

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DR. JAMES L. SHERLEY, et al.,)	
)	
Plaintiffs,)	
)	
)	
)	
v.)	Civil Action
)	No. 09-CV-01575-RCL
)	
KATHLEEN SEBELIUS, et al.,)	
)	
Defendants.)	
)	
)	
)	
)	
)	
)	

**PLAINTIFFS’ UNOPPOSED AMENDED MOTION
FOR LEAVE TO FILE SUPPLEMENTAL BRIEFS**

Plaintiffs, through undersigned counsel, hereby respectfully move unopposed for leave to file supplemental briefs in light of the opinion and judgment of the United States Court of Appeals for the D.C. Circuit that was filed in this case on April 29, 2011. Prior to the filing of Plaintiffs’ original motion for leave to file supplemental briefs (*see* Dkt. #76), counsel for both parties conferred pursuant to Local Civil Rule 7(m). At that time, Defendants opposed supplemental briefing, as discussed in Plaintiffs’ original motion. After further discussions pursuant to Local Civil Rule 7(m), however, the parties now agree that simultaneous supplemental briefs should be filed. Accordingly, Plaintiffs hereby respectfully move for leave to file supplemental briefs in light of the D.C. Circuit’s opinion, consistent with the following agreed-to dates and page limits:

- Plaintiffs' Supplemental Brief: Due on or before June 24, 2011, and limited to 10 pages.
- Defendants' Supplemental Brief: Due on or before June 24, 2011, and limited to 10 pages.

The supplemental briefs would aid the Court in addressing Plaintiffs' September 9, 2010 Motion For Summary Judgment and Defendants' September 27, 2010 Motion For Summary Judgment, which were fully briefed as of October 28, 2010.

Dated: May 18, 2011

Samuel B. Casey, Cal. Bar No. 76022
Law of Life Project
FRC Building, Suite 521
801 G Street, N.W.
Washington, D.C. 20001
(703) 587-5652

Steven H. Aden, D.C. Bar No. 466777
ALLIANCE DEFENSE FUND
801 G Street N.W., Suite 509
Washington, D.C. 20001
(202) 393-8690

Respectfully Submitted,

/s/ Thomas G. Hungar

Thomas G. Hungar, D.C. Bar No. 447783
Bradley J. Lingo, D.C. Bar No. 490131
Thomas M. Johnson, Jr., D.C. Bar No. 976185
Ryan J. Watson, D.C. Bar No. 986906
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 955-8500
E-mail: thungar@gibsondunn.com

Blaine H. Evanson, Cal. Bar No. 254338
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071
(213) 229-7000

Counsel for Plaintiffs

completed as of October 28, 2010. *See* Dkt. #70, 72-73. The summary judgment motions remain pending before this Court.

On April 29, 2011, a divided panel of the D.C. Circuit filed an opinion and judgment that vacated the preliminary injunction but expressly left numerous issues unresolved. *Sherley v. Sebelius*, No. 10-5287, 2011 WL 1599685 (D.C. Cir. Apr. 29, 2011). In light of the D.C. Circuit's opinion and the summary judgment motions that are currently pending before this Court, Plaintiffs hereby move unopposed for leave to simultaneously file concise supplemental briefs to aid the Court in addressing the pending motions for summary judgment. Defendants have consented to the relief requested in Plaintiffs' motion. Specifically, the parties have agreed to the following proposed schedule and page limits:

- Plaintiffs' Supplemental Brief: Due on or before June 24, 2011, and limited to 10 pages.
- Defendants' Supplemental Brief: Due on or before June 24, 2011, and limited to 10 pages.

Dated: May 18, 2011

Respectfully Submitted,

Samuel B. Casey, Cal. Bar No. 76022
Law of Life Project
FRC Building, Suite 521
801 G Street, N.W.
Washington, D.C. 20001
(703) 587-5652

Steven H. Aden, D.C. Bar No. 466777
ALLIANCE DEFENSE FUND
801 G Street N.W., Suite 509
Washington, D.C. 20001
(202) 393-8690

/s/ Thomas G. Hungar
Thomas G. Hungar, D.C. Bar No. 447783
Bradley J. Lingo, D.C. Bar No. 490131
Thomas M. Johnson, Jr., D.C. Bar No. 976185
Ryan J. Watson, D.C. Bar No. 986906
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 955-8500
E-mail: thungar@gibsondunn.com

Blaine H. Evanson, Cal. Bar No. 254338
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071
(213) 229-7000

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May, 2011, I caused true and correct copies of the foregoing Unopposed Amended Motion For Leave To File Supplemental Briefs, as well as the accompanying Memorandum In Support thereof, to be served on Defendants' counsel electronically by means of the Court's ECF system.

/s/ Ryan J. Watson
Ryan J. Watson, D.C. Bar No. 986906
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5306
Telephone: (202) 955-8295
E-mail: rwatson@gibsondunn.com

Counsel for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DR. JAMES L. SHERLEY, et al.,)	
)	
Plaintiffs,)	
)	
)	
)	
v.)	Civil Action
)	No. 09-CV-01575-RCL
)	
KATHLEEN SEBELIUS, et al.,)	
)	
Defendants.)	
)	
)	
)	
)	
)	

**[PROPOSED] ORDER ON PLAINTIFFS’ UNOPPOSED AMENDED MOTION FOR
LEAVE TO FILE SUPPLEMENTAL BRIEFS**

Plaintiffs’ Unopposed Amended Motion For Leave To File Supplemental Briefs is hereby
GRANTED. It is therefore

ORDERED that the briefing schedule be entered as follows:

- Plaintiffs’ Supplemental Brief: Due on or before June 24, 2011, and limited to 10 pages.
- Defendants’ Supplemental Brief: Due on or before June 24, 2011, and limited to 10 pages.

SO ORDERED.

Date: _____

ROYCE C. LAMBERTH
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May, 2011, I caused a true and correct copy of the foregoing [Proposed] Order to be served on Defendants' counsel electronically by means of the Court's ECF system.

/s/ Ryan J. Watson
Ryan J. Watson, D.C. Bar No. 986906
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5306
Telephone: (202) 955-8295
E-mail: rwatson@gibsondunn.com

Counsel for Plaintiffs