

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

COMMONWEALTH OF VIRGINIA,	)	
EX REL. KENNETH T. CUCCINELLI, II,	)	
in his official capacity as Attorney	)	
General of Virginia,	)	
Plaintiff,	)	
	)	
v.	)	No. 3:10-cv-00188-HEH
	)	
KATHLEEN SEBELIUS,	)	
Secretary of the Department of	)	
Health and Human Services,	)	
in her official capacity,	)	
	)	
Defendant.	)	
	)	

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**MEMORANDUM IN SUPPORT OF MOTION FOR EXTENSION OF TIME TO FILE  
A MOTION FOR LEAVE TO PARTICIPATE AS *AMICI CURIAE*  
OF FORMER UNITED STATES ATTORNEYS GENERAL  
WILLIAM BARR, EDWIN MEESE, III, AND DICK THORNBURGH,  
IN SUPPORT OF PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

Former United States Attorneys General William Barr, Edwin Meese, III, and Dick Thornburgh file this Memorandum in support of their Motion for Extension of Time To File a Motion for Leave to Participate as *Amici Curiae* in Support of Plaintiff’s Motion for Summary Judgment.

**I. INTEREST OF AMICI CURIAE**

Movants are former Attorneys General of the United States. In that office, each was the chief lawyer of the Federal Government’s Executive Branch and led the Department of Justice. Edwin Meese, III served as Attorney General under President Reagan from 1985 to 1988. In addition, from 1981 to 1985, he was a Counselor to President Reagan. Dick Thornburgh succeeded Mr. Meese, serving as Attorney General under President Reagan as well as President George H. W. Bush from 1988 to 1991. Before that, he was a two-term Governor of

Pennsylvania, Assistant Attorney General in charge of the Justice Department's Criminal Division (under President Ford), and a United States Attorney (under President Nixon). William Barr succeeded Mr. Thornburgh, serving as Attorney General from 1991 until the end of President Bush's administration in 1993. He also served as Deputy Attorney General (1990-91) and Assistant Attorney General in charge of the Justice Department's Office of Legal Counsel (1989-90).

An important part of movants' duties as Attorneys General, including in working with and overseeing the Justice Department's Office of the Solicitor General and Office of Legal Counsel, was to interpret, advise on, enforce, and vindicate in court both the powers that the United States Constitution truly grants to the Federal Government and the limits that the Constitution sets on governmental powers. In light of this experience, and the continuing sense of duty it has instilled, movants wish to present their views on the important issues implicated by this case in the hope that they will assist the Court.

## **II. GROUNDS FOR GRANTING THE MOTION**

This Court has broad discretion over the briefing schedule in a case, including discretion to grant extensions of time. *See, e.g., Ramashwar v. City of New York*, 231 Fed. Appx. 26, 27-28 (2d Cir. 2007) ("We also find that because Federal Rule of Civil Procedure '6(b)(1) gives the court wide discretion to grant a request for additional time,' the district court did not abuse its discretion when it extended the briefing schedule by only a week.") (quoting 4B Wright & Miller, *Federal Practice and Procedure: Civil 3d* § 1165 (2002)); *Gonzalez v. Ingersoll Milling Machine Co.*, 133 F.3d 1025, 1030 (7th Cir. 1998) ("[M]atters of trial management are for the district judge and we intervene only when it is apparent the judge has acted unreasonably.").

This case implicates questions of obvious importance to both the American health care system and the proper role of the federal government in the American constitutional system.

Movants believe that their views will be of assistance to the Court as it decides these questions. See *Peters v. Jenney*, 327 F.3d 307, 319 n. 13 (4th Cir. 2003) (noting that an amicus curiae brief was “helpful to the court”); *Bradley v. School Board of City of Richmond*, 317 F. Supp. 555, 576 (E.D. Va. 1970) (same). However, in light of the importance of the issues at stake as well as the administrative difficulty of locating counsel and coordinating the production of an amicus brief among multiple parties, movants require a small amount of additional time to compose their Motion for Leave to Participate as *Amici Curiae*.

### III. CONCLUSION

For the reasons set forth above, movants respectfully submit that the Motion for Extension of Time to File a Motion For Leave to Participate as *Amici Curiae* should be granted.

DATED: October 4, 2010

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 4th day of October, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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