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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

THE STATE OF CALIFORNIA, et al.,
Plaintiffs,
v.

ERIC D. HARGAN, in his official capacity
as Acting Secretary of the U.S. Department
of Health and Human Service, et al.,

Defendants,
and,

THE LITTLE SISTERS OF THE POOR
JEANNE JUGAN RESIDENCE,

Defendant-Intervenor,
and,

MARCH FOR LIFE EDUCATION AND
DEFENSE FUND,

Defendant- Intervenor.

**Pro hac vice forthcoming*

Case No. 4:17-cv-05783-HSG

**INTERVENOR'S NOTICE OF
MOTION AND MOTION TO
INTERVENE, WITH MEMORANDUM
OF POINTS AND AUTHORITIES**

Date: March 01, 2018

Time: 2:00 pm

Dept.: Courtroom 2

Judge: Hon. Haywood S. Gilliam, Jr.

Date Filed: December 08, 2017

Trial Date: Not yet set

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TO THE PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on March 01, 2018 in Courtroom 2 of the above-entitled Court, located at 1301 Clay Street, Oakland, California, March for Life Education and Defense Fund (hereinafter “March for Life”) will and hereby does move this Court to permit it to intervene in this matter in order to protect and defend its right to operate its organization in a manner consistent with its moral convictions and its reason for being, free from the imposition of potentially crippling fines.

Proposed Defendant-Intervenor March for Life, pursuant to Federal Rule of Civil Procedure 24, seeks intervention as of right, or in the alternative, permissive intervention. Plaintiffs have stated that they are not prepared to stipulate to March for Life’s intervention at this time, while Defendants take no position on it.

March for Life and certain of its employees filed suit against the federal government in July 2014, seeking relief from the contraceptive mandate rooted in the Affordable Care Act. That mandate would have required it to provide and receive health insurance coverage for abortifacient drugs and devices, in direct contravention of its moral convictions as well as its constitutional and statutory rights. Although March for Life eventually secured a permanent injunction from the United States District Court for the District of Columbia, the federal government appealed that judgment. Its case against the federal government is thus still ongoing, and March for Life continues to face the possibility that it will be bound by the contraceptive mandate and all its attendant legal and existential threats.

Meanwhile, in part because of the litigation efforts of March for Life and myriad similarly situated moral and religious organizations who object to the contraceptive mandate, the federal government recently revised its regulations in October 2017—in the form of two Interim Final Rules (hereinafter “IFRs”)—to provide much-needed exemptions based upon the moral and religious beliefs of, *inter alia*, nonprofit organizations. But this action, filed by Plaintiff States, threatens to undo the protections contained in the federal government’s revised regulations, and

1 produce a ruling that contradicts the injunctive relief already secured by March for Life. As a
2 result, March for Life seeks to intervene in this matter to protect its interests.

3 March for Life is entitled to intervention as of right because its motion is timely; it has a
4 significantly protectable interest in this action; the disposition of this action will almost certainly
5 impair or impede its ability to protect its interest; and no parties will adequately represent its
6 interests. In addition to March for Life being entitled to intervention as of right, it is also entitled
7 to permissive intervention, because it has an independent ground for jurisdiction, it has a defense
8 which shares a question of law and fact in common with Plaintiffs' claims, and its motion is timely.

9 **WHEREFORE**, March for Life respectfully requests that this Court grant it the right to
10 intervene in this matter. This request is based upon this Notice of Motion and Motion, the
11 accompanying Memorandum of Points and Authorities, the supporting declaration of Jeanne
12 Mancini, President of March for Life, along with the papers, records, and evidence on file in this
13 action, as well as any other written or oral evidence that may be presented at or before the time
14 this motion is heard by the court. A proposed order has been filed herewith.

INTRODUCTION

The Affordable Care Act’s (hereinafter “ACA”) contraceptive mandate, by requiring March for Life to provide insurance coverage for abortifacient drugs and devices, compelled the organization to act contrary to its moral convictions. Those moral convictions include the position that all unborn children have inestimable worth and dignity and therefore should never be aborted. The federal government’s recent revision of its regulations pertaining to the contraceptive mandate in October 2017—which now include exemptions based not only on religious beliefs but moral convictions as well—was a welcome sign that years of litigation and importuning the government for relief had finally borne fruit in producing a solution that respected the rights of all. Plaintiff States now threaten to upset that equipoise by bringing this suit, in which they seek a nationwide injunction that threatens to eviscerate the nascent exemptions granted by the federal government. In order to ensure that these exemptions remain intact and that its ongoing litigation efforts are not hampered by a potentially contradictory ruling, March for Life is entitled to intervene in this matter.

STATEMENT OF THE ISSUES

Whether Proposed Defendant-Intervenor March for Life should be granted intervention as of right to defend its interests in this matter, the resolution of which threatens to eliminate the exemptions recently granted by the federal government to non-religious non-profits which hold moral convictions against abortion. Alternatively, whether Defendant-Intervenor March for Life should be granted permissive intervention.

STATEMENT OF FACTS

A. Proposed Defendant-Intervenor March for Life

March for Life is a pro-life, non-religious non-profit advocacy organization that has existed for over 40 years precisely to oppose the destruction of human life at any stage before birth, including by abortifacient methods that may act after the union of a sperm and ovum. Mancini Decl. ¶¶ 3, 4, 6, 11. March for Life is one of the oldest pro-life organizations in the nation. *Id.* at ¶ 3. It was founded in 1973, following the Supreme Court’s landmark decision in *Roe v. Wade*,

1 when a group of pro-life leaders gathered to express concern that the first anniversary of the
 2 decision would come and go with no recognition. *Id.* at ¶ 6. Based on scientific fact and medical
 3 knowledge, March for Life holds as a basic tenet that human life begins at conception, and thus
 4 each such life should be protected and certainly not intentionally terminated by abortion. *Id.* at ¶¶
 5 9-11. March for Life’s founding documents and articles of incorporation list this belief as an
 6 underlying principle. *Id.* at ¶ 12.

7 The hallmark of March for Life is its annual march on the Supreme Court and United States
 8 Capitol, held every year on or around January 22, the anniversary of *Roe v. Wade*. March for Life
 9 generally organizes for the purpose of protecting the lives of unborn children, promoting respect
 10 for the worth and dignity of all unborn children, and opposing abortion in all its forms. *Id.* at ¶¶
 11 4, 7. March for Life’s commitment to opposing all abortion includes moral opposition to providing
 12 coverage for abortion or abortifacients (and counseling in favor of the same) in their health
 13 insurance plan. *Id.* at ¶¶ 11, 15-17. March for Life believes that any hormonal drug or device within
 14 the ACA’s contraceptive mandate is an abortifacient, because such drugs and treatments may
 15 prevent or dislodge the implantation of a human embryo after fertilization, thereby causing its
 16 death. *Id.* at 15. The provision of these abortifacients thus runs directly contrary to March for Life’s
 17 moral conviction that life begins at conception and thus should be protected. *Id.* at ¶ 16.

18 **B. The ACA, the Contraceptive Mandate, and March for Life**

19 In March 2010, Congress passed, and President Obama signed into law, the Patient
 20 Protection and Affordable Care Act, Pub. L. No. 111-148 (March 30, 2010), and the Health Care
 21 and Education Reconciliation Act, Pub. L. No. 111-152 (March 30, 2010), together known as the
 22 Affordable Care Act. The ACA regulates the national health insurance market by, *inter alia*,
 23 directly regulating “group health plans” and “health insurance issuers.” The ACA requires that
 24 some health plans provide coverage for “preventive services,” including “preventive care” “with
 25 respect to women.” 42 U.S.C. § 300gg-13(a) & (a)(4). Although the ACA did not originally specify
 26 what preventive care for women included, the Health Resources and Services Administration
 27 (HRSA), within the Department of Health and Human Services (HHS), eventually issued
 28

1 guidelines on August 1, 2011 providing that women’s preventive care would include “[a]ll Food
2 and Drug Administration approved contraceptive methods, sterilization procedures, and patient
3 education and counseling for all women with reproductive capacity.” HRSA, Women’s Preventive
4 Services Guidelines (Aug. 1, 2011). Among these items are included hormonal oral and
5 implantable contraceptives, IUDs, and products categorized as emergency contraception, all of
6 which March for Life believes can prevent the implantation of a newly conceived human embryo,
7 thereby causing an abortion. Mancini Decl. ¶ 15.

8 On the same day that HRSA issued these guidelines, the federal government promulgated
9 another regulation which exempted some entities that objected to providing contraceptive
10 coverage. 76 Fed. Reg. 46,621 (Aug. 3, 2011); *see also* 45 C.F.R. § 147.130(a)(1)(iv)(A)-(B). This
11 second regulation granted HRSA “discretion to exempt certain religious employers from the
12 Guidelines where contraceptive services are concerned.” 76 Fed. Reg. 46,621, 46,623. The term
13 “religious employer” referred, in general, to churches, religious orders, and their integrated
14 auxiliaries. *See id.* at 46,626; 45 C.F.R. § 147.131(a) (final exemption). The exemption did not
15 include non-religious entities like March for Life, even though its moral convictions mirror the
16 religious beliefs of those churches opposing abortion. Mancini Decl. ¶ 15, 17.

17 More regulations followed. *See, e.g.*, 78 Fed. Reg. 8461 (Feb. 6, 2013) (attempting to simplify
18 the religious employer exemption to exempt all churches, integrated auxiliaries, religious orders,
19 and church congregations); 77 Fed. Reg. 16,501, 16,503 (Mar. 21, 2012) (presenting “questions
20 and ideas” to “help shape” a discussion of how to “maintain the provision of contraceptive
21 coverage without cost sharing,” while accommodating the religious beliefs of non-exempt
22 religious organizations); 78 Fed. Reg. at 8,463 (proposing to “accommodate” non-exempt religious
23 organizations by allowing their plans not to cover the mandated items, but requiring the entities to
24 submit a form causing their insurers and third party administrators to provide “separate” payments
25 to their plan participants for the same objectionable items); 79 Fed. Reg. 51,092 (Aug. 27, 2014)
26 (augmenting the “accommodation” for non-profit religious organizations by allowing them to
27
28

1 submit a letter to HHS instead of a form to their insurer as part of the accommodation); 79 Fed.
 2 Reg. at 51,122 (issuing proposed rules whereby the accommodation would be extended to
 3 include for-profit corporations who objected to the contraceptive mandate).

4 Notwithstanding this flurry of regulatory activity and the development of so-called
 5 “accommodations” and exemptions for religious and even for-profit corporations (some of which
 6 did not even object to abortion, abortifacient drugs or devices, or the contraceptive mandate),¹ the
 7 federal government never saw fit to accommodate or exempt pro-life, non-religious, non-profit
 8 organizations such as March for Life. This was so even though March for Life’s moral convictions
 9 prevented it from complying with the contraceptive mandate and mirrored the beliefs of other
 10 organizations who were eventually “accommodated” or exempted.

11 **C. March for Life Lawsuit**

12 Given the arbitrary and capricious nature of the federal government’s regulatory rollout of the
 13 ACA, and the unconstitutional imposition represented by the contraceptive mandate, March for
 14 Life filed suit against the government. *See* Dkt. No. 1, *March for Life, et al. v. Burwell, et al.*, No.
 15 14-cv-1149 (July 7, 2014 D.D.C.). March for Life argued that the contraceptive mandate was
 16 arbitrary and capricious under the Administrative Procedure Act (5 U.S.C. § 706(2)(A)) and
 17 constituted a violation of the Fifth Amendment’s guarantee of equal protection. On August 31,
 18 2015 the district court found that while it would be “difficult to imagine a more textbook example
 19 of the trait HHS purports to accommodate” in regulating the ACA than March for Life, the agency
 20 nonetheless was “excised from the fold because it is not ‘religious.’” *March for Life, et al. v.*
 21 *Burwell, et al.*, 128 F. Supp. 3d 116, 127 (D.D.C. 2015). The Court found that such treatment was
 22 “nothing short of regulatory favoritism” and thus a violation of equal protection, and accordingly
 23 issued a permanent injunction in favor of March for Life. *Id.* at 127. On October 28, 2015 the
 24 federal government filed its notice of appeal, and on June 17, 2016 the Court of Appeals for the

26
 27 ¹ Which included exemptions for tens of millions of people by declaring that “grandfathered”
 28 health plans, even those administered by those with no religious or moral objection to abortion or
 abortifacient drugs, need not follow the preventive service mandate. 42 U.S.C. § 18011(3)-(4).

1 D.C. Circuit ordered that the case be held in abeyance pending the resolution of *Priests for Life v.*
 2 *HHS* (Nos. 13-5368, 13-5371, 14-5021) in the wake of the Supreme Court’s remand in *Zubik v.*
 3 *Burwell*, 136 S. Ct. 1557 (2016). *See* Clerk’s Order, *March for Life v. Burwell*, No. 15-5301 (D.C.
 4 Cir. Feb. 24, 2016). Thus March for Life’s case is ongoing and its relief not cemented or final.

5 **D. The Interim Final Rules Underlying this Case**

6 President Trump signed an Executive Order pertaining to religious liberty on May 4, 2017,
 7 which order instructed HHS to “consider issuing amended regulations, consistent with applicable
 8 law, to address conscience-based objections to the preventive-care mandate.” Exec. Order No.
 9 13,798, 82 Fed. Reg. 21,675 (May 4, 2017). On October 16, 2017 HHS complied with that order
 10 by issuing the two IFRs central to this lawsuit. 82 Fed. Reg. at 47,792. The first IFR protects those
 11 with religious objections, while the second protects those with moral objections to the
 12 contraceptive mandate. The “moral” IFR, of particular note here because March for Life is a pro-
 13 life non-religious non-profit, exempts, *inter alia*, any nonprofit from having to provide
 14 contraceptive coverage in their health care plans “to the extent [that it objects] based on [its]
 15 sincerely held moral convictions.” 45 C.F.R. § 147.133(a)(2). It represents the first instance in
 16 which the federal government has accommodated non-religious but morally convicted non-profits
 17 from the unconstitutional burden represented by the contraceptive mandate. In promulgating and
 18 justifying these new regulations, the federal government specifically noted the lawsuit filed by
 19 March for Life and concluded that the “United States has a long history of providing conscience
 20 protections in the regulation of health care for entities and individuals with objections based on
 21 religious beliefs *and* moral convictions.” 82 Fed. Reg. at 47,792 (emphasis added).

22 **E. The Instant Action**

23 California filed this action on the very day the new IFRs were issued, seeking a declaration
 24 that the exemptions created by the IFRs are unlawful, and a nationwide injunction against them
 25 Dkt. 1. California then filed an amended complaint on November 1, 2017, adding the states of
 26 Delaware, Maryland, New York, and Virginia as co-plaintiffs. Dkt. 24. If Plaintiff States are
 27 granted the relief they seek in this litigation, March for Life and other non-religious, non-profits
 28

may be compelled to choose between violating their moral convictions by providing health care coverage which provides abortifacients, or hewing to those convictions under pain of crippling fines leading to the likely extinction of their organizations and charitable missions. Mancini Decl. ¶¶ 16-20.

ARGUMENT

Federal Rule of Civil Procedure 24 allows both intervention as of right and permissive intervention. The Ninth Circuit has repeatedly expressed its strong preference for liberal evaluation of the requirements in favor of granting intervention. “[T]he requirements for intervention are broadly interpreted in favor of intervention,” *United States v. Alisal Water Corp.*, 370 F.3d 915, 919 (9th Cir. 2004), precisely because a “liberal policy in favor of intervention serves both efficient resolution of issues and broadened access to the courts.” *Forest Conservation Council v. United States Forest Serv.*, 66 F.3d 1489, 1496 n.8 (9th Cir. 1995) (internal citation omitted) (abrogated by further broadening of intervention under a specific statute in *Wilderness Soc’y v. United States Forest Serv.*, 630 F.3d 1173 (9th Cir. 2011)). As shown below, March for Life satisfies all of the intervention requirements for intervention by right, as well as permissive intervention.

I. March for Life is Entitled to Intervene as of Right.

Given the Ninth Circuit’s liberal policy in favor of intervention, a court must broadly construe the following four criteria when evaluating a request to intervene by right under Fed. R. Civ. P. 24(a)(2): (1) the application must be timely; (2) the applicant must have a significant protectable interest in the action; (3) the disposition of the action may, as a practical matter, impair or impede the applicant’s ability to protect its interest; and (4) the existing parties may not adequately represent the applicant’s interest. *Prete v. Bradbury*, 438 F.3d 949, 954 (9th Cir. 2006); *Donnelly v. Glickman*, 159 F.3d 405, 409 (9th Cir. 1998). Courts “are guided primarily by practical and equitable considerations” in assessing these criteria. *Donnelly*, 159 F.3d at 409.

1 **A. March for Life’s Motion is Timely.**

2 The Ninth Circuit gauges timeliness by considering “three factors: (1) the stage of the
3 proceeding at which an applicant seeks to intervene; (2) the prejudice to other parties; and (3) the
4 reason for and length of the delay.” *League of United Latin Am. Citizens v. Wilson*, 131 F.3d 1297,
5 1302 (9th Cir. 1997) (internal quotation marks and citations omitted). Even a motion filed four
6 months after the filing of a lawsuit is considered “a very early stage” under Ninth Circuit
7 jurisprudence. *Idaho Farm Bureau Fed’n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995).

8 Here, March for Life has filed its motion approximately two months after the original
9 complaint, and approximately one month since the amended complaint was filed in this matter.
10 No Defendant has yet filed an answer. Moreover, Proposed Defendant-Intervenor does not seek
11 to alter any of the Court’s current deadlines (briefing or otherwise), so there can be no argument
12 that intervention by March for Life will result in any prejudice to the parties. *See Smith v. Los*
13 *Angeles Unified Sch. Dist.*, 830 F.3d 843, 857 (9th Cir. 2016) (holding that “the only ‘prejudice’
14 that is relevant under this factor is that which flows from [the] prospective intervenor’s” delay)
15 (citation omitted). March for Life has therefore satisfied the timeliness factor.

16
17 **B. March for Life Has a Significantly Protectable Interest in the Subject Matter of this Action.**

18 A proposed intervenor will be found to have a “significant protectable interest in an action if
19 (1) it asserts an interest that is protected under some law, and (2) there is a relationship between
20 its legally protected interest and the plaintiff’s claim.” *Cal. ex rel. Lockyer v. United States*, 450
21 F.3d 436, 441 (9th Cir. 2006) (quoting *Donnelly*, 159 F.3d at 409). Granting intervention is
22 particularly appropriate where “the injunctive relief sought by plaintiff will have direct, immediate,
23 and harmful effects upon [the proposed intervenor’s] legally protectable interests.” *Southwest Ctr.*
24 *for Biological Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir. 2001).

25 Here, the Plaintiff States seek to enjoin the “moral” IFR (along with its religious counterpart),
26 which now stands as a regulatory protection for March For Life and other like organizations who
27 object to complying with the ACA’s contraceptive mandate on moral, rather than religious,
28

grounds. Plaintiff States also seek to nullify through a declaratory judgment the federal government’s recent and proper recognition—which comes as a result of the litigation efforts of March for Life and many others—that moral convictions, much like religious beliefs, are a proper predicate for granting exemptions to the contraceptive mandate. *See* Am. Compl., Dkt. No. 24 at 30 (seeking to have the IFRs entirely set aside as a violation of the APA). Put simply, the relief the Plaintiff States seek here would eliminate the very protections March for Life has been fighting for since the ACA passed. Granting such relief would compromise March for Life’s ability to operate its organization and fulfill its mission in accord with its moral convictions. Indeed, such relief may force March for Life to decide between hewing to its convictions and suffering penury as a result, or complying with the contraceptive mandate and ignoring its moral conscience altogether. Because such a burden would clearly have “direct, immediate, and harmful effects upon” March for Life, the significant protectable interest factor is satisfied. *See, e.g., Cal. ex rel. Lockyer v. United States*, 450 F.3d 436, 441 (9th Cir. 2006) (finding a significant protectable interest where federal law “provide[d] an important layer of protection” to intervenors, and where intervenors would “likely . . . be forced to choose between adhering to their beliefs and losing their professional licenses” in the event such a law were to be struck down as a result of the underlying litigation). March for Life clearly has a substantial legal interest in seeing that the IFRs are not eliminated or even weakened by the relief Plaintiffs request.

C. March for Life’s Ability to Protect Its Interest May Be Impaired.

A significantly protectable interest is very closely linked with the third requirement for intervention of right—that the outcome of the challenge may impair the proposed intervenor’s interest. Indeed, once such an interest obtains, a court should have “little difficulty concluding that the disposition of th[e] case may, as a practical matter, affect” the intervenor. *Citizens for Balanced Use v. Montana Wilderness Association*, 647 F.3d 893, 898 (9th Cir. 2011) (citation omitted).

The distinct possibility of impairment is clear here. If the Plaintiff States prevail, March for Life would be stripped of a vital and hard-fought regulatory exemption that, going forward,

1 would permit it to work consistent with its moral convictions, unhindered by the looming prospect
 2 of crippling fines. Moreover, because March for Life’s lawsuit is not yet resolved, any resolution
 3 that holds the “moral” IFR unlawful would be in tension with the injunctive relief previously
 4 granted to March for Life, potentially making it more difficult for March for Life to ultimately
 5 prevail in that case once it is actively resumed. Finally, if March for Life is not permitted to
 6 intervene here, it “will have no legal means to challenge [any] injunction” that might be granted
 7 by this Court. *Forest Conservation Council*, 66 F.3d at 1498; *see Lockyer*, 450 F.3d at 443 (finding
 8 impairment where proposed intervenors would have “no alternative forum . . . [to] . . . contest [the]
 9 interpretation” of a law that was “struck down” or had its “sweep substantially narrowed”).² Under
 10 such circumstances, March for Life satisfies the impairment factor.

11 **D. No Existing Parties to the Action Adequately Represent March for Life.**

12 A proposed intervenor can establish this factor if it “shows that representation of [its] interest
 13 ‘*may be*’ inadequate,” and “the burden of making that showing should be treated as minimal.”
 14 *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n. 10 (1972) (emphasis added). A
 15 proposed intervenor “should be treated as the best judge of whether the existing parties adequately
 16 represent . . . [its] interests, and . . . any doubt regarding adequacy of representation should be
 17 resolved in [its] favor.” 6 Edward J. Brunet, *Moore’s Federal Practice* § 24.03[4][a] (3d ed. 1997);
 18 *see also In Def. of Animals v. United States Dep’t of the Interior*, No. 2-10-cv-1852, 2011 WL
 19 1085991 (Mar. 21, 2011 E.D. Cal 2011) (same). As demonstrated below, the interests of March
 20 for Life are not adequately represented by any party in this action.

21 Although both seek to vindicate the new IFRs, the federal government’s “representation of the
 22 public interest” is not “identical to the individual parochial interest” of March for Life in the instant
 23 action. *Citizens for Balanced Use*, 647 F.3d at 899 (internal quotations and citations omitted).

24
 25 ² March for Life also has an interest in this case in light of Plaintiff States’ baseless allegation the
 26 new “moral” IFR “frustrat[es] the scheme and purpose of the ACA.” Am. Compl. at ¶ 102. This
 27 allegation and others like it are directed at organizations like March for Life, which should be
 28 permitted to intervene to not only respond, but to fully develop the factual record regarding the
 claim that its moral convictions somehow frustrate the “scheme and purpose” of the ACA.

1 This distinction is sufficient, by itself, to merit a grant of intervention. *See Forest Conservation*,
 2 66 F.3d at 1499 (finding minimal burden of establishing inadequate representation was met where
 3 federal government defendant was “not charged with a duty to represent . . . asserted interests [of
 4 proposed intervenor] in defending against injunction”); *see also Cal. Dump Truck Owners Ass’n*
 5 *v. Nichols*, 275 F.R.D. 303, 308 (E.D. Cal. 2011) (even when government agency and proposed
 6 intervenor shared the same “ultimate objective,” finding inadequate representation where the
 7 former’s interest was generally to account for the “economic impact its rules [would] have on the
 8 state *as a whole*,” while the latter’s interests were “more ‘*narrow and parochial*’”) (emphasis
 9 added). Indeed, “[i]nadequate representation is most likely to be found when the applicant asserts
 10 a personal interest that does not belong to the general public.” *Id.* (quoting 3B Moore’s Federal
 11 Practice, ¶ 24.07[4] at 24–78 (2d ed. 1995)). That is particularly the case here, where March for
 12 Life’s interest lies solely in ensuring that it can operate its organization consistent with its moral
 13 conviction free from the looming threat of government fines, whereas the federal government’s
 14 interest is far more expansive and generalized. *See, e.g.*, 82 Fed. Reg. at 47,793 (introducing the
 15 IFRs as a way of “balanc[ing] the Government’s interest in ensuring coverage for contraceptive
 16 and sterilization services” with the need for “conscience protections for individuals and entities
 17 with sincerely held religious beliefs in certain health care contexts”); 82 Fed. Reg. at 47,821–
 18 47,822 (estimating the number of persons affected by, and considering the cost of, initiating new
 19 IFRs).

20 This conclusion is only bolstered by the fact that the IFRs were prompted in part by the
 21 litigation efforts of March for Life and other organizations which endured protracted litigation
 22 battles with the federal government to oppose the contraceptive mandate in the first place. *See* 82
 23 Fed. Reg. 47,797–47,799 (discussing effects of past and still-pending litigation on the development
 24 of regulations, specifically citing to March for Life’s lawsuit, and conceding that the new IFRs are
 25 a result of the government’s “reexamin[ation of] the exemption and accommodation scheme
 26 currently in place for the Mandate”). Under such circumstances, where the federal government
 27 clearly acted in response to the litigation efforts of March for Life and others, inadequacy of
 28

representation is patent. *See, e.g., Citizens for Balanced Use*, 647 F.3d at 900 (finding inadequate representation where government “issued the Interim Order . . . only reluctantly in response to successful litigation by” proposed intervenors).

In sum, while their ultimate goal may be the same, the interests of March for Life and the federal defendants are clearly distinct, and the federal government issued the IFRs as a result of protracted litigation with organizations like March for Life. Given these facts, it is clear that federal defendants will neither “advance the same arguments as” March for Life, nor will they “simply confirm” the interests of March for Life in this action. *Berg*, 268 F.3d at 823.³ The guidance of the Supreme Court and the Ninth Circuit on this factor thus compels a conclusion that March for Life has met its minimal burden to establish that no adequate representation exists to protect its narrow and parochial interest in seeing that the “moral” IFR survives this litigation whole and undefiled.

II. March for Life Should Alternatively be Granted Permissive Intervention.

In addition to satisfying the requirements for intervention as of right, March for Life also satisfies those for permissive intervention. Federal Rule of Civil Procedure 24(b)(1) provides that “[o]n timely motion, the court may permit anyone to intervene who . . . has a claim or defense that shares with the main action a common question of law or fact.” In making this determination a court must also consider “whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights.” Fed. Civ. R. P. 24(b)(3).

As already established, March for Life’s motion is timely filed and will cause no undue delay or prejudice to the original parties. *See supra* at 10. March for Life has concurrently filed an appropriate pleading and seeks no delay in any of the Court’s pending scheduling orders. Moreover, it is clear that March for Life’s defenses “share[] with the main action a common question of law or fact.” March for Life intends to defend the propriety of the exemption created

³ Indeed, March for Life is the only pro-life but non-religious, non-profit defending the “moral” IFR, as Proposed Defendant-Intervenor Little Sisters of the Poor is protected under the “religious” IFR.

1 by the “moral” IFR, which defense arises directly from the challenge brought by the Plaintiff States
2 in their Amended Complaint. Finally, because March for Life is the only party which is a non-
3 religious, non-profit objecting to the contraceptive mandate, it believes it can provide this Court
4 with a perspective it might not otherwise hear, thereby aiding in the disposition of the case.
5 Accordingly, March for Life respectfully requests that this Court grant it permissive intervention
6 in the event it is denied intervention as of right.

7 **CONCLUSION**

8 For the foregoing reasons, the Court should grant March for Life’s motion to intervene as of
9 right, or in the alternative its motion for permissive intervention.

10
11 Respectfully submitted this 8th day of December, 2017.

12 By: s/Brian R. Chavez-Ochoa

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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

STATE OF CALIFORNIA, et al,

Plaintiffs,

V.

ERIC D. HARGAN, in his official capacity
as Acting Secretary of the U.S. Department
of Health and Human Services, et al.,

Defendants,

and,

THE LITTLE SISTERS OF THE POOR
JEANNE JUGAN RESIDENCE,

Intervenor-Defendants,

and,

MARCH FOR LIFE EDUCATION AND
DEFENSE FUND
JEANNE F. MANCINI,

Intervenor-Defendant.

**Pro hac vice forthcoming*

Case No. 4:17-cv-05783-HSG

**DECLARATION OF
JEANNE F. MANCINI**

COMES NOW Jeanne F. Mancini and declares as follows:

1. I am an individual having obtained the age of majority and am capable of making this declaration pursuant to 28 U.S. C. § 1746. I have personal knowledge of all facts stated in this declaration.
2. March for Life Education Defense Fund (“March for Life”) is a pro-life, non-religious, non-profit organization organized under the laws of the District of Columbia, which is also located in Washington, D.C.
3. March for Life is one of the oldest pro-life organizations in the nation.
4. March for Life exists to protect, defend, and respect human life at every stage; promote the worth and dignity of all unborn children; oppose abortion in all its forms.
5. March for Life endeavors to help all like-minded Americans to protect and advocate for the lives of unborn children.
6. March for Life was founded in 1973, following the Supreme Court’s landmark decision in *Roe v. Wade*, when a group of pro-life leaders gathered to express concern that the first anniversary of the decision would come and go with no recognition.
7. The hallmark of March for Life is its annual march on the Supreme Court and United States Capitol, held every year on or around January 22, the anniversary of *Roe v. Wade*.
8. March for Life only hires, as a matter of policy, employees who are pro-life and believe that life should be protected from the moment of conception/fertilization.
9. March for Life, and its employees, based on scientific and medical knowledge, hold the basic moral conviction that human life begins at conception/fertilization.
10. March for Life thus holds the position that a human embryo, small and fragile though it may be, is a human life that must and should be protected.
11. March for Life opposes the destruction of human life at any stage before birth, including by abortifacient methods that may act after the union of a sperm and ovum.
12. March for Life’s founding documents and articles of incorporation establish that these moral convictions are underlying principles of the organization.

13. The Patient Protection and Affordable Care Act (“ACA”) requires March for Life to provide hormonal birth control items and intrauterine devices through the insurance health plans it offers to its employees.

14. March for Life believes that the hormonal drugs and devices within the ACA’s contraceptive mandate are abortifacients, because such drugs and treatments may prevent or dislodge the implantation of a human embryo after fertilization, thereby causing its death.

15. The provision of these abortifacients (and counseling in favor of the same) runs directly contrary to March for Life’s moral conviction that life begins at conception and should be protected at all stages, and contradicts its very reason for being.

16. March for Life, because of its moral convictions, cannot provide abortifacient drugs or devices through its health plans.

17. The federal government provided regulatory exemptions with respect to the ACA’s contraceptive mandate for many employers and some religious entities, but none of those exemptions or accommodations were ever extended to March for Life, despite the fact that our moral convictions in many ways mirrored, and were as sincerely held as, the religious beliefs of those opposed to abortion.

18. March for Life cannot in good moral conscience comply with the ACA’s contraceptive mandate.

19. At the same time, March for Life cannot sustain the heavy fines and penalties that would alternatively come with noncompliance.

20. The ACA’s contraceptive mandate placed great pressure on March for Life to violate its moral convictions in order to avoid such heavy fines and penalties.

21. But because March for Life could not countenance such a betrayal of its moral convictions, the organization filed suit against the federal government on July 7, 2014. *March for Life, et al. v. Burwell, et al.*, No. 14-cv-1149 (July 7, 2014 D. D.C.).

1 22. March for Life did so to vindicate its right to operate our organization consistent with our
2 moral convictions, and to rectify what we believed were violations of our constitutional
3 and statutory rights.

4 23. Although March for Life eventually secured a permanent injunction, the federal
5 government appealed that judgment. Dkt. No. 30, *March for Life, et al. v. Burwell, et al.*,
6 No. 14-cv-1149 at *15-16 (Aug. 31, 2015 D. D.C.). That appeal, though in abeyance, is
7 ongoing, which means that the relief secured by March for Life is not guaranteed or final
8 in any way.

9 24. On October 6, 2017 the federal government issued Interim Final Rules (“IFRs”) which
10 included protection, in the form of an exemption, for non-religious non-profits like March
11 for Life which hold moral convictions against abortion and abortifacient drugs and
12 devices.

13 25. In explaining the reasons for the new IFRs, the federal government specifically noted the
14 lawsuit filed by March for Life and concluded that the “United States has a long history
15 of providing conscience protections in the regulation of health care for entities and
16 individuals with objections based on religious beliefs and moral convictions.” 82 Fed.
17 Reg. at 47,792.

18 26. It is my understanding, based on having litigated against the federal government, that this
19 new exemption marks the first instance in which the federal government has provided an
20 exemption from the burden represented by the contraceptive mandate to non-religious but
21 morally convicted non-profits.

22 27. No matter the outcome of our currently pending lawsuit, this new exemption now
23 provides March for Life with the assurance that it can continue to pursue its life-saving
24 mission free from the threat of government fines and penalties for refusing to comply
25 with the contraceptive mandate.

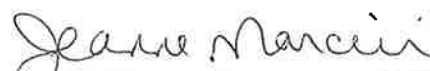
26 28. This lawsuit filed by California and the other states threatens to undo the protections that
27 our own litigation efforts—and the efforts of many other religious and non-religious
28 nonprofits—have produced through litigation and petitioning the federal government

1 regarding our constitutional and statutory rights not to be compelled to violate our
2 consciences.

3 29. Because this lawsuit threatens the interests we fought so hard to secure, we have decided
4 to move to intervene in this case, in order than we might make arguments respecting our
5 organization (and many others like it), which objects to the contraceptive mandate on
6 moral rather than religious grounds. Without our participation, the voice, unique
7 perspective, and arguments of pro-life, non-religious, non-profits will not be represented
8 or heard in this matter.

9 I declare under penalty of perjury under the laws of the United States that the foregoing
10 is true and correct to the best of my knowledge.

11
12 Executed this the 8th day of December, 2017.

13
14 

15 Jeanne F. Mancini
16 President,
17 March for Life Education and Defense Fund
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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

THE STATE OF CALIFORNIA, et al.,

Plaintiffs,

V.

ERIC D. HARGAN, in his official capacity
as Acting Secretary of the U.S. Department
of Health and Human Services, et al.,

Defendants,

and,

THE LITTLE SISTERS OF THE POOR
JEANNE JUGAN RESIDENCE,

Intervenor-Defendants,

and,

MARCH FOR LIFE EDUCATION AND
DEFENSE FUND,

Intervenor-Defendant.

**Pro hac vice forthcoming*

Case No. 4:17-cv-05783-HSG

**[PROPOSED] ANSWER OF
PROPOSED DEFENDANT-
INTERVENOR MARCH FOR LIFE
EDUCATION AND DEFENSE FUND**

1 Defendant-Intervenor March for Life Education and Defense Fund (hereinafter
2 “Intervenor”) submits this proposed answer to Plaintiffs’ First Amended Complaint.

3 Intervenor denies all allegations not expressly admitted or qualified herein.

4 1. Paragraph 1 contains legal conclusions and general commentary for which no response is
5 required. The statutes and regulations cited by Plaintiffs speak for themselves and do not require
6 a response. As to the remainder of the paragraph, Intervenor lacks knowledge sufficient to
7 ascertain the truth of the allegations, but to the extent a response is deemed necessary, Intervenor
8 denies them in their entirety.

9 2. Paragraph 2 contains legal conclusions and interpretation for which no response is required.
10 The statutes and regulations cited by Plaintiffs speak for themselves and do not require a response.
11 To the extent a response is deemed necessary, Intervenor denies the allegations in this paragraph
12 in their entirety.

13 3. Intervenor admits that the states listed in Paragraph 3 have brought this suit to challenge
14 the IFRs. The remainder of the allegations in this paragraph contain legal conclusions for which
15 no response is required. Intervenor denies that Plaintiffs have suffered or will suffer any harm or
16 injury as a result of the IFRs. To the extent a response is deemed necessary, Intervenor denies the
17 allegations in Paragraph 3 in their entirety.

18 4. Paragraph 4 contains legal conclusions for which no response is required.

19 5. Paragraph 5 contains legal conclusions for which no response is required.

20 6. Paragraph 6 contains legal conclusions for which no response is required.

21 7. Paragraph 7 contains legal conclusions for which no response is required.

22 8. Intervenor admits that California is a Plaintiff in this action and that it brings this case “by
23 and through its Attorney General Xavier Becerra.” The remainder of the allegations in Paragraph
24 8 are legal conclusions for which no response is required.

25 9. Intervenor admits that Delaware is a Plaintiff in this action and that it brings this case “by
26 and through its Attorney General Matthew P. Denn. The remainder of the allegations in Paragraph
27 9 are legal conclusions for which no response is required.

1 10. Intervenor admits that Maryland is a Plaintiff in this action and that it brings this case “by
2 and through its Attorney General Brian E. Frosh.” The remainder of the allegations in Paragraph
3 10 are legal conclusions for which no response is required.

4 11. Intervenor admits that New York is a Plaintiff in this action and that it brings this case “by
5 and through its Attorney General Eric T. Schneiderman.” The remainder of the allegations in
6 Paragraph 11 are legal conclusions for which no response is required.

7 12. Intervenor admits that Virginia is a Plaintiff in this action and that it brings this case “by
8 and through its Attorney General Mark R. Herring.” The remainder of the allegations in Paragraph
9 12 are legal conclusions for which no response is required.

10 13. Paragraph 13 contains legal conclusions for which no response is required. To the extent
11 a response is deemed necessary, Intervenor denies the allegations in Paragraph 13 in their entirety.

12 14. Paragraph 14 contains legal conclusions for which no response is required. To the extent a
13 response is deemed necessary, Intervenor denies the allegations in Paragraph 14 in their entirety.
14 Intervenor further denies that Plaintiffs have suffered or will suffer any cognizable harm or injury
15 as a result of the IFRs.

16 15. Paragraph 15 contains legal conclusions for which no response is required. To the extent a
17 response is deemed necessary, Intervenor denies the allegations in Paragraph 15 in their entirety.
18 Intervenor further denies that Plaintiffs have suffered or will suffer any cognizable harm or injury
19 as a result of the IFRs.

20 16. Paragraph 16 contains legal conclusions for which no response is required. To the extent a
21 response is deemed necessary, Intervenor denies the allegations in Paragraph 16 in their entirety.
22 Intervenor further denies that Plaintiffs have suffered or will suffer any cognizable harm or injury
23 as a result of the IFRs.

24 17. Admitted.

25 18. Admitted.

26 19. Admitted.

27 20. Admitted.

28 21. Admitted.

1 22. Admitted.

2 23. Paragraph 23 contains legal conclusions and general commentary for which no response is
3 required. To the extent a response is deemed necessary, Intervenor denies the allegations in
4 Paragraph 23 in their entirety. Intervenor further states that the Affordable Care Act (hereinafter
5 “ACA”) speaks for itself.

6 24. Denied.

7 25. Intervenor admits that the Institute of Medicine (hereinafter “IOM”) issued a report that
8 recommended certain preventive care for women. Intervenor denies that the IOM report
9 “recommended that private insurance plans be required to cover all contraceptive benefits and
10 services.” Intervenor denies the remainder of the allegations in Paragraph 25.

11 26. Paragraph 26 purports to interpret the import and purpose of the IOM report and thus no
12 response is required. The IOM report speaks for itself. To the extent a response is deemed
13 necessary, Intervenor denies the allegations in Paragraph 26 in their entirety.

14 27. Paragraph 27 purports to interpret the import and purpose of the IOM report and thus no
15 response is required. The IOM report speaks for itself. To the extent a response is deemed
16 necessary, Intervenor denies the allegations in Paragraph 26 in their entirety.

17 28. Admitted.

18 29. Paragraph 29 contains legal conclusions for which no response is required. To the extent a
19 response is deemed necessary, Intervenor denies the allegations in Paragraph 29 in their entirety.

20 30. Paragraph 30 contains legal conclusions for which no response is required. To the extent a
21 response is deemed necessary, Intervenor denies the allegations in Paragraph 30 in their entirety.

22 31. Paragraph 31 contains legal conclusions for which no response is required, but to the extent
23 a response is deemed necessary, Intervenor denies the allegations in Paragraph 31. As to the
24 guidelines mentioned by Plaintiffs, those speak for themselves.

25 32. Paragraph 32 contains legal conclusions for which no response is required, but to the extent
26 a response is deemed necessary, Intervenor denies the allegations in Paragraph 32 in their entirety.
27 As to the purported characterization of reports by the Health Resources and Services
28 Administration”) (hereinafter “HRSA”) and other entities, those documents speak for themselves.

1 33. Paragraph 33 contains legal conclusions for which no response is required, but to the extent
2 a response is deemed necessary, Intervenor denies the allegations in Paragraph 33 in their entirety.
3 Moreover, 42 U.S.C. §§ 18114 and 18116 speak for themselves.

4 34. Paragraph 34 contains legal conclusions for which no response is required, but to the extent
5 a response is deemed necessary, Intervenor denies the allegations in Paragraph 34 in their entirety.
6 Moreover, the Administrative Procedures Act (hereinafter “APA”) speaks for itself.

7 35. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
8 and information contained in Paragraph 35 are true, and so denies them in their entirety.

9 36. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
10 and information contained in Paragraph 36 are true, and so denies them in their entirety.

11 37. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
12 and information contained in Paragraph 37 are true, and so denies them in their entirety.

13 38. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
14 and information contained in Paragraph 38 are true, and so denies them in their entirety.

15 39. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
16 and information contained in Paragraph 39 are true, and so denies them in their entirety.

17 40. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
18 and information contained in Paragraph 40 are true, and so denies them in their entirety.

19 41. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
20 and information contained in Paragraph 41 are true, and so denies them in their entirety.

21 42. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
22 and information contained in Paragraph 42 are true, and so denies them in their entirety. Intervenor
23 denies that Plaintiffs have suffered or will suffer any harm or injury as a result of the IFRs.

24 43. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
25 and information contained in Paragraph 43 are true, and so denies them in their entirety.

26 44. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
27 and information contained in Paragraph 44 are true, and so denies them in their entirety. To the
28

1 extent Paragraph 44 contains legal conclusions, no response is required; but if a response is deemed
2 necessary, Intervenor denies those remaining allegations as well.

3 45. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
4 and information contained in Paragraph 45 are true, and so denies them in their entirety. To the
5 extent Paragraph 45 contains legal conclusions, no response is required; but if a response is deemed
6 necessary, Intervenor denies those remaining allegations as well.

7 46. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
8 and information contained in Paragraph 46 are true, and so denies them in their entirety. To the
9 extent Paragraph 46 contains legal conclusions, no response is required; but if a response is deemed
10 necessary, Intervenor denies those remaining allegations as well.

11 47. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
12 and information contained in Paragraph 47 are true, and so denies them in their entirety. To the
13 extent Paragraph 47 contains legal conclusions, no response is required; but if a response is deemed
14 necessary, Intervenor denies those remaining allegations as well.

15 48. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
16 and information contained in Paragraph 48 are true, and so denies them in their entirety. To the
17 extent Paragraph 48 contains legal conclusions, no response is required; but if a response is deemed
18 necessary, Intervenor denies those remaining allegations as well. Intervenor further denies that
19 California has suffered or will suffer any harm or injury as a result of the IFRs.

20 49. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
21 and information contained in Paragraph 49 are true, and so denies them in their entirety. To the
22 extent Paragraph 49 contains legal conclusions, no response is required; but if a response is deemed
23 necessary, Intervenor denies those remaining allegations as well.

24 50. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
25 and information contained in Paragraph 50 are true, and so denies them in their entirety. To the
26 extent Paragraph 50 contains legal conclusions, no response is required; but if a response is deemed
27 necessary, Intervenor denies those remaining allegations as well.
28

1 51. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
2 and information contained in Paragraph 51 are true, and so denies them in their entirety. To the
3 extent Paragraph 51 contains legal conclusions, no response is required; but if a response is deemed
4 necessary, Intervenor denies those remaining allegations as well.

5 52. Intervenor lacks sufficient knowledge or information to ascertain whether the speculative
6 predictions contained in Paragraph 52 are accurate or true, and so denies them in their entirety. To
7 the extent Paragraph 52 contains legal conclusions, no response is required; but if a response is
8 deemed necessary, Intervenor denies those remaining allegations as well. Intervenor further denies
9 that California has suffered or will suffer any harm or injury as a result of the IFRs.

10 53. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
11 or speculative predictions contained in Paragraph 53 are accurate or true, and so denies them in
12 their entirety. To the extent Paragraph 53 contains legal conclusions, no response is required; but
13 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
14 Intervenor further denies that Delaware has suffered or will suffer any harm or injury as a result
15 of the IFRs.

16 54. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
17 contained in Paragraph 54 are true, and so denies them in their entirety. To the extent Paragraph
18 54 contains legal conclusions, no response is required; but if a response is deemed necessary,
19 Intervenor denies those remaining allegations as well.

20 55. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
21 contained in Paragraph 55 are true, and so denies them in their entirety. To the extent Paragraph
22 55 contains legal conclusions, no response is required; but if a response is deemed necessary,
23 Intervenor denies those remaining allegations as well.

24 56. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
25 contained in Paragraph 56 are true, and so denies them in their entirety. To the extent Paragraph
26 56 contains legal conclusions, no response is required; but if a response is deemed necessary,
27 Intervenor denies those remaining allegations as well.
28

1 57. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
2 or speculative predictions contained in Paragraph 57 are accurate or true, and so denies them in
3 their entirety. To the extent Paragraph 57 contains legal conclusions, no response is required; but
4 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
5 Intervenor further denies that Delaware has suffered or will suffer any harm or injury as a result
6 of the IFRs.

7 58. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
8 contained in Paragraph 58 are true, and so denies them in their entirety. To the extent Paragraph
9 58 contains legal conclusions, no response is required; but if a response is deemed necessary,
10 Intervenor denies those remaining allegations as well. Finally, Title X of the Public Health
11 Services Act speaks for itself.

12 59. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
13 contained in Paragraph 59 are true, and so denies them in their entirety. To the extent Paragraph
14 59 contains legal conclusions, no response is required; but if a response is deemed necessary,
15 Intervenor denies those remaining allegations as well.

16 60. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
17 contained in Paragraph 60 are true, and so denies them in their entirety.

18 61. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
19 contained in Paragraph 61 are true, and so denies them in their entirety. To the extent Paragraph
20 61 contains legal conclusions, no response is required; but if a response is deemed necessary,
21 Intervenor denies those remaining allegations as well.

22 62. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
23 or speculative predictions contained in Paragraph 62 are accurate or true, and so denies them in
24 their entirety. To the extent Paragraph 62 contains legal conclusions, no response is required; but
25 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
26 Intervenor further denies that Delaware has suffered or will suffer any harm or injury as a result
27 of the IFRs.

28

1 63. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
2 contained in Paragraph 63 are true, and so denies them in their entirety.

3 64. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
4 or speculative predictions contained in Paragraph 64 are accurate or true, and so denies them in
5 their entirety. To the extent Paragraph 64 contains legal conclusions, no response is required; but
6 if a response is deemed necessary, Intervenor denies those remaining allegations as well.

7 65. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
8 contained in Paragraph 65 are true, and so denies them in their entirety. To the extent Paragraph
9 65 contains legal conclusions, no response is required; but if a response is deemed necessary,
10 Intervenor denies those remaining allegations as well.

11 66. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
12 or speculative predictions contained in Paragraph 66 are accurate or true, and so denies them in
13 their entirety. To the extent Paragraph 66 contains legal conclusions, no response is required; but
14 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
15 Intervenor further denies that Maryland has suffered or will suffer any harm or injury as a result
16 of the IFRs.

17 67. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
18 or speculative predictions contained in Paragraph 67 are accurate or true, and so denies them in
19 their entirety. To the extent Paragraph 67 contains legal conclusions, no response is required; but
20 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
21 Intervenor further denies that Maryland has suffered or will suffer any harm or injury as a result
22 of the IFRs.

23 68. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
24 or speculative predictions contained in Paragraph 68 are accurate or true, and so denies them in
25 their entirety. To the extent Paragraph 68 contains legal conclusions, no response is required; but
26 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
27 Intervenor further denies that Maryland has suffered or will suffer any harm or injury as a result
28 of the IFRs.

1 69. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
2 or speculative predictions contained in Paragraph 69 are accurate or true, and so denies them in
3 their entirety. To the extent Paragraph 69 contains legal conclusions, no response is required; but
4 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
5 Intervenor further denies that Maryland has suffered or will suffer any harm or injury as a result
6 of the IFRs.

7 70. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
8 or speculative predictions contained in Paragraph 70 are accurate or true, and so denies them in
9 their entirety.

10 71. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
11 or speculative predictions contained in Paragraph 71 are accurate or true, and so denies them in
12 their entirety. To the extent Paragraph 71 contains legal conclusions, no response is required; but
13 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
14 Intervenor further denies that Maryland has suffered or will suffer any harm or injury as a result
15 of the IFRs.

16 72. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
17 in Paragraph 72 are true, and so denies them in their entirety.

18 73. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
19 or speculative predictions contained in Paragraph 73 are accurate or true, and so denies them in
20 their entirety. To the extent Paragraph 73 contains legal conclusions, no response is required; but
21 if a response is deemed necessary, Intervenor denies those remaining allegations as well.

22 74. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
23 in Paragraph 74 are true, and so denies them in their entirety.

24 75. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
25 contained in Paragraph 75 are true, and so denies them in their entirety. To the extent Paragraph
26 75 contains legal conclusions, no response is required; but if a response is deemed necessary,
27 Intervenor denies those remaining allegations as well. Intervenor further states that the statute
28 cited by Plaintiffs speaks for itself.

1 76. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
2 contained in Paragraph 76 are true, and so denies them in their entirety. To the extent Paragraph
3 76 contains legal conclusions, no response is required; but if a response is deemed necessary,
4 Intervenor denies those remaining allegations as well.

5 77. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
6 contained in Paragraph 77 are true, and so denies them in their entirety. To the extent Paragraph
7 77 contains legal conclusions, no response is required; but if a response is deemed necessary,
8 Intervenor denies those remaining allegations as well. Intervenor further states that the regulation
9 referred to by Plaintiffs speaks for itself.

10 78. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
11 contained in Paragraph 78 are true, and so denies them in their entirety. To the extent Paragraph
12 78 contains legal conclusions, no response is required; but if a response is deemed necessary,
13 Intervenor denies those remaining allegations as well.

14 79. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
15 or speculative predictions contained in Paragraph 79 are accurate or true, and so denies them in
16 their entirety. To the extent Paragraph 79 contains legal conclusions, no response is required; but
17 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
18 Intervenor further denies that New York has suffered or will suffer any harm or injury as a result
19 of the IFRs.

20 80. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
21 contained in Paragraph 80 are true, and so denies them in their entirety. To the extent Paragraph
22 80 contains legal conclusions, no response is required; but if a response is deemed necessary,
23 Intervenor denies those remaining allegations as well. Intervenor further denies that New York
24 has suffered or will suffer any harm or injury as a result of the IFRs.

25 81. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
26 or speculative predictions contained in Paragraph 81 are accurate or true, and so denies them in
27 their entirety. To the extent Paragraph 81 contains legal conclusions, no response is required; but
28 if a response is deemed necessary, Intervenor denies those remaining allegations as well.

1 Intervenor further denies that New York has suffered or will suffer any harm or injury as a result
2 of the IFRs.

3 82. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
4 or speculative predictions contained in Paragraph 82 are accurate or true, and so denies them in
5 their entirety. To the extent Paragraph 82 contains legal conclusions, no response is required; but
6 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
7 Intervenor further denies that New York has suffered or will suffer any harm or injury as a result
8 of the IFRs.

9 83. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
10 or speculative predictions contained in Paragraph 83 are accurate or true, and so denies them in
11 their entirety.

12 84. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
13 or speculative predictions contained in Paragraph 84 are accurate or true, and so denies them in
14 their entirety. Intervenor further denies that New York has suffered or will suffer any harm or
15 injury as a result of the IFRs.

16 85. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
17 contained in Paragraph 85 are true, and so denies them in their entirety.

18 86. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
19 or speculative predictions contained in Paragraph 86 are accurate or true, and so denies them in
20 their entirety. To the extent Paragraph 86 contains legal conclusions, no response is required; but
21 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
22 Intervenor further denies that Virginia has suffered or will suffer any harm or injury as a result of
23 the IFRs.

24 87. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
25 contained in Paragraph 87 are true, and so denies them in their entirety.

26 88. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
27 contained in Paragraph 88 are true, and so denies them in their entirety. To the extent Paragraph
28 88 contains legal conclusions, no response is required; but if a response is deemed necessary,

1 Intervenor denies those remaining allegations as well. Intervenor further states that the statute
2 cited by Plaintiffs speaks for itself.

3 89. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
4 contained in Paragraph 89 are true, and so denies them in their entirety. To the extent Paragraph
5 89 contains legal conclusions, no response is required; but if a response is deemed necessary,
6 Intervenor denies those remaining allegations as well.

7 90. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
8 contained in Paragraph 90 are true, and so denies them in their entirety. To the extent Paragraph
9 90 contains legal conclusions, no response is required; but if a response is deemed necessary,
10 Intervenor denies those remaining allegations as well.

11 91. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
12 contained in Paragraph 91 are true, and so denies them in their entirety. To the extent Paragraph
13 91 contains legal conclusions, no response is required; but if a response is deemed necessary,
14 Intervenor denies those remaining allegations as well.

15 92. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
16 or speculative predictions contained in Paragraph 92 are accurate or true, and so denies them in
17 their entirety. To the extent Paragraph 92 contains legal conclusions, no response is required; but
18 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
19 Intervenor further denies that Virginia has suffered or will suffer any harm or injury as a result of
20 the IFRs.

21 93. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
22 or speculative predictions contained in Paragraph 93 are accurate or true, and so denies them in
23 their entirety. To the extent Paragraph 93 contains legal conclusions, no response is required; but
24 if a response is deemed necessary, Intervenor denies those remaining allegations as well.
25 Intervenor further denies that Virginia has suffered or will suffer any harm or injury as a result of
26 the IFRs.

27 94. Intervenor lacks sufficient knowledge or information to ascertain whether the allegations
28 contained in Paragraph 94 are true, and so denies them in their entirety.

1 95. Paragraph 95 contains legal conclusions for which no response is required; but if a response
2 is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor further denies
3 that Plaintiffs' allegations are an accurate statement of the law.

4 96. Paragraph 96 contains legal conclusions for which no response is required; but if a response
5 is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor further denies
6 that Plaintiffs' allegations are an accurate statement of the law.

7 97. Paragraph 97 contains legal conclusions for which no response is required; but if a response
8 is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor further denies
9 that Plaintiffs' allegations are an accurate statement of the law.

10 98. Paragraph 98 contains legal conclusions for which no response is required; but if a response
11 is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor further denies
12 that Plaintiffs' allegations are an accurate statement of the law.

13 99. Intervenor denies the allegations in Paragraph 99. Further, to the extent that Paragraph 99
14 contains legal conclusions, no response is required; but if a response is deemed necessary,
15 Intervenor denies those allegations. Finally, Intervenor denies that Plaintiffs' allegations are an
16 accurate statement of the law.

17 100. Intervenor lacks sufficient knowledge or information to ascertain whether the
18 allegations contained in Paragraph 100 are true, and so denies them in their entirety.

19 101. Paragraph 101 contains legal conclusions for which no response is required; but if
20 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
21 further denies that Plaintiffs' allegations are an accurate statement of the law. Intervenor admits
22 that the IFRs expanded the exemption for religious as well as moral objectors.

23 102. Paragraph 102 contains legal conclusions for which no response is required; but if
24 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
25 further denies that Plaintiffs' allegations are an accurate statement of the law.

26 103. Paragraph 103 contains legal conclusions for which no response is required; but if
27 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
28 further denies that Plaintiffs' allegations are an accurate statement of the law.

1 104. Paragraph 104 contains legal conclusions for which no response is required; but if
2 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
3 further denies that Plaintiffs' allegations are an accurate statement of the law. Finally, Intervenor
4 denies that Plaintiffs have suffered or will suffer any harm or injury as a result of the IFRs.

5 105. Paragraph 105 contains legal conclusions for which no response is required; but if
6 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
7 further denies that Plaintiffs' allegations are an accurate statement of the law. Finally, Intervenor
8 denies that Plaintiffs have suffered or will suffer any harm or injury as a result of the IFRs.

9 106. Paragraph 106 contains legal conclusions for which no response is required; but if
10 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
11 further denies that Plaintiffs' allegations are an accurate statement of the law. Finally, Intervenor
12 states that it lacks sufficient knowledge or information to ascertain whether the allegations or
13 speculative predictions contained in Paragraph 106 are accurate or true, and so denies them in their
14 entirety.

15 107. Intervenor lacks sufficient knowledge or information to ascertain whether the
16 allegations or speculative predictions contained in Paragraph 107 are accurate or true, and so
17 denies them in their entirety. To the extent Paragraph 107 contains legal conclusions, no response
18 is required; but if a response is deemed necessary, Intervenor denies those allegations as well.
19 Intervenor further denies that Plaintiffs' allegations are an accurate statement of the law. Finally,
20 Intervenor denies that California has suffered or will suffer any harm or injury as a result of the
21 IFRs.

22 108. Intervenor lacks sufficient knowledge or information to ascertain whether the
23 allegations or speculative predictions contained in Paragraph 108 are accurate or true, and so
24 denies them in their entirety. To the extent Paragraph 108 contains legal conclusions, no response
25 is required; but if a response is deemed necessary, Intervenor denies those allegations as well.
26 Intervenor denies that Plaintiffs' allegations are an accurate statement of the law. Finally,
27 Intervenor denies that Maryland has suffered or will suffer any harm or injury as a result of the
28 IFRs.

1 109. Intervenor lacks sufficient knowledge or information to ascertain whether the
2 allegations or speculative predictions contained in Paragraph 109 are accurate or true, and so
3 denies them in their entirety. To the extent Paragraph 109 contains legal conclusions, no response
4 is required; but if a response is deemed necessary, Intervenor denies those allegations as well.
5 Intervenor denies that Plaintiffs' allegations are an accurate statement of the law. Finally,
6 Intervenor denies that New York has suffered or will suffer any harm or injury as a result of the
7 IFRs.

8 110. Intervenor lacks sufficient knowledge or information to ascertain whether the
9 allegations contained in Paragraph 110 are true, and so denies them in their entirety.

10 111. Intervenor lacks sufficient knowledge or information to ascertain whether the
11 allegations contained in Paragraph 111 are true, and so denies them in their entirety.

12 112. Intervenor lacks sufficient knowledge or information to ascertain whether the
13 allegations or speculative predictions contained in Paragraph 112 are accurate or true, and so
14 denies them in their entirety. To the extent Paragraph 112 contains legal conclusions, no response
15 is required; but if a response is deemed necessary, Intervenor denies those allegations as well.
16 Intervenor denies that Plaintiffs' allegations are an accurate statement of the law.

17 113. Intervenor lacks sufficient knowledge or information to ascertain whether the
18 allegations or speculative predictions contained in Paragraph 113 are accurate or true, and so
19 denies them in their entirety. To the extent Paragraph 113 contains legal conclusions, no response
20 is required; but if a response is deemed necessary, Intervenor denies those remaining allegations
21 as well. Intervenor denies that Plaintiffs' allegations are an accurate statement of the law.
22 Intervenor further denies that Virginia has suffered or will suffer any harm or injury as a result of
23 the IFRs.

24 114. Intervenor lacks sufficient knowledge or information to ascertain whether the
25 allegations or speculative predictions contained in Paragraph 114 are accurate or true, and so
26 denies them in their entirety. Intervenor further denies that Plaintiffs have suffered or will suffer
27 any harm or injury as a result of the IFRs.

1 115. Paragraph 115 contains legal conclusions for which no response is required; but if
2 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
3 further denies that Plaintiffs have suffered or will suffer any harm or injury as a result of the IFRs.

4 116. Paragraph 116 merely incorporates Plaintiffs' allegations and thus requires no
5 response. Intervenor incorporates by reference its preceding responses to Plaintiffs' allegations in
6 Paragraphs 1-115, as if fully set forth herein.

7 117. Paragraph 117 contains legal conclusions for which no response is required; but if
8 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
9 further states that the APA speaks for itself.

10 118. Paragraph 118 contains legal conclusions for which no response is required; but if
11 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
12 further states that the APA speaks for itself.

13 119. Paragraph 119 contains legal conclusions for which no response is required; but if
14 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
15 further denies that Plaintiffs have accurately stated the law.

16 120. Paragraph 120 contains legal conclusions for which no response is required; but if
17 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
18 further denies that Plaintiffs have accurately stated the law.

19 121. Paragraph 121 contains legal conclusions for which no response is required; but if
20 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
21 further denies that Plaintiffs have accurately stated the law.

22 122. Paragraph 122 merely incorporates Plaintiffs' allegations and thus requires no
23 response. Intervenor incorporates by reference its preceding responses to Plaintiffs' allegations in
24 Paragraphs 1-121, as if fully set forth herein.

25 123. Paragraph 123 contains legal conclusions for which no response is required; but if
26 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
27 further states that the APA speaks for itself.

28

1 124. Paragraph 124 contains legal conclusions for which no response is required; but if
2 a response is deemed necessary, Intervenor denies the allegations in their entirety. The APA
3 speaks for itself. Intervenor further denies that Plaintiffs have suffered or will suffer any harm or
4 injury as a result of the IFRs.

5 125. Paragraph 125 merely incorporates Plaintiffs' allegations and thus requires no
6 response. Intervenor incorporates by reference its preceding responses to Plaintiffs' allegations in
7 Paragraphs 1-124, as if fully set forth herein.

8 126. Paragraph 126 contains legal conclusions for which no response is required; but if
9 a response is deemed necessary, Intervenor denies the allegations in their entirety. The
10 Establishment Clause of the First Amendment speaks for itself.

11 127. Paragraph 127 contains legal conclusions for which no response is required; but if
12 a response is deemed necessary, Intervenor denies the allegations in their entirety.

13 128. Paragraph 128 contains legal conclusions for which no response is required; but if
14 a response is deemed necessary, Intervenor denies the allegations in their entirety.

15 129. Paragraph 129 contains legal conclusions for which no response is required; but if
16 a response is deemed necessary, Intervenor denies the allegations in their entirety.

17 130. Paragraph 130 contains legal conclusions for which no response is required; but if
18 a response is deemed necessary, Intervenor denies the allegations in their entirety.

19 131. Paragraph 131 contains legal conclusions for which no response is required; but if
20 a response is deemed necessary, Intervenor denies the allegations in their entirety. Intervenor
21 denies that Plaintiffs have suffered or will suffer any harm or injury as a result of the IFRs.

22 132. Paragraph 132 merely incorporates Plaintiffs' allegations and thus requires no
23 response. Intervenor incorporates by reference its preceding responses to Plaintiffs' allegations in
24 Paragraphs 1-131, as if fully set forth herein.

25 133. Paragraph 133 contains legal conclusions for which no response is required; but if
26 a response is deemed necessary, Intervenor denies the allegations in their entirety. The Equal
27 Protection Clause of the Fifth Amendment speaks for itself.

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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

THE STATE OF CALIFORNIA, et al.,
Plaintiffs,
V.

ERIC D. HARGAN, in his official capacity
as Acting Secretary, et al.,

Defendants,

and,

THE LITTLE SISTERS OF THE POOR
JEANNE JUGAN RESIDENCE,

Defendant-Intervenor,

and,

MARCH FOR LIFE EDUCATION AND
DEFENSE FUND
JEANNE F. MANCINI,

Defendant-Intervenor.

**Pro hac vice forthcoming*

Case No. 4:17-cv-05783-HSG

**[PROPOSED] ORDER GRANTING
MOTION TO INTERVENE**

ORDER

Pending before the Court is the Motion to Intervene of proposed Defendant-Intervenor March for Life Education and Defense Fund. After due consideration, this Court GRANTS the Motion to Intervene.

SIGNED this ____ day of December, 2017.

HAYWOOD S. GILLIAM, JR.
U.S. District Judge