

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

**RICK SCOTT, in his official capacity
as governor of Florida; et al.,**

Plaintiffs,

v.

**CASE NO. 3:15-cv-193-MCR-CJK
3:15-cv-195-MCR-CJK**

**UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
et al.,**

Defendants.

ORDER

Pending before the Court is Plaintiff's Motion to Compel Mediation (doc. 34), and Defendants' response (doc. 36). Plaintiffs state that court-ordered mediation is an appropriate means of facilitating a speedy and equitable conclusion to the question of whether the State will receive an extension of LIP authority, in advance of the State Legislature's budget deadline of June 30, 2015. Defendants oppose mediation, stating that the constitutional issue which is the core of Plaintiffs' Complaint provides no grounds for mediation because, contrary to Plaintiff's understanding, the Secretary has already stated she will not deny an LIP extension based on the State's failure to expand its Medicaid program. Defendants further assert that mediation will not accelerate the process. Having fully considered the matter, the Court finds that Plaintiffs' motion is due to be denied. The Court has already granted the parties' request for an expedited hearing on the pending motion for preliminary injunction. The hearing is scheduled for June 19, 2015, and will require extensive preparation on the part of all parties. Requiring them, on even shorter notice, to also attend court-ordered mediation, which is not guaranteed to result in any resolution of this case, would be unduly burdensome,

expensive, and not likely to advance the process any faster than the expedited proceeding currently scheduled.

Additionally, on further consideration of the voluminous materials submitted for the upcoming oral argument and the short time frame for considering this matter, imposed by the Legislative budget deadline, the parties are advised that the Court will hold an evidentiary hearing on the motion for preliminary injunction, not simply oral argument as the parties requested, and the parties therefore will be required to present their witnesses' testimony live to the Court. The Court needs to have a thorough understanding of the LIP extension or amendment process and the history of the negotiations between the parties in order to resolve the questions raised. It is also important that the Court be able to timely resolve any evidentiary conflicts or credibility questions that may arise during the hearing. The hearing length will be adjusted accordingly.

Accordingly, Plaintiff's Motion to Compel Mediation (doc. 34) is **DENIED**. The oral argument scheduled for June 19, 2015, is now scheduled as an evidentiary hearing, and the parties must present live witness testimony. The parties are encouraged to continue their negotiations and to promptly notify the Court if a resolution is reached prior to the hearing.

DONE AND ORDERED this 10th day of June, 2015.

M. Casey Rodgers

**M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE**