

**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

Kali Cohn
AMERICAN CIVIL LIBERTIES
UNION OF TEXAS
6440 N. Central Expressway
Dallas, TX 75206
(214) 346-6577

Daniel Mach
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
915 15th Street, N.W.
Washington, D.C. 20005
(202) 548-6604

Amy Miller
AMERICAN CIVIL LIBERTIES
UNION OF NEBRASKA
134 S. 13th St., #1010
Lincoln, NE 68508
(402) 476-8091

Joshua Block
Brigitte Amiri
James D. Esseks
Louise Melling
Lindsey Kaley
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2500

Counsel for Movants

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

Kali Cohn

AMERICAN CIVIL LIBERTIES UNION OF TEXAS

6440 N. Central Expressway

Dallas, TX 75206

(214) 346-6577