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VIA CM/ECF

January 5, 2023

Molly C. Dwyer, Clerk
Clerk, United States Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103-1526

  RE: *City & County of San Francisco v. Becerra et al.,* Nos. 20-15398, 20-15399, 20-16045, 20-35044[1]

Dear Ms. Dwyer:

We submit this letter pursuant to the Court's order of October 7, 2022, which granted the government's request that these consolidated appeals continue to be held in abeyance for six months or until thirty days after the issuance of a final rule, whichever is sooner. The consolidated appeals concern the validity of a final rule that the U.S. Department of Health & Human Services promulgated in 2019. *See* Protecting Statutory Conscience Rights in Health Care, 84 Fed. Reg. 23,170 (May 21, 2019). Consistent with its October 3, 2022, status report, the government writes to inform the Court that it has published in the Federal Register a notice of proposed rulemaking revisiting the rule at issue in these appeals. *See* Safeguarding the Rights of Conscience as Protected by Federal Statutes, 88 Fed. Reg. 820 (Jan. 5, 2023). The public comment period on the new proposed rule has now begun, and, consistent with the Court's October 7 order, we shall provide a further report on the status of the rulemaking 30 days after the issuance of a final rule or after the

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[1] Secretary Xavier Becerra, in his official capacity as Secretary of the Department of Health and Human Services, 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.

six-month abeyance period previously ordered by this Court elapses, whichever comes first.

Sincerely,

s/ *Leif Overvold*
Leif Overvold
U.S. Department of Justice
Appellate Staff, Civil Division

cc (via CM/ECF): Counsel of Record