

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff-Appellee,

v.

XAVIER BECERRA, Secretary of U.S.
Department of Health and Human Services; et
al.,¹

Defendants-Appellants.

No. 20-15398

COUNTY OF SANTA CLARA; et al.,

Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES; and XAVIER BECERRA,
in his official capacity as Secretary of Health and
Human Services,

Defendants-Appellants.

No. 20-15399

¹ Secretary Becerra has been automatically substituted for Acting Secretary Norris Cochran pursuant to Federal Rule of Appellate Procedure 43(c)(2). Secretary Becerra is recused from this litigation.

STATE OF CALIFORNIA,

Plaintiff-Appellee,

v.

XAVIER BECERRA, in his official capacity as
Secretary of the U.S Department of Health &
Human Services, and U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendants-Appellants.

No. 20-16045

STATE OF WASHINGTON,

Plaintiff-Appellee,

v.

XAVIER BECERRA and U.S. DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

Defendants-Appellants.

No. 20-35044

**STATUS REPORT PURSUANT TO THE COURT'S
ORDER OF OCTOBER 30, 2023**

This case involves a challenge to a rule issued by the Department of Health and Human Services (HHS). *See* Protecting Statutory Conscience Rights in Health Care, 84 Fed. Reg. 23,170 (May 21, 2019). Two district courts in this Circuit vacated the rule in its entirety, and the government appealed. HHS subsequently conducted a new rulemaking proceeding involving the rule at issue in these appeals. HHS has now

completed its rulemaking process and published in the Federal Register a rule entitled “Safeguarding the Rights of Conscience as Protected by Federal Statutes,” 89 Fed. Reg. 2,078 (Jan. 11, 2024). The issuance of the new rule moots plaintiffs’ challenges to HHS’s 2019 rule. *See, e.g., Alaska v. U.S. Dep’t of Agric.*, 17 F.4th 1224, 1226 (D.C. Cir. 2021) (terming it a “well-settled principle of law” that “when an agency has rescinded and replaced a challenged regulation, litigation over the legality of the original regulation becomes moot” (quotation marks omitted)). Accordingly, the federal government respectfully files concurrently with this status update a motion to voluntarily dismiss its appeals in these cases. Counsel for plaintiffs has indicated that plaintiffs do not oppose the government’s motion.

Respectfully submitted,

MICHAEL RAAB
LOWELL V. STURGILL JR.
SARAH CARROLL

/s/ Leif Overvold

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