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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT YAKIMA**

STATE OF WASHINGTON,

Plaintiff,

v.

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

Defendants.

NO. 1:19-cv-3040-SAB

JOINT STATUS REPORT
PURSUANT TO THE COURT'S
JUNE 22, 2020 ORDER (ECF
NO. 152)

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NATIONAL FAMILY PLANNING &
REPRODUCTIVE HEALTH
ASSOCIATION, *et al.*,

Plaintiffs,

v.

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

Defendants.

1 The parties file this Joint Status Report pursuant to the Court's June 22,
2 2020 Order, ECF No. 152, and respectfully ask that the Court continue to hold the
3 proceedings in abeyance pending any Supreme Court review of the en banc Ninth
4 Circuit's February 24, 2020 decision.

5 On October 1, 2020, a number of national and state health care
6 organizations and providers, including the two private-party organization
7 plaintiffs in this case and Dr. Oyer, filed a petition for a writ of certiorari seeking
8 Supreme Court review of the Ninth Circuit's decision. The government's
9 response to that petition is due on November 4, 2020. Relatedly, the government
10 has also petitioned for a writ of certiorari seeking Supreme Court review of the
11 Fourth Circuit decision that conflicts with the Ninth Circuit ruling.

12 As the parties have reported previously to this Court, *see* ECF No. 151, the
13 parties disagree about the extent to which the Ninth Circuit's decision forecloses
14 certain of Plaintiffs' arbitrary-and-capricious claims, but agree that the decision
15 did not expressly address all of the claims Plaintiffs have asserted in these matters.
16 The parties also agree that it would be inefficient for this Court to proceed right
17 now to consider and to decide the unaddressed claims on cross-motions for
18 summary judgment while the petition for review of the Ninth Circuit decision is
19 pending before the Supreme Court. For all the reasons set forth in our earlier and
20 more detailed joint submission, ECF No. 147, the parties continue to believe that
21 it would conserve judicial resources and the parties' resources for the preliminary
22

1 injunction appeal to reach its final resolution before the Court turns to the merits
2 and decides the full scope of the case, as it exists at that point, if necessary.

3 **CONCLUSION**

4 The parties therefore request that the Court continue to hold the proceedings
5 in this case in abeyance pending any Supreme Court review of the Ninth Circuit's
6 decision. The parties propose to provide the Court with another joint status report
7 within 14 days after the Supreme Court issues a decision on the petition for a writ
8 of certiorari.

9 Dated: October 9, 2020

10 Respectfully submitted,

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