

Filed: January 21, 2011

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

BRIEFING ORDER-CIVIL CROSS-APPEAL

No. 11-1057 (L), Commonwealth of Virginia v. Kathleen Sebelius
3:10-cv-00188-HEH

Kathleen Seblius shall be considered the appellant for the purposes of this briefing schedule.

The Briefs and Appendix shall be served and filed within the time provided in the following schedule:

Appendix due: 03/02/2011

Opening Brief due: 03/02/2011

Opening/Response Brief due: 04/04/2011

Response/Reply Brief due: 05/09/2011

Reply Brief permitted within 14 days of service of Response/Reply Brief

The Briefs and Appendix must conform to the [Rule Requirements for Preparation of Briefs and Appendices](#) and the [Fourth Circuit Checklist for Briefs and Appendices](#), which set forth the applicable [Federal and Local Rules](#). These documents are available as links from this order and at the Court's web site, www.ca4.uscourts.gov.

All parties to a side must join in a single brief, even in consolidated cases, unless the Court has granted a motion for leave to file separate briefs pursuant to Local Rules 28(a) and 28(d). Each side must notify the court of the attorney who has been designated as lead counsel within 14 days of the date of this order. A governmental and a non-governmental party are not, however, required to join in one brief.

If a case has not been scheduled for a mediation conference, but counsel believes such a conference would be beneficial, counsel should contact the Office of the Circuit Mediator directly at 843-521-4022, and a mediation conference will be scheduled. In such a case, the reason for scheduling the conference will be kept confidential.

Failure to file an Opening Brief within the scheduled time will lead to dismissal of the case pursuant to Local Rule 45 for failure to prosecute; failure to file a Response Brief will result in loss of the right to be heard at oral argument and may lead to imposition of sanctions if counsel has failed to comply with the Court's directives. The Court discourages motions for extension of time and grants extensions of the briefing schedule only in extraordinary circumstances upon a showing of good cause. Local Rule 31(c). If a brief is filed after its due date, the time for filing briefs in the schedule will be extended by the number of days the brief was late.

Failure to file an adequate Appendix containing all portions of the record necessary for review of the issues will result in the return of the Appendix for correction; deficiencies generally will not be remedied by reference to the record. The party at fault will be required to bear the cost of filing a Corrected Appendix regardless of the outcome of the case.

Pursuant to Local Rule 34(a), the Court may, on its own initiative and without prior notice, screen an appeal for decision on the parties' briefs without oral argument. If a case is selected for the oral argument calendar, counsel will receive notice that the case has been tentatively calendared for a specific court session approximately 45 days in advance of the session. Counsel will be afforded 10 days to file any motions that would affect the argument of the case. All parties to a side must share the time allotted for oral argument pursuant to Local Rules 28(d) and 34(d).

/s/ PATRICIA S. CONNOR, CLERK
By: RJ Warren, Deputy Clerk