

1 BRIAN BOYNTON
2 Acting Assistant Attorney General
3 DAVID L. ANDERSON
4 United States Attorney
5 MICHELLE R. BENNETT
6 Assistant Branch Director
7 JUSTIN M. SANDBERG, IL. BAR NO. 6278377
8 Senior Trial Counsel
9 MICHAEL GERARDI
10 CHRISTOPHER R. HEALY
REBECCA M. KOPPLIN
DANIEL RIESS
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, D.C. 20001
Telephone: (202) 514-5838
Email: Justin.Sandberg@usdoj.gov
Counsel for Federal Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

²⁷ ¹ Acting Secretary Cochran, Acting Secretary of Labor Al Stewart, and Secretary of Treasury
²⁸ Janet Yellen have been substituted as defendants, in their official capacity, by operation of Federal
Rule of Civil Procedure 25(d).

1 Pursuant to Civil Local Rule 7-11 and Federal Rule of Civil Procedure 6(b)(1)(A), Federal
 2 Defendants hereby move for a stay of proceedings in the above-captioned case until April 30, 2021,
 3 while new leadership evaluates the issues presented by this case.

4 1. This case concerns the validity of two rules which create a moral exemption, and expand a
 5 religious exemption, to the rules establishing the contraceptive coverage requirement. *See Religious*
 6 *Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA*, 83
 7 *Fed. Reg. 57,536* (Nov. 15, 2018); *Moral Exemptions and Accommodations for Coverage of Certain*
 8 *Preventive Services Under the ACA*, 83 *Fed. Reg. 57,592* (Nov. 15, 2018).

9 2. The Court has before it fully briefed dispositive motions, *see* ECF Nos. 311, 366, 368, 370,
 10 as well as supplemental briefs addressing the Supreme Court’s decision in *Little Sisters of the Poor*
 11 *Saints Peter & Paul Home v. Pennsylvania*, 140 S. Ct. 2367 (2020), *see* ECF Nos. 433, 435, 437,
 12 438, 440.

13 3. The Court has the inherent power to stay this case to save “time and effort for itself, for
 14 counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936).

15 4. New leadership at the federal defendant agencies—the U.S. Department of Health and
 16 Human Services, the U.S. Department of Labor, and the U.S. Department of the Treasury—and the
 17 U.S. Department of Justice is currently in the process of arriving and needs additional time to
 18 evaluate the issues that this case presents. It would therefore conserve the resources of the Court and
 19 the parties to stay the case until April 30, 2021, while the agencies undertake this reassessment.

20 5. Federal Defendants propose to file a status report with the Court on or before April 30, 2021.

21 6. This is the third motion for a stay filed by Federal Defendants. Federal defendants filed (i)
 22 an agreed-to motion to stay proceedings pending the resolution of the appeals on the Court’s first
 23 order issuing a preliminary injunction, ECF No. 146, and (ii) a motion to stay proceedings due to a
 24 lapse in the federal government’s appropriations, ECF No. 180.

25 6. Opposing counsel state that while Plaintiffs believe that this case is ready for adjudication,
 26 they would not oppose a stay if Federal Defendants filed a status report every 30 days, and if Plaintiffs
 27 retained the right to move for a decision on their pending motion for summary judgment in the event

1 that no regulatory action had occurred within 60 days. Counsel for intervenor March for Life states
2 that March for Life does not oppose the proposed stay. Counsel for intervenor The Little Sisters of
3 the Poor Jeanne Jugan Residence states that his client opposes the stay.

4 Therefore, the Government hereby moves for a stay of proceedings in this case until April
5 30, 2021, to permit new leadership to evaluate the issues presented by this case.
6
7

8 Dated: March 1, 2021

Respectfully submitted,

9 BRIAN BOYNTON
10 Acting Assistant Attorney General

11 DAVID L. ANDERSON
United States Attorney

12 MICHELLE R. BENNETT
Assistant Branch Director

13 /s/ Justin M. Sandberg
14 JUSTIN M. SANDBERG, IL Bar No. 6278377
15 Senior Trial Counsel
MICHAEL GERARDI
CHRISTOPHER R. HEALY
REBECCA M. KOPPLIN
DANIEL RIESS
16 Trial Attorneys
United States Department of Justice
17 Civil Division, Federal Programs Branch
1100 L Street NW
Washington, D.C. 20001
18 Telephone: (202) 514-5838
19 Email: Justin.Sandberg@usdoj.gov
20 *Counsel for Federal Defendants*

1 BRIAN BOYNTON
2 Acting Assistant Attorney General
3 DAVID L. ANDERSON
4 United States Attorney
5 MICHELLE R. BENNETT
6 Assistant Branch Director
7 JUSTIN M. SANDBERG, IL. BAR NO. 6278377
8 Senior Trial Counsel
9 MICHAEL GERARDI
10 CHRISTOPHER R. HEALY
REBECCA M. KOPPLIN
DANIEL RIESS
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, D.C. 20001
Telephone: (202) 514-5838
Email: Justin.Sandberg@usdoj.gov
Counsel for Federal Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

I, Justin Sandberg, declare as follows:

1. I am a Senior Trial Counsel with the United States Department of Justice. I am an attorney
2 of record in the above-captioned matter.
3. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could
4 and would testify competently thereto.
5. I contacted counsel for plaintiffs and intervening defendants regarding this motion. Counsel
6 for plaintiffs, Ketakee R. Kane, stated that that while Plaintiffs believe that this case is ready for
7 adjudication, they would not oppose a stay if Federal Defendants filed a status report every 30 days,
8 and if Plaintiffs retained the right to move for a decision on their pending motion for summary
9 judgment in the event that no regulatory action had occurred within 60 days. Counsel for intervening
10 defendant The Little Sisters of the Poor Jeanne Jurgan Residence, Mark Rienzi, stated that The Little
11 Sisters oppose the proposed stay. Counsel for intervening defendant March for Life, Ken Connelly,
12 stated that his client does not oppose the proposed stay.

13

14 I declare under penalty of perjury under the laws of the United States that the foregoing is
15 true and correct and that this declaration was executed on March 1, 2021.

16

17 */s/ Justin M. Sandberg*
18 JUSTIN M. SANDBERG, IL Bar No. 6278377
19 Senior Trial Counsel
20 United States Department of Justice
21 Civil Division, Federal Programs Branch
22 1100 L Street NW
Washington, D.C. 20001
Telephone: (202) 514-5838
Email: Justin.Sandberg@usdoj.gov
Counsel for Federal Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

STATE OF CALIFORNIA, *et al.*,) Case No.: 4:17-cv-5783-HSG
Plaintiffs,)
v.)
NORRIS COCHRAN, Acting Secretary of)
Health and Human Services, *et al.*,)
Defendants,)
and,)
THE LITTLE SISTERS OF THE POOR,)
JEANNE JUGAN RESIDENCE, *et al.*,)
Defendant-Intervenors)
[PROPOSED] ORDER

The Court, having considered the Federal Defendants' motion to stay proceedings in this case, hereby GRANTS the motion and STAYS the case until April 30, 2021. Federal Defendants shall file a status report on or before April 30, 2021.

IT IS SO ORDERED, this _____ day of _____, 2021.

Dated:

HON. HAYWOOD S. GILLIAM, JR.
UNITED STATES DISTRICT JUDGE