

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Jun 14, 2019

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,

Plaintiff,

v.

ALEX M. AZAR II, in his official  
capacity as Secretary of the United States

Department of Health and Human

Services; and UNITED STATES

DEPARTMENT OF HEALTH AND

HUMAN SERVICES,

Defendants.

No. 1:19-cv-03040-SAB

**ORDER DENYING  
DEFENDANTS' MOTION TO  
STAY PROCEEDINGS  
PENDING APPEAL**

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NATIONAL FAMILY PLANNING &  
REPRODUCTIVE HEALTH  
ASSOCIATION, FEMINIST WOMEN'S  
HEALTH CENTER, DEBORAH OYER,  
M.D., and TERESA GALL, F.N.P.,

Plaintiffs,

v.

ALEX M. AZAR II, in his official capacity  
as Secretary of the United States

**ORDER DENYING DEFENDANTS' MOTION TO STAY PRELIMINARY  
INJUNCTION PENDING APPEAL ~ 1**

1 Department of Health and Human  
2 Services; UNITED STATES  
3 DEPARTMENT OF HEALTH AND  
4 HUMAN SERVICES, DIANE FOLEY,  
5 M.D., in her official capacity as Deputy  
6 Assistant Secretary for Population Affairs,  
7 and OFFICE OF POPULATION  
8 AFFAIRS,  
9 Defendants.  
10

11 Before the Court is Defendant’s Motion to Stay Proceedings Pending  
12 Appeal, ECF No. 79. The motion was heard without oral argument.

13 Defendants ask the Court to stay further proceedings in these consolidated  
14 cases pending final resolution of Defendants’ appeal from this Court’s Order  
15 granting Plaintiffs’ motions for preliminary injunction.

### 16 **Motion Standard**

17 This Court “has broad discretion to stay proceedings as an incident to its  
18 power to control its own docket” in promoting judicial economy. *Clinton v. Jones*,  
19 520 U.S. 681, 706 (1997). In the Ninth Circuit, district courts are instructed to not  
20 grant stays that delay trial preparation while waiting an interim ruling on a  
21 preliminary injunction. *California v. Azar*, 911 F.3d 558, 583 (9th Cir. 2018); *see*  
22 *also Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (approving how the  
23 district court “expedited the case and moved with appropriate speed toward final  
24 disposition”). The Circuit has long cautioned against staying a case while a motion  
25 for preliminary injunction is being appealed, being “persuaded that in some cases,  
26 parties appeal orders granting or denying motions for preliminary injunctions in  
27 order to ascertain the view of the appellate court on the merits of the litigation.”  
28 *SportsForm, Inc. v. United press Int’l, Inc.*, 686 F.2d 750, 753 (9th Cir. 1982).

**ORDER DENYING DEFENDANTS’ MOTION TO STAY PRELIMINARY  
INJUNCTION PENDING APPEAL ~ 2**

1 **Analysis**

2 The Court takes heed of the Ninth Circuit’s admonishments and declines to  
3 stay the proceedings. Judicial economy and the interest of justice will be met by  
4 the production and review of the Administrative Record as this case moves toward  
5 resolution on the merits. Defendants have not shown how they will be harmed if  
6 the stay was not imposed.

7 Accordingly, **IT IS HEREBY ORDERED:**

8 1. Defendants’ Motion to Stay Proceedings Pending Appeal, ECF No.  
9 79, is **DENIED**.

10 2. Defendants’ Unopposed Motion for Extension of Time to Respond to  
11 Complaints, ECF No. 80, is **GRANTED**. The deadline for responding to  
12 Plaintiffs’ complaints will be set after the August 1 telephonic status conference.

13 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order  
14 and forward copies to counsel.

15 **DATED** this 14th day of June 2019.



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22 Stanley A. Bastian  
23 United States District Judge  
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