IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, Plaintiff, v. DONALD J. TRUMP, *et al.*, Defendants.	**No. 2:17-cv-04540-WB**

MEMORANDUM OF LAW IN OPPOSITION TO EMERGENCY MOTION TO INTERVENE BY LITTLE SISTERS OF THE POOR SAINTS PETER AND PAUL HOME

Plaintiff Commonwealth of Pennsylvania (the "Commonwealth"), by counsel, respectfully submits this Memorandum of Law in Opposition to the Emergency Motion to Intervene (ECF No. 19) (the "Motion") filed by proposed Intervenor-Defendant the Little Sisters of the Poor Saints Peter and Paul Home (the "Little Sisters") and, in support thereof, states as follows:

I. INTRODUCTION

The Little Sisters performs valuable and commendable work serving the elderly poor in over thirty countries around the world, including in the United States in Pittsburgh, Pennsylvania.[1] The Commonwealth deeply respects the charitable work of the Little Sisters' ministry and understands the religious beliefs they have articulated in courts around this Country, including in the Supreme Court of the United States. But the case before this Court challenges

[1] Declaration of Mother Superior Marie Vincinte ("Vincinte Dec.") at ¶¶ 7 and 12. In Pittsburgh, the Little Sisters are known as the Saints Peter and Paul Home of the Little Sisters of the Poor in Pittsburgh (the "Little Sisters Pittsburgh"). *Id.* at ¶ 12. It is unclear to the Commonwealth which of these related entities is the proposed intervenor, though the analysis is the same: the Motion should be denied and neither entity should be permitted to intervene.

the Defendants' rulemaking, not the Little Sisters' practices. It, therefore, fails to satisfy the criteria for "intervention as of right" or "permissive intervention" required by Federal Rule of Civil Procedure 24. Accordingly, the Little Sisters' Motion should be denied.[2]

The Little Sisters and its similarly situated co-plaintiffs already won an order from the Supreme Court exempting them from the Contraceptive Mandate and immunizing them from any "taxes or penalties … for failure to provide the relevant notice."[3] The Little Sisters is *exempt* from the Contraceptive Mandate and any fees or penalties that might otherwise by imposed upon it, and cannot intervene here. The Little Sisters' Supreme Court-ordered legal exemption from the Contraceptive Mandate was put in place before the Rules were promulgated. It exists – and will continue to exist – irrespective of what happens in this lawsuit.

Other than timely filing their Motion, the Little Sisters fails to satisfy the legal requirements to intervene as of right under Federal Rule of Civil Procedure 24(a)(2). *First*, it

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[2] Indeed, the Little Sisters appears to be mistaken about the purpose and effect of this lawsuit. In a section of the Little Sisters' 19-page brief in support of their Motion entitled "This Lawsuit," it claims that the Commonwealth is "seeking … the re-imposition of penalties on the Little Sisters and other religious objectors" and represents that "[i]f Pennsylvania is successful, the Little Sisters will lose the exemption granted by the [Rules], and risk being forced to choose between violating their sincerely held religious beliefs or paying almost $2.5 in annual fines.". These statements are false and the issues raised are not before this Court. Further, the Little Sisters' counsel in this matter, the Becket Fund for Religious Liberty, even issued a press release the day it filed the Motion. *See* Exhibit A, November 21, 2017, Press Release from the Little Sisters' lead counsel, the Becket Fund for Religious Liberty, "Little Sisters of the Poor head back to court. Press call will address new state lawsuits to take away religious exemption from Catholic nuns" (the "Press Release"). That Press Release contained the following statement to "be attributed to" the "lead attorney for the Little Sisters": "Sadly [Pennsylvania Attorney General] Josh Shapiro think[s] attacking nuns is a way to score political points. [He] may think [his] campaign donors want [him] to sue nuns, but our guess is most taxpayers disagree. No one needs nuns in order to get contraceptives, and no one needs [this] guy[] reigniting the last administration's divisive and unnecessary culture war." *Id.* Such statements and much of the rhetoric in the Little Sisters' brief are false, inflammatory, and deeply offensive. The Commonwealth of Pennsylvania has not sued the Little Sisters and is not "attacking" it. To the contrary, the Little Sisters is seeking to insert itself, as a defendant, into a legal matter in which it has no right to, and should not be permitted to, intervene. This is strange.

[3] *Zubik* at 1561.

lacks standing; there is no case or controversy between the Commonwealth and the Little Sisters, and one is required for a party to intervene. *Second*, the Defendant federal agencies and officials, represented by the United States Department of Justice, are more than capable of defending their own administrative rulemaking; the Little Sisters would not add to the defense. *Third*, other than, perhaps, as a policy advocacy group, the Little Sisters has insufficient interest in this litigation.

The Little Sisters also should be denied permissive intervention under Federal Rule of Civil Procedure 24(b) because it has neither a claim nor defense "that shares with the main action a common question of law or fact" and, even if it did, this Court has discretion to limit the parties active in this dispute. Fed. R. Civ. P. 24(b). The Little Sisters has failed to show any alternative basis for permissive intervention. Indeed, if anything, based on their conduct to date, the political and media circus the Little Sisters seems poised to bring counsels against their permissive intervention. *See* Fed. R. Civ. P. 11(b)(1)-(3). For these reasons, the Motion should be denied.

II. ARGUMENT

A. Standard of Review.

A movant may only intervene as of right if it "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." Fed. R. Civ. P. 24(a)(2). "A potential intervenor must satisfy four criteria to succeed …: '(1) the application for intervention is timely; (2) the applicant has a sufficient interest in the litigation; (3) the interest may be affected or impaired, as a practical matter by the disposition of the action; and (4) the interest is not adequately represented by an existing party in the litigation.'" *United States v. Terr. of V.I.*, 748 F.3d 514, 519 (3d Cir.

2014) (quoting *Harris v. Pernsley*, 820 F.2d 592, 596 (3d Cir. 1987)).[4] Additionally, "an intervenor of right must have Article III standing in order to pursue relief that is different from that which is sought by a party with standing." *Town of Chester, N.Y. v. Laroe Estates, Inc.*, __ U.S. __, 137 S.Ct. 1645, 1651 (2017). Separately, a party may be granted permissive intervention if it "has a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B).

B. No Case or Controversy Exists Between Pennsylvania and the Little Sisters.

Article III of the Constitution allows courts to decide only legitimate "[c]ases" and "[c]ontroversies." U.S. Const. art. III, § 2, cl. 1. Our legal system is founded on the idea that "[i]f a dispute is not a proper case or controversy, the courts have no business deciding it, or expounding the law in the course of doing so." *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 341 (2006). Although the Third Circuit previously did not require it, the Supreme Court recently held that, in order to intervene, a party must demonstrate standing in the matter before the court. *Town of Chester*, 137 S.Ct. at 1651. Standing is a jurisdictional matter; therefore, intervention must be denied where standing is lacking. *Seneca Resources Corp. v. Highland Twp.*, No. 16-cv-289, 2017 WL 4168472, at *3 (W.D. Pa. Sept. 20, 2017) (citing *Ballentine v. United States*, 486 F.3d 806, 810 (3d Cir. 2007) and *Public Interest Research Grp. of N.J., Inc. v. Magnesium Elektron, Inc.*, 123 F.3d 111, 117 (3d Cir. 1997)). Standing for a proposed defendant-intervenor is rarer than for plaintiff-intervenors, and is "relevant, especially in public interest matters." *Id.* Here, the Little Sisters have no standing.

The Commonwealth and the Little Sisters have no legal dispute between them. The Little Sisters did not promulgate any rule and are not subject to the Administrative Procedures Act, the

[4] The Little Sisters here does not claim an unconditional or conditional statutory right of intervention. *See* Fed. R. Civ. P. 24(a)(1) & (b)(1)(A).

Establishment Clause or Equal Protection Clause. Regardless of the outcome of this case, the Commonwealth cannot force federal regulations upon the Little Sisters or exempt them from such regulations. Indeed, had Pennsylvania sued the Little Sisters challenging the proposed Rules under any theory, that lawsuit would have been dismissed for failure to state a claim. Because there is no case or controversy between the Commonwealth and the Little Sisters, it cannot intervene as of right here. *See Seneca Resources Corp.*, 2017 WL 4168472, at *4-6 (applying *Town of Chester* to deny intervention as defendant to party lacking standing in dispute over municipal charter).

C. The Little Sisters Does Not Have a Significant Interest in This Litigation.

To establish a right to intervene, a movant must establish that it possesses an interest that is "significantly protectable." *Donaldson v. United States*, 400 U.S. 517, 531 (1971). To make this showing, it "must demonstrate that there is a tangible threat to a legally cognizable interest." *Liberty Mut. Ins. Co. v. Treesdale, Inc.*, 419 F.3d 216, 220 (3d Cir. 2005). And "this interest must be 'direct,' as opposed to contingent or remote." *Harris v. Pernsley*, 820 F.2d 592, 596 (3d Cir. 1987). There is no "precise and authoritative definition of the interest that satisfies Rule 24(a)(2)," but "the facts assume overwhelming importance" and the Court must rely on "pragmatism" in deciding whether intervention is appropriate. *Kleissler v. United States Forest Serv.*, 157 F.3d 964, 969, 972 (3d Cir. 1996). To show a "tangible threat" to its "legally cognizable interest," *Treesdale.*, 419 F.3d 216, 220, a movant must demonstrate that "[its] interest might become affected or impaired, as a practical matter, by the disposition of the action in their absence." *Mountain Top*, 72 F.3d at 368. Here, the Little Sisters cannot meet this burden.

The Little Sisters does not have such an interest in this case. The Commonwealth does not seek "to take away the Little Sisters' religious exemption," as they assert. Br. at 1. Rather, the Commonwealth has challenged two specific interim final regulations (IFRs) issued by the

Defendants on October 6, 2017. Those IFRs ("the Rules") significantly expanded the scope of preexisting exemptions and accommodations for entities that object to the Contraceptive Care Mandate. The Little Sisters' assertion that "Pennsylvania asks this Court to declare that not only the IFR itself, but any similar exemption arrangement protecting the Little Sisters would violate the Establishment and Equal Protection Clauses," is not accurate. Br. at 13. In fact, both the Commonwealth's complaint and its motion for a preliminary injunction make clear that the Commonwealth seeks to *preserve the status quo* as it existed prior to the issuance of the Rules, and that it does not challenge the exemption and accommodation that were already in place. *See, e.g.*, Compl. ¶ 23 ("[T]his Court should hold that the Exemption Rules are unlawful and set them aside. The Commonwealth also seeks a preliminary injunction to maintain the status quo throughout all future proceedings in this matter."); PI Motion at 1-2 (requesting Court enter injunction preventing the Defendants from enforcing the Rules).

The Little Sisters asserts that requiring it to notify their third-party administrator that the oppose the Contraceptive Care Mandate imposes a substantial burden on its exercise of religion because it forces them "to facilitate the provision of contraceptive coverage through their own plan infrastructure." Br. at 5. But it acknowledges that the Supreme Court prevented the government from penalizing it and the other *Zubik* plaintiffs for "failure to provide the relevant notice" under the Contraceptive Care Mandate. 136 S. Ct. at 1561. That decision, as the Little Sisters recognize, "is still in place." Br. at 7.

The Commonwealth does not and could not challenge it, and this Court cannot grant any relief that is inconsistent with a decision of the Supreme Court. So it is simply not the case that "[i]f Pennsylvania is successful, the Little Sisters will lose the exemption granted by the IFR, and risk being forced to choose between violating their sincerely held religious beliefs or paying

almost $2.5 million in annual fines." Br. at 10. Rather, if Pennsylvania is successful, the Little Sisters will continue to have the protection of a decision by the Supreme Court preventing the government from imposing fines on it.

The Little Sisters also cannot demonstrate "a tangible threat to a legally cognizable interest" for the additional reason that they utilize a "self-insured 'church plan[ ]," not subject to federal enforcement. *See Little Sisters*, 794 F.3d at 1166-68. The Tenth Circuit recognized that the agencies that enforce the Contraceptive Care Mandate "lack authority to compel church plan TPAs to provide contraceptive coverage, and may not levy fines against those TPAs for failing to provide it." 794 F.3d at 1167. As a result, the government "has no enforcement authority to compel or penalize those plaintiffs' TPAs if they decline to provide or arrange for contraceptive coverage." *Id.* at 1188. The Little Sisters utilizes Christian Brothers as its third party administrator, and "[i]t is clear Christian Brothers need not, *and will not*, provide contraceptive coverage if the Little Sisters opt out of the Mandate." *Id.* at 1189 (emphasis added). So even if the Little Sisters did not have the protection of the *Zubik* order, any notice it provided to its third party administrator would not "facilitate the provision of contraceptive coverage through their own plan infrastructure." The Tenth Circuit recognized this fact, concluding, "[t]he lack of enforcement authority makes any burden on plaintiffs with church plans even less substantial than the burden on plaintiffs with self-insured plans that are subject to ERISA." *Id.* at 1188.

The Little Sisters' "interest" in this litigation appears to be little more than a preferred outcome.[5] There is no colorable argument that the Rules will in any way affect the Little Sisters'

[5] The Little Sisters has no legal interest in this case relevant to its own pending lawsuit. Although it raises the same Free Exercise Clause, Establishment Clause, and Free Speech Clause issues, *see* Answer, ECF No. 20, those arguments were rejected by the Tenth Circuit. *See generally Little Sisters*, 794 F.3d 1151. And, although the Little Sisters appealed with respect to its claims in that case under the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb ("RFRA"), *see*

stated mission: to serve the sick and elderly poor. *See* Little Sisters' Br. at 2 (describing mission). And because the Little Sisters maintains a "self-insured 'church plan[ ]," it is not subject to federal enforcement. *See Little Sisters*, 794 F.3d at 1166-68.

To the extent the Little Sisters can articulate any interest of its own at issue here (much less one that is "significantly protectable," *Donaldson*, 400 U.S. 517, 531), it would be far less significant than that in *Texas v. United States*, 805 F.3d 653 (5th Cir. 2015), the case on which the Little Sisters relies. In that case, three resident aliens were able to intervene because they faced eligibility for immediate deportation. *See id.* at 660. The Little Sisters faces nothing remotely comparable. This is not even a situation where an adverse decision "will force them to change in ways that they regard as undesirable." *See Reid L. v. Illinois State Bd. of Educ.*, 289 F.3d 1009, 1019 (7th Cir. 2002) (denying intervention). *See also Floyd v. City of New York*, 770 F.3d 1051, 1060-62 (2d Cir. 2014) (denying intervention to police union to protect interest of officers); *Alternative Research and Dev. Foundation v. Veneman*, 262 F.3d 406, 411 (D.C. Cir. 2001) (denying intervention to association with members who use animals in research in lawsuit filed by group opposing use of certain animals in medical research). Rather, here, an adverse decision would not force it to do anything at all. As a result, the Little Sisters does not have a protectable interest that is threatened by this litigation, and its motion should be denied.

D. The Federal Government Can Adequately Defend Its Own Regulations.

The Little Sisters' claim, that the Defendants cannot adequately defend their own regulations, must fail. A movant cannot intervene as of right if the "existing parties adequately

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Zubik v. Burwell, __ U.S. __, 136 S.Ct. 1557 (2016), RFRA is not at issue here. Granting the Little Sisters' Motion would encourage it to improperly inject RFRA into this matter and re-litigate constitutional issues is has already lost. *Compare* Proposed Affirmative Defenses, ECF No. 20, at 22 *with Little Sisters*, 794 F.3d at 1205. The Little Sisters prefers a certain outcome here for nothing more than "ideological, economic, or precedential reasons." *See Texas*, 805 F.3d at 657. This is insufficient grounds to intervene.

represent that [party's] interest." Fed. R. Civ. P. 24(a)(2). "Inadequate representation can be based on any of three possible grounds: '(1) that although the applicant's interests are similar to those of a party, they diverge sufficiently that the existing party cannot devote proper attention to the applicant's interests; (2) that there is collusion between the representative party and the opposing party; or (3) that the representative party is not diligently prosecuting the suit.'" *Virgin Islands*, 748 F.3d at 519-20 (quoting *Brody ex rel. Sugzdinis v. Spang*, 957 F.2d 1108, 1123 (3d Cir. 1992)). And where one party is "a government entity charged by law with representing the interest of the applicant for intervention," there is a presumption of that the government's representation is adequate. *Id.* at 520. To overcome this presumption, a proposed intervenor must make a "compelling showing" that the government's representation is not adequate. *Id.*

The Little Sisters contends that the Defendants – federal agencies and officials charged with making and enforcing the regulations at issue – are incapable of defending those Rules because they have "long been in conflict over these very issues." Little Sisters Br. at 16. This makes no sense. Even so, the Little Sisters and the Defendants are plainly in lockstep here. Indeed, the Little Sisters asks this Court for permission to intervene as *defendants*; to be sued, side-by-side with the defendant-agencies and officials of a new and different federal administration that promulgated the Rules in the first place.

The Little Sisters does not claim that the Defendants' advocacy is "necessarily colored by its view of the public welfare rather than the more parochial views of a proposed intervenor." *See Kleissler v. United States Forest Service*, 157 F.3d 964, 972 (3d Cir. 1998). To the contrary, the Little Sisters claims that the Defendants specifically created the Rules to advance the Little

Sisters' *own* religious interests and those of similarly-situated religious entities.[6] Nor does the Little Sisters show "any economic interest that is in conflict with the [Defendants'] policy objectives in enacting and enforcing the [regulations]." *See Pa. General Energy Co., LLC v. Grant Twp.*, 658 Fed. Appx. 37, 40-41 (3d Cir. 2016) (denying private party's motion to intervene where existing defendant adequately represented shared policy concerns). The Little Sisters has no interest here that varies with the Defendants'; rather, it represents one subset of interests (religious non-profits with "church plans") within the larger religious interests promoted by the Rules.

E. The Little Sisters Asserts Insufficient Grounds for Permissive Intervention.

Even permissive intervention requires an intervenor to show "a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B). In deciding permissive intervention, "courts consider whether the proposed intervenors will add anything to the litigation." *Kitzmiller v. Dover Area Sch. Dist.*, 229 F.R.D. 463, 471 (M.D. Pa. 2005). Indeed, even where common questions exist, a court has broad discretion to decide if permissive intervention is appropriate in any particular case. *Virgin Islands*, 748 F.3d at 524.

The Little Sisters states in conclusory fashion that its "interest in protecting the [Rules] presents common questions of law and fact with those of the existing parties." Little Sisters Mem. at 18. A shared interest in a *policy outcome*, however, is not the same as a "common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B). Permitting intervention by the Little Sisters or other interest groups would add nothing of substance. Worse, it risks creating a circus

[6] Here, the Little Sisters actually undermines the Defendants' position with respect to the Establishment Clause. *See* Defendants' Mem. in Opp. To Pl.'s Mot. for Prelim. Injunction, ECF No. 15, at 51-53 (arguing Rules have a secular purpose and "do not promote . . . a religious belief or message"). *See* Little Sisters' Br. at 5.

atmosphere that will distract from the litigation at hand.[7]

The Commonwealth's lawsuit is narrow in scope. It is limited to the new Rules that the Defendants wrongly promulgated on October 6, 2017. It does not seek to challenge the preexisting "Original Religious Exception"[8] or "Religious Non-Profit Accommodation".[9] Nor does it seek to challenge any of the Little Sisters' impressive litigation successes before any court in the Country, including before the Supreme Court, as one of the litigants whose cases were consolidated in *Zubik v. Burwell*, 136 S. Ct. 1557 (2016).[10] Of course, this Court does not

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[7] The Little Sisters makes multiple misrepresentations of law and fact throughout their brief, among them: "Pennsylvania asks this Court to declare that not only the [Rule] itself, but any similar exemption arrangement protecting the Little Sisters would violate the Establishment and Equal Protection Clauses." Little Sisters' Br. at 13. The Little Sisters' citation to the Commonwealth's Complaint at ¶¶ 23, 146 and 158 does not support their false premise. Paragraphs 23 and 146 refer to the "Exemption Rules," a defined term referring only to the two new Rules at issue. See Compl. at ¶ 11; "Pennsylvania seeks a declaration that any religious exemption from the contraceptive mandate would violate the constitution and federal statutes." Little Sisters' Br. at 14; and "This lawsuit is an attack on victories the Little Sisters have won in other courts." Little Sisters' Br. at 15. Indeed, counsel for the Little Sisters has already held press events and issued public statements directly at odds with the law and facts. He has, for example, stated that the Commonwealth wants to "sue nuns," when in fact the nuns' religious nonprofit organization who is ***asking to be sued over the Commonwealth's objection***. *See* Press Release, Exh. A and Little Sisters' Br. at 9-10. Based on its conduct to date, intervention by the Little Sisters would focus on its unique legal history –which is not at issue here – and would create more heat than light.

[8] *See* Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act, 76 Fed. Reg. 46621 (Aug. 3, 2011).

[9] *See* 80 Fed. Reg. 41318-01.

[10] Furthermore, as the Little Sisters' declare proudly throughout their Motion and brief, their prior litigation was successful: "As a direct result of the Little Sisters' lawsuit [in Zubik], the federal government revised its regulations to exempt the Little Sisters and religious employers like them." Mot. at 2; "The Supreme Court has twice stepped in to protect [the Little Sisters'] rights, most recently directing the Department of Health and Human Services to reconsider its regulations and arrive at a solution that would respect the Little Sisters' religious freedom." Br. at 1; "Until recently, religious employers such as the Little Sisters were not exempt from the contraceptive mandate." Br. at 4 (emphasis added); and "A unanimous Supreme Court directed the government to reconsider its regulation and 'arrive at an approach going forward that accommodates [the Little Sisters'] religious exercise while at the same time ensuring that women covered by [their] health plans receive full and equal health coverage, including contraceptive

have the power to overrule the Supreme Court in *Zubik* or any matter – and the Commonwealth is not asking it to do so.

The current Defendants can best defend their positions without such unnecessary parties. And even without intervention, the Little Sisters is free to petition the Court to file a brief as *amicus curiae*, something the Commonwealth will not oppose. The Court should act within its discretion to deny the Little Sisters' request for permissive intervention.

III. CONCLUSION

For the foregoing reasons, this Court should deny the Emergency Motion to Intervene by Little Sisters of the Poor Saints Peter and Paul Home.

Respectfully submitted,

JOSH SHAPIRO
Attorney General
Commonwealth of Pennsylvania

December 6, 2017

s/ Jonathan Scott Goldman
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coverage.' The Supreme Court ordered that 'the Government may not impose taxes or penalties on [the Little Sisters] for failure to provide the relevant notice.' *That order is still in place*." Br. at 7 (emphasis added)(citing Zubik at 1560-1561). The Little Sisters got the exemption they had fought for. They do not just "admit" that they won – they trumpet it. And they should. The Commonwealth is not trying to erase the Little Sisters' hard-won legal victories, and this Court could not do so, even if it wanted to.

CERTIFICATE OF SERVICE

I, Jonathan Scott Goldman, certify that, on the date below, I served all parties of record with the forgoing Commonwealth's Memorandum of Law in Opposition to Emergency Motion to Intervene by Little Sisters of the Poor Saints Peter and Paul Home via ECF.

December 6, 2017

/s Jonathan Scott Goldman
Jonathan Scott Goldman

PRESS RELEASE

Little Sisters of the Poor head back to court

Press call will address new state lawsuits to take away religious exemption from Catholic nuns

For Immediate Release: November 21, 2017

Media Contact

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ADDITIONAL INFORMATION

Link: Chart of state contraceptive mandate coverage (Credit: Kaiser)

Legal Doc: New HHS Mandate Interim Rule 10/06/2017

Link: Media Kit for press use (images, b-roll, graphics. Credit: Becket)

Link: New Website

Case Page: State of California v. Hargan

Case Page: Commonwealth of Pennsylvania v. Trump

Legal Doc: Little Sisters' Motion to Intervene in Pennsylvania v. Trump

11/22/2017

WASHINGTON, D.C. – The Little Sisters of the Poor are heading back to court to defend themselves against lawsuits by the states of California and Pennsylvania to take away the Little Sisters' religious exemption from the new Health and Human Services rule. In early October, HHS **issued a new rule** that protects religious non-profits like the Little Sisters of the Poor, Catholic nuns who dedicate their lives to caring for the elderly poor, from providing services like the week-after pill in their healthcare plans in violation of their faith. The new rule should mean that their lawsuit against the federal government will soon end.

However, shortly after the new mandate was issued, the states of **California** and **Pennsylvania** sued to take away the religious exemption the Little Sisters just won. **The Little Sisters of the Poor**, represented by Becket, are asking the court to ensure that they can continue their vital ministry of caring for the elderly poor without violating their faith. Becket filed to intervene on the Sister's behalf in **California** and **Pennsylvania** today.

The following statement may be attributed to **Mark Rienzi, senior counsel at Becket** and lead attorney for the Little Sisters of the Poor: "Sadly Josh Shapiro and Xavier Becerra think attacking nuns is a way to score political points. These men may think their campaign donors want them to sue nuns, but our guess is most taxpayers disagree. No one needs nuns in order to get contraceptives, and no one needs these guys reigniting the last administration's divisive and unnecessary culture war."

What:

Press call to discuss Little Sisters' intervention in ***Pennsylvania v. Trump*** and ***California v. Hargan.***

Who:

Mark Rienzi, senior counsel at Becket

When:

Tuesday, November 21 at 11:30 a.m. EST

SKIP TO CONTENT

Becket attorney, contact Melinda Skea at ***media@becketlaw.org*** *or 202-349-7224. Interviews can be arranged in English, Chinese, French, German, Portuguese, Russian, and Spanish.*

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, Plaintiff, v. DONALD J. TRUMP, *et al.*, Defendants.	**No. 2:17-cv-04540-WB**

ORDER

AND NOW, on this _____ day of December, 2017, having considered the Emergency Motion to Intervene filed by proposed Intervenor-Defendant the Little Sisters of the Poor Saints Peter and Paul Home (ECF No. 19) (the "Motion"), Plaintiff Commonwealth of Pennsylvania's Memorandum of Law in opposition thereto, oral argument, if any, and for good cause shown, the Motion is hereby **DENIED**.

WENDY BEETLESTONE, J