

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, *et al.*,

Plaintiff,

v.

ALEX M. AZAR II, *et al.*,

Defendants.

No. 1:19-cv-4676-PAE

PLANNED PARENTHOOD FEDERATION
OF AMERICA, INC.; and PLANNED
PARENTHOOD OF NORTHERN NEW
ENGLAND, INC.,

Plaintiff,

v.

ALEX M. AZAR II, *et al.*,

Defendants.

No. 1:19-cv-05433-PAE

NATIONAL FAMILY PLANNING AND
REPRODUCTION HEALTH ASSOCIATION;
and PUBLIC HEALTH SOLUTIONS, INC.

Plaintiff,

v.

ALEX M. AZAR II, *et al.*,

Defendants.

No. 1:19-cv-05435-PAE

MOTION FOR ENTRY OF ORDER

Defendants respectfully file this motion for an order authorizing the release of certain materials that are a part of the administrative record. Specifically, those materials include complaints that individuals have submitted to the United States Department of Health and Human Services Office for Civil Rights. Although Defendants have endeavored to identify and redact personally identifiable information in those complaints, they request out of an abundance of caution that the Court enter an order authorizing the release of these materials as part of the administrative record, including any information that may be covered by the Privacy Act, 5 U.S.C. § 552a. *See* 5 U.S.C. § 552a(b)(11) (permitting disclosure of information protected by the Privacy Act pursuant to a court order).

Defendants respectfully ask that the Court enter the requested order by July 22, 2019, the date by which Defendants are to produce the administrative record to Plaintiffs. Unless and until the Court enters the requested order, Defendants will be able to produce to Plaintiff only the portions of the record that do not contain potentially Privacy Act-covered information.

Defendants contacted counsel for Plaintiffs, who indicated that Plaintiffs are not currently able to take a position on this motion.

Dated: July 19, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

MICHELLE R. BENNETT
Assistant Branch Director

/s/ Bradley P. Humphreys

BRADLEY P. HUMPHREYS

(D.C. Bar No. 988057)

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Counsel for Defendants

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AFFIDAVIT OF BRADLEY P. HUMPHREYS

I, Bradley P. Humphreys, state as follows:

1. I am a Trial Attorney in the Federal Programs Branch of the Civil Division, United States Department of Justice, and I represent Defendants in the above-captioned matters.

2. I submit this affidavit in support of Defendants' accompanying Motion for Entry of Order.

3. Defendants are working to finalize the administrative record for production to Plaintiffs by July 22, 2019.

4. Included in the administrative record are materials that may be covered by the Privacy Act, 5 U.S.C. § 552a, including complaints that individuals have submitted to the United States Department of Health and Human Services Office for Civil Rights.

5. Defendants have endeavored to identify and redact personally identifiable information in those complaints.

6. Out of an abundance of caution, Defendants ask the Court to enter an order authorizing the release of the complaints as part of the administrative record, including any information that may be covered by the Privacy Act.

7. I contacted counsel for Plaintiffs regarding Defendants' motion, and counsel for Plaintiffs indicated that Plaintiffs are not currently able to take a position on the motion.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 19, 2019

Respectfully submitted,



BRADLEY P. HUMPHREYS

(D.C. Bar No. 988057)

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Counsel for Defendants

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[PROPOSED] ORDER

Defendants' motion for entry of order is **GRANTED**. Defendants are authorized to release the information described in Defendants' motion that may be covered by the Privacy Act, 5 U.S.C. § 552a, without obtaining the prior written consent of the individuals to whom such records or information pertain.

IT IS SO ORDERED.

Dated: _____

Paul A. Engelmayer
United States District Judge