

**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

MOTION FOR SUMMARY JUDGMENT

The defendant, Kathleen Sebelius, Secretary of the United States Department of Health and Human Services, by the undersigned counsel, respectfully moves this Court for an order awarding her summary judgment pursuant to Rule 56(b) of the Federal Rules of Civil Procedure. In support of this motion, the defendant refers the Court to the accompanying Memorandum in Support of Defendant’s Motion for Summary Judgment, and the Appendix of Exhibits in Support of Defendant’s Motion for Summary Judgment.

WHEREFORE, the defendant, by counsel and pursuant to Rule 56(b) of the Federal Rules of Civil Procedure, respectfully requests that the Court issue an order awarding her summary judgment in the above-captioned case, and for such other relief as the Court deems just and proper.

DATED this 3rd day of September, 2010.

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 R. RIVERA, 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 3rd day of September, 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:

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