

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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February 14, 2019

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 19-10011 State of Texas, et al v. USA, et al
USDC No. 4:18-CV-167

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Peter A. Conners, Deputy Clerk
504-310-7685

Mr. Benjamin Battles
Ms. Kathleen Boergers
Mr. Andrew Bray Davis
Ms. Bridget DiBattista
Mr. Nimrod Elias
Mr. Matthew Hamilton Frederick
Mr. David J. Hacker
Mr. Kyle Douglas Hawkins
Mr. Darren Lee McCarty
Mr. Matthew Robert McGuire
Mr. Eric Olson
Ms. Neli N. Palma
Mr. Brett Shumate
Mr. Samuel Siegel
Mr. Jeffrey T. Sprung
Mr. Martin Vincent Totaro
Ms. Caroline Van Zile
Mr. Donald B. Verrilli Jr.
Mr. Stephen B. Vogel
Mr. Eric A. White
Ms. Jessica Willey

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-10011

STATE OF TEXAS; STATE OF WISCONSIN; STATE OF ALABAMA;
STATE OF ARIZONA; STATE OF FLORIDA; STATE OF GEORGIA; STATE
OF INDIANA; STATE OF KANSAS; STATE OF LOUISIANA; PAUL
LEPAGE, Governor of Maine; STATE OF MISSISSIPPI, by and through
Governor Phil Bryant; STATE OF MISSOURI; STATE OF NEBRASKA;
STATE OF NORTH DAKOTA; STATE OF SOUTH CAROLINA; STATE OF
SOUTH DAKOTA; STATE OF TENNESSEE; STATE OF UTAH; STATE OF
WEST VIRGINIA; STATE OF ARKANSAS; NEILL HURLEY; JOHN
NANTZ,

Plaintiffs - Appellees

v.

UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF
HEALTH & HUMAN SERVICES; ALEX AZAR, II, SECRETARY, U.S.
DEPARTMENT OF HEALTH AND HUMAN SERVICES; UNITED STATES
DEPARTMENT OF INTERNAL REVENUE; CHARLES P. RETTIG, in his
Official Capacity as Commissioner of Internal Revenue,

Defendants - Appellants

STATE OF CALIFORNIA; STATE OF CONNECTICUT; DISTRICT OF
COLUMBIA; STATE OF DELAWARE; STATE OF HAWAII; STATE OF
ILLINOIS; STATE OF KENTUCKY; STATE OF MASSACHUSETTS;
STATE OF NEW JERSEY; STATE OF NEW YORK; STATE OF NORTH
CAROLINA; STATE OF OREGON; STATE OF RHODE ISLAND; STATE OF
VERMONT; STATE OF VIRGINIA; STATE OF WASHINGTON; STATE OF
MINNESOTA,

Intervenor Defendants – Appellants

Appeals from the United States District Court
for the Northern District of Texas

O R D E R :

The United States House of Representatives has moved to intervene in this appeal.

The House argues that it is entitled to intervene as of right or, in the alternative, that it is entitled to permissive intervention. The House has no right to intervene under Rule 24(a)(1) or under 28 U.S.C. § 530D. It is questionable that it has the right under Rule 24(a)(2), but no ruling on such a right is necessary. The House does under Rule 24(b)(1)(B) have “a claim or defense that shares with the main action a common question of law or fact.” In the absence of any other federal governmental party in the case presenting a complete defense to the Congressional enactment at issue, this court may benefit from the participation by the House. In the context of this case, the motion to intervene was not untimely. Further, intervention will not unduly delay or prejudice the rights of the original parties.

IT IS ORDERED that the opposed motion to intervene filed by the U.S. House of Representatives is GRANTED.

/s/ Leslie H. Southwick
LESLIE H. SOUTHWICK
UNITED STATES CIRCUIT JUDGE