

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAMES L. SHERLEY, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 1:09-cv-01575-RCL
)	
KATHLEEN SEBELIUS, in her official)	
capacity as Secretary of the Department of)	
Health and Human Services, et al.,)	
)	
Defendants.)	

DEFENDANTS’ EMERGENCY MOTION TO
STAY PRELIMINARY INJUNCTION PENDING APPEAL AND FOR
EXPEDITED BRIEFING AND CONSIDERATION

Defendants respectfully move the Court for a stay of its August 23, 2010 Order (Dkt. 45) pending appeal to the U.S. Court of Appeals for the D.C. Circuit.¹ On August 27, 2010, Defendants filed a Notice of Appeal (Dkt. 46) from that Order, which granted Plaintiffs’ Motion for Preliminary Injunction and enjoined defendants and their officers, employees, and agents from “implementing, applying, or taking any action whatsoever pursuant to the National Institutes of Health Guidelines for Human Stem Cell Research (“Guidelines”), 74 Fed. Reg. 32,170 (July 7, 2009), or otherwise funding research involving human embryonic stem cells as contemplated in the Guidelines.” The basis for defendants’ motion for stay pending appeal is set

¹ Pursuant to Local Rule 7(m), defendants’ counsel has conferred with plaintiffs’ counsel both on defendants’ Emergency Motion to Stay Preliminary Injunction Pending Appeal (“stay motion”) and defendants’ request for expedited briefing and consideration of the stay motion. With respect to defendants’ stay motion, plaintiffs’ counsel has stated that plaintiffs oppose this motion. With respect to defendants’ request for expedited briefing and consideration of the stay motion, plaintiffs’ counsel indicated that he needed to confer with plaintiffs regarding this request, but as of the time of this filing, had not informed defendants’ counsel of plaintiffs’ position on the request.

forth in the attached Memorandum and accompanying Declaration of Francis Collins, M.D., Ph.D, Director of the National Institutes of Health. A proposed order is also included. Because of the magnitude of harms occurring each day that the preliminary injunction remains in effect, defendants respectfully request expedited briefing and consideration of their motion for stay. Defendants request that plaintiffs' opposition to the motion be due by Friday, September 3, 2010, and that the Court rule by September 7, 2010. If the Court has not ruled on defendants' motion by that date, they intend to present their stay request to the Court of Appeals the following day.

Dated: August 31, 2010

Respectfully submitted,

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