

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, <i>et al.</i>	)	No. 1:19-cv-04676-PAE
	)	(rel. 1:19-cv-05433-PAE; 1:19-cv-
Plaintiffs,	)	05435-PAE)
)	
v.	)	DEFENDANTS' CONSOLIDATED
	)	MOTION TO DISMISS OR, IN THE
UNITED STATES DEPARTMENT OF	)	ALTERNATIVE, MOTION FOR
HEALTH AND HUMAN SERVICES;	)	SUMMARY JUDGMENT
ALEX M. AZAR II, <i>in his official capacity as</i>)	
<i>Secretary of the United States Department of</i>)	
<i>Health and Human Services;</i> and UNITED)	
STATES OF AMERICA,)	
)	
Defendants.)	
)	
)	
PLANNED PARENTHOOD FEDERATION	)	No. 1:19-cv-05433-PAE
OF AMERICA, INC.; and PLANNED	)	(rel. 1:19-cv-0476-PAE; 1:19-cv-05435-
PARENTHOOD OF NORTHERN NEW	)	PAE)
ENGLAND, INC.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
ALEX M. AZAR II, <i>in his official capacity as</i>)	
<i>Secretary, United States Department of</i>)	
<i>Health and Human Services;</i> UNITED)	
STATES DEPARTMENT OF HEALTH)	
AND HUMAN SERVICES; ROGER)	
SEVERINO, <i>in his official capacity as</i>)	
<i>Director, Office for Civil Rights, United</i>)	
<i>States Department of Health and Human</i>)	
<i>Services;</i> and OFFICE FOR CIVIL RIGHTS,)	
<i>United States Department of Health and</i>)	
<i>Human Services,</i>)	
)	
Defendants.)	
)	
)	

NATIONAL FAMILY PLANNING AND	)	No. 1:19-cv-05435-PAE
REPRODUCTIVE HEALTH	)	(rel. 1:19-cv-0476-PAE; 1:19-cv-05433-
ASSOCIATION; and PUBLIC HEALTH	)	PAE)
SOLUTIONS,)	
)	
Plaintiffs,)	
)	
v.)	
)	
ALEX M. AZAR II, in his official capacity as)	
Secretary of the U.S. Department of Health)	
and Human Services; U.S. DEPARTMENT)	
OF HEALTH AND HUMAN SERVICES;)	
ROGER SEVERINO, in his official capacity)	
as Director of the Office for Civil Rights of)	
the U.S. Department of Health and Human)	
Services; OFFICE FOR CIVIL RIGHTS of)	
the U.S. Department of Health and Human)	
Services,)	
)	
Defendants.)	
)	

Pursuant to Rule 12(b)(1), Rule 12(b)(6), and Rule 56 of the Federal Rules of Civil Procedure, and this Court’s July 16, 2019 Order, Defendants move to dismiss Plaintiffs’ complaints in these related cases or, in the alternative, move for summary judgment. Although Defendants do not believe it is necessary for the Court to rule on Plaintiffs’ pending motions for a preliminary injunction, Defendants also oppose those motions.

Included with this motion are Defendants’ memorandum of law, the portions of the administrative record cited therein (excluding citations to the Federal Register), and a proposed order. Because this case arises under the Administrative Procedure Act (APA), Defendants have not included a Rule 56.1 Statement of Undisputed Material Facts. *See Glara Fashion, Inc. v. Holder*, No. 11 Civ. 889(PAE), 2012 WL 352309, at *1 n.1 (S.D.N.Y. Feb. 3, 2012) (“Because this case arises under the APA, the Court’s decision is based on the administrative record.

Accordingly, no Rule 56.1 Statement was required to be submitted by the parties.” (citations omitted)).

Dated: August 14, 2019

Respectfully submitted,

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