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

**THE STATE OF CALIFORNIA; THE STATE
OF CONNECTICUT; THE STATE OF
DELAWARE; THE DISTRICT OF
COLUMBIA; THE STATE OF HAWAII;
THE STATE OF ILLINOIS; THE STATE OF
MARYLAND; THE STATE OF
MINNESOTA, BY AND THROUGH ITS
DEPARTMENT OF HUMAN SERVICES; THE
STATE OF NEW YORK; THE STATE OF
NORTH CAROLINA; THE STATE OF
RHODE ISLAND; THE STATE OF
VERMONT; THE COMMONWEALTH OF
VIRGINIA; THE STATE OF
WASHINGTON,**

Plaintiffs,

THE STATE OF OREGON,

Plaintiff-Intervenor,

**THE STATE OF COLORADO; THE STATE
OF MICHIGAN; THE STATE OF NEVADA,**

Proposed-Plaintiffs-Intervenors,

v.

**ALEX M. AZAR II, IN HIS OFFICIAL
CAPACITY AS SECRETARY OF THE U.S.
DEPARTMENT OF HEALTH & HUMAN
SERVICES; U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
EUGENE SCALIA,¹ IN HIS OFFICIAL**

4:17-cv-05783-HSG

**NOTICE OF WITHDRAWAL OF
CERTAIN CLAIMS**

Date: December 16, 2020
Time: 2:00 p.m.
Dept: 2, 4th Floor
Judge: Hon. Haywood S. Gilliam, Jr.
Action Filed: October 6, 2017

¹ Secretary Scalia replaces former Secretary Acosta as a defendant, in his official capacity, by operation of Federal Rule of Civil Procedure 25(d).

**CAPACITY AS SECRETARY OF THE U.S.
DEPARTMENT OF LABOR; U.S.
DEPARTMENT OF LABOR; STEVEN
MNUCHIN, IN HIS OFFICIAL CAPACITY AS
SECRETARY OF THE U.S. DEPARTMENT OF THE
TREASURY; U.S. DEPARTMENT OF THE
TREASURY; DOES 1-100,**

Defendants,

and,

**THE LITTLE SISTERS OF THE POOR,
JEANNE JUGAN RESIDENCE; MARCH
FOR LIFE EDUCATION AND DEFENSE
FUND,**

Defendant-Intervenors.

NOTICE OF VOLUNTARY WITHDRAWAL OF CERTAIN CLAIMS

WHEREAS, on December 18, 2018, the States filed the operative Second Amended Complaint in the above-captioned action, ECF No. 170;

WHEREAS, on July 8, 2020, the Supreme Court issued its decision in *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania* and *Trump v. Pennsylvania*, 140 S. Ct. 2367 (2020) (*Little Sisters*);

WHEREAS, the *Little Sisters* decision affects some of the States' claims in this action;

The States hereby voluntarily withdraw portions of their claims in the Second Amended Complaint as follows:

The First Cause of Action, insofar as the States claimed that the Interim Final Rules violate 5 U.S.C. § 553 because Defendants failed to adhere to notice and comment, is withdrawn;

The Second Cause of Action, insofar as the States claimed that the final Exemption Rules violate 5 U.S.C. § 553 because Defendants failed to adhere to notice and comment, is withdrawn;

The Third Cause of Action, insofar as the States claimed that the final Exemption Rules violate 5 U.S.C. § 706(2)(c) because Defendants exceeded their statutory authority with respect to the Women's Health Amendment, is dismissed inasmuch as it conflicts with *Little Sisters*.

1 Dated: November 4, 2020

Respectfully submitted,

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8 /s/ Karli Eisenberg
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