

**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.)
)
KATHLEEN SEBELIUS, Secretary of the)
Department of Health and Human Services,)
in her official capacity,)
)
Defendant.)
_____)

Civil Action No. 3:10-cv-00188-HEH

NOTICE OF APPEAL

PLEASE TAKE NOTICE that the defendant, Kathleen Sebelius, in her official capacity as Secretary of the Department of Health and Human Services, hereby appeals to the United States Court of Appeals for the Fourth Circuit from the final Order (Doc. 162) and Memorandum Opinion (Doc. 161) granting summary judgment in part to the plaintiff and denying summary judgment to the Secretary, entered in this action on December 13, 2010, and from all previous rulings in this action, including the Order (Doc. 85) and Memorandum Opinion (Doc. 84) denying the Secretary’s motion to dismiss, entered in this action on August 2, 2010.

DATED this 18th day of January, 2011.

Respectfully submitted,

TONY WEST
Assistant Attorney General

IAN HEATH GERSHENGORN (admitted *pro hac vice*)
Deputy Assistant Attorney General

NEIL H. MacBRIDE
United States Attorney

By: /s/ Jonathan H. Hambrick
JONATHAN H. HAMBRICK, VSB # 37590
Assistant United States Attorney
Office of the United States Attorney
600 East Main Street, Suite 1800
Richmond, Virginia 23219
Telephone: (804) 819-5400
Fax: (804) 819-7417
Email: jay.h.hambrick@usdoj.gov

JENNIFER D. RICKETTS, VSB # 29281
Director
SHEILA M. LIEBER (admitted *pro hac vice*)
Deputy Director
JOEL McELVAIN (admitted *pro hac vice*)
Senior Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., NW, Room 7332
Washington, D.C. 20001
Telephone: (202) 514-2988
Fax: (202) 616-8202
Email: Joel.McElvain@usdoj.gov

Attorneys for the Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of January, 2011, 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:

Earle Duncan Getchell, Jr.
Charles E. James, Jr.
Stephen R. McCullough
Wesley Glenn Russell, Jr.
Office of the Attorney General
900 E. Main Street
Richmond, Virginia 23219

/s/ Jonathan H. Hambrick
JONATHAN H. HAMBRICK, VSB # 37590
Assistant United States Attorney
Office of the United States Attorney
600 East Main Street, Suite 1800
Richmond, Virginia 23219
Telephone: (804) 819-5400
Fax: (804) 819-7417
Email: jay.h.hambrick@usdoj.gov