

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES HOUSE OF REPRESENTATIVES,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:14-cv-01967-RMC
)	
SYLVIA MATHEWS BURWELL , in her official)	
capacity as Secretary of Health and Human Services, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**DEFENDANTS’ MOTION TO DEFER THE FILING
OF A JOINT PROPOSED BRIEFING SCHEDULE**

The defendants have filed a motion, concurrent with this filing, which asks this Court to certify its Order of September 9, 2015 for interlocutory appeal pursuant to 28 U.S.C. § 1292(b). The defendants respectfully request that the Court defer the deadline for the parties to file a joint proposed briefing schedule until seven (7) days after the disposition of defendants’ pending motion for certification of this Court’s Order for interlocutory appeal and, if the Order is certified, final resolution of the interlocutory appeal. In support of this motion, the defendants state as follows:

1. On September 9, 2015, this Court entered an Order that granted the defendants’ motion to dismiss the complaint in part, and that denied the motion to dismiss in part. ECF No. 42.
2. In the same Order, this Court directed “that the parties shall meet, confer, and file by September 23, 2015 a jointly proposed briefing schedule for dispositive motions.” *Id.*
3. The defendants have filed a motion, concurrent with this filing, which asks this Court to certify its Order of September 9, 2015 for interlocutory appeal pursuant to 28 U.S.C.

§ 1292(b). For the reasons explained in that motion, the Order involves a controlling question of law as to which there are substantial grounds for difference of opinion, and an immediate appeal would advance the termination of this litigation. As that motion explains, this Court “should not hesitate to certify an interlocutory appeal” of its Order, which “involves a new legal question,” and which addresses a matter that “is of special consequence.” *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009).

4. This Court has inherent authority to “control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936). Its discretion on this score includes the “inherent power to control the sequence in which it hears matters on its calendar.” *United States v. Western Elec. Co.*, 46 F.3d 1198, 1207 n.7 (D.C. Cir. 1995).

5. It would be appropriate for this Court to defer the parties’ obligation to file a joint proposed briefing schedule until after the disposition of the defendants’ pending motion for certification of this Court’s Order for interlocutory appeal and, if the Order is certified, final resolution of the interlocutory appeal. If the interlocutory appeal is resolved in defendants’ favor, there will be no need for further briefing.

6. The undersigned counsel as conferred with counsel for the plaintiff, Jonathan Turley, Esquire, who responded that the plaintiff opposes this motion.

WHEREFORE, the defendants respectfully request that the Court defer the deadline for the parties to file a joint proposed briefing schedule, until seven (7) days after the disposition of defendants’ pending motion for certification of this Court’s Order for interlocutory appeal and, if the Order is certified, final resolution of the interlocutory appeal.

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)	
Defendants.)	
_____)	

[PROPOSED] ORDER

Upon consideration of the motion of the defendants, Sylvia Mathews Burwell, in her official capacity as Secretary of Health and Human Services; the United States Department of Health and Human Services; Jacob J. Lew, in his official capacity as Secretary of the Treasury; and the United States Department of the Treasury, to defer the deadline for the parties to file a joint proposed briefing schedule, it is hereby

ORDERED that the Motion is GRANTED and the date established in this Court’s Order of September 9, 2015 (ECF No. 42) for the parties to file a joint proposed briefing schedule is deferred until seven (7) days after the disposition of defendants’ pending motion for certification of this Court’s Order for interlocutory appeal and, if the Order is certified, final resolution of the interlocutory appeal.

IT IS SO ORDERED.

Dated: _____, 2015

ROSEMARY M. COLLYER
UNITED STATES DISTRICT JUDGE