

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION**

FRANCISCAN ALLIANCE, INC.;  
SPECIALITY PHYSICIANS OF  
ILLINOIS, LLC;;  
CHRISTIAN MEDICAL & DENTAL  
ASSOCIATIONS;

- and -

STATE OF TEXAS;  
STATE OF WISCONSIN;  
STATE OF NEBRASKA;  
COMMONWEALTH OF KENTUCKY, by  
and through Governor Matthew G. Bevin;  
STATE OF KANSAS;  
STATE OF LOUISIANA;  
STATE OF ARIZONA; and  
STATE OF MISSISSIPPI, by and through  
Governor Phil Bryant,

*Plaintiffs,*

v.

ALEX M. AZAR II, Secretary of the United  
States Department of Health and Human  
Services; and UNITED STATES  
DEPARTMENT OF HEALTH AND  
HUMAN SERVICES,

*Defendants.*

Civ. Action No. 7:16-cv-00108-O

**RESPONSE IN SUPPORT OF THE DECLARATIONS OF CHERYL NEWCOMB AND  
ALLISON ANDREWS FILED BY PROPOSED INTERVENORS IN SUPPORT OF  
THEIR RENEWED MOTION TO INTERVENE**

Plaintiffs argue that the declarations submitted in support of Proposed Intervenors' Renewed Motion to Intervene are inadmissible because they do not comply with the Federal Rules of Evidence. But motions to intervene are judged by the same pleading standards as

complaints, and “allegations are accepted as true.” *Mendenhall v. M/V Toyota Maru No. 11*, 551 F.2d 55, 56 n.2 (5th Cir. 1977) (citing Wright & Miller, 7C Fed. Prac. & Proc. Civ. § 1914 (3d ed.)); accord *Texas v. United States*, 805 F.3d 653, 661 (5th Cir. 2015). “A motion to intervene does not require the Court to determine a material or ultimate fact in the litigation. Thus, the Federal Rules of Evidence do not govern submissions related to the motion.” *Greenpeace Found. v. Daley*, 122 F. Supp. 2d 1110, 1114 (D. Haw. 2000). By submitting declarations, Proposed Intervenor went above and beyond the basic pleading requirements governing their motion.

Respectfully submitted this 11th day of March, 2019.

/s/ Kali Cohn

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 11th day of March, 2019, I electronically filed the foregoing with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court.

/s/ Kali Cohn

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