

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

MAYOR AND CITY COUNCIL OF
BALTIMORE,

Plaintiff,

v.

NORRIS COCHRAN, in his official capacity as
ACTING SECRETARY OF HEALTH AND
HUMAN SERVICES; and U.S. DEPARTMENT
OF HEALTH AND HUMAN SERVICES,¹

Defendants.

Case No. 1:19-cv-01672-GLR

JOINT STATUS REPORT

The parties submit this joint status report pursuant to this Court's November 9, 2020 order, ECF No. 113, to provide an update regarding the status of related appellate proceedings.

As the parties reported in their November 6, 2020 joint status report, Defendants filed notices of appeal to the United States Court of Appeals for the Second Circuit of the final judgments in the United States District Court for the Southern District of New York that vacated the rule that Plaintiff challenges in this case. *See State of New York v. U.S. Dep't of Health & Human Servs.*, No. 1:19-cv-4676-PAE, Notice of Appeal, ECF No. 255 (S.D.N.Y.) (*New York*); *Planned Parenthood Fed'n of Am., Inc. v. Azar*, No. 1:19-cv-5433-PAE, Notice of Appeal, ECF No. 123 (S.D.N.Y.) (*Planned Parenthood*); *Nat'l Family Planning & Reproductive Health Ass'n v. Azar*, No. 1:19-cv-5435-PAE, Notice of Appeal, ECF No. 129 (S.D.N.Y.) (*NFPRHA*). Intervenors in the Southern District of New York litigation also filed notices of appeal. *See New York*, Notice of Appeal, ECF No. 254; *Planned Parenthood*, Notice of Appeal, ECF No. 122;

¹ Acting Secretary Cochran has been automatically substituted for former Secretary Azar pursuant to Federal Rule of Civil Procedure 25(d).

NFPRHA, Notice of Appeal, ECF No. 128. The Second Circuit scheduled oral argument in the two consolidated cases for March 16, 2021. However, on February 5, 2021, the Second Circuit granted Defendants' consent motion to remove the cases from its oral argument calendar and to place the appeals in abeyance while new leadership at the U.S. Department of Health & Human Services evaluates the issues the cases present. The Second Circuit directed Defendants to file stay status letters every thirty days. The first of those letters is due March 8, 2021.

Defendants also appealed to the United States Court of Appeals for the Ninth Circuit, seeking review of the final judgment in the United States District Court for the Eastern District of Washington vacating the challenged rule on November 21, 2019, *Washington v. Azar*, No. 2:19-CV-00183-SAB (E.D. Wash.) (*Washington*), as well as of the final judgments entered in three cases in the United States District Court for the Northern District of California where the court also vacated the challenged rule, *City & County of San Francisco v. Azar*, No. 3:19-cv-2405-WHA (N.D. Cal.) (*San Francisco*); *California v. Azar*, No. 3:19-cv-2769-WHA (N.D. Cal.) (*California*); *County of Santa Clara v. U.S. Dep't of Health & Human Servs.*, No. 3:19-cv-2916-WHA (N.D. Cal.) (*Santa Clara*). On January 29, 2021, upon the parties' joint motion, the Ninth Circuit removed the consolidated appeals in those cases from its oral argument calendar, and it ordered the parties to provide the court within sixty days with a status report as to whether the appeal will continue to be prosecuted.

Dated: February 8, 2021

By: /s/ Dana Peterson Moore

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Respectfully submitted,

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