

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

**Richard W. DeOtte, et al.,**

Plaintiffs,

v.

**Alex M. Azar II, et al.,**

Defendants.

Case No. 4:18-cv-825-O

**RESPONSE TO MOTIONS FOR LEAVE TO FILE BRIEFS AS AMICUS  
CURIAE**

Numerous entities have moved for leave to file amicus briefs in the last few weeks. The plaintiffs oppose these motions because the text of the Religious Freedom Restoration Act allows *only* the federal government—and not an amicus or intervenor—to submit arguments and evidence on whether the Contraceptive Mandate furthers a “compelling state interest,” and whether the Mandate represents the “least restrictive means” of furthering such an interest. *See* 42 U.S.C. § 2000bb-1(b). We explained this in detail in our response to Nevada’s motion to intervene, and we incorporate that discussion by reference. *See* Br. in Opp. to Nevada’s Mot. to Intervene (ECF No. 77) at 20–22.

**CONCLUSION**

The motions for leave to file a brief as amicus curiae (or amici curiae) should be denied. If one or more of the motions are granted, then the Court’s order should make clear that any arguments pertaining to whether the Contraceptive Mandate furthers a “compelling governmental interest”—or whether it represents the “least restrictive means” of furthering such

an interest—will not be considered and have no relevance to whether the *government* has carried its burden under 42 U.S.C. § 2000bb-1(b).

Respectfully submitted.

CHARLES W. FILLMORE  
H. DUSTIN FILLMORE  
The Fillmore Law Firm, LLP  
1200 Summit Avenue, Suite 860  
Fort Worth, Texas 76102  
(817) 332-2351 (phone)  
(817) 870-1859 (fax)  
chad@fillmorefirm.com  
dusty@fillmorefirm.com

Dated: June 14, 2019

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
Texas Bar No. 24075463  
Mitchell Law PLLC  
111 Congress Avenue, Suite 400  
Austin, Texas 78701  
(512) 686-3940 (phone)  
(512) 686-3941 (fax)  
jonathan@mitchell.law

*Counsel for Plaintiffs and  
the Certified Classes*

**CERTIFICATE OF SERVICE**

I certify that on June 14, 2019, I served this document through CM/ECF upon all counsel of record in this case, including:

DANIEL RIESS  
U.S. Department of Justice  
Civil Division, Room 6122  
20 Massachusetts Avenue NW  
Washington, D.C. 20530  
(202) 353-3098  
daniel.riess@usdoj.gov

*Counsel for Defendants*

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
*Counsel for Plaintiffs and  
the Certified Classes*