

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

FRANCISCAN ALLIANCE, INC., *et al.*,

Plaintiffs,

v.

ALEX M. AZAR, II, *et al.*,

Defendants.

No. 7:16-CV-00108-O

**Plaintiffs' Opposition to
Defendants Motion for an
Extension of Time to Respond to
Plaintiffs' Renewed Motions for
Summary Judgment**

The Court should deny Defendants' request for an extension (ECF No. 151) to respond to Plaintiffs' renewed motions for summary judgment (ECF Nos. 132, 135).

Defendants have identified no good cause to further delay the Court's resolution of this case. It has been over two years since Plaintiffs filed the summary judgment motion that they have now renewed, ECF No. 82, and Defendants still have not responded on the merits. After Plaintiffs' previous motion, Defendants asked for a stay so they could "reconsider" "the reasonableness, necessity, and efficacy" of the Rule. ECF No. 92. But over the ensuing seventeen months, Defendants took no meaningful action—instead filing seven nearly identical status reports asking for more time. ECF Nos. 109, 110, 111, 113, 114, 115, 119.

This Court declined to continue this holding pattern indefinitely when it lifted the stay and set a briefing schedule for summary judgment. ECF 126. Defendants also agreed to this briefing schedule—which has already given them an additional sixty days to file a response. *See* ECF No. 125.

Defendants' latest motion offers nothing new. The "proposed new rule" is still in "the inter-agency clearance process"—just as it was a year and four status reports ago. ECF No. 113. Defendants offer no concrete information on when this rule might be published—just that it might be "in the near future," as they have been saying all along. And even then, they say this will be only a "proposed" rule—subject to notice and comment and an indefinite period of time for further consideration.

The same rule Plaintiffs challenged is still on the books and will remain on the books indefinitely. There is no justification for prolonging the legal uncertainty surrounding this Rule—and thus about whether Plaintiffs can be forced to either perform or provide insurance coverage for gender "transition and abortion procedures" or else forfeit hundreds of millions of dollars in federal funding, *see* ECF No. 62 at 8 n.8 & 38-40—merely because Defendants wish to avoid taking a clear position on it.

Defendants' extension request should be denied.

Respectfully submitted this 4th day of April, 2019.

/s/ Luke W. Goodrich

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CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2019 the foregoing was served on all parties via ECF.

/s/ Luke W. Goodrich
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