance with the terms of the Court’s December 14, 2018 Order, or, in the alternative, an order certifying the Court’s December 14, 2018 Order (ECF No. 211) for interlocutory appeal under 28 U.S.C. § 1292(b).

The Defendant States specifically request that the Court expedite consideration of the Motion and issue a ruling by December 21, 2018, in order to avoid extraordinary disruption prior to January 1, 2019, the date upon which this Court has held the entirety of the Patient Protection and Affordable Care Act becomes unconstitutional. Moreover, it is in the interest of the parties and the nation to efficiently and expeditiously achieve appellate resolution of the important legal questions presented in this case.

In support of this motion, the Defendant States rely on their accompanying Brief. A proposed order is attached.

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Dated: December 17, 2018

Respectfully submitted,

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Senior Assistant Attorney General
Kathleen Boergers
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/s/ Neli N. Palma

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CERTIFICATE OF CONFERENCE

Counsel for movants conferred by telephone call on December 17, 2018, with counsel to Federal Defendants and counsel to Plaintiffs regarding the relief sought in this motion. The parties represented that they are still assessing the Court's Order and cannot yet take a position on the relief that is being requested.

/s/ Neli N. Palma

CERTIFICATE OF SERVICE

On December 17, 2018, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5 (b)(2).

/s/ Ashley Harrison