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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE STATE OF CALIFORNIA; THE STATE OF CONNECTICUT; THE STATE OF DELAWARE; THE DISTRICT OF COLUMBIA; THE STATE OF HAWAII; THE STATE OF ILLINOIS; THE STATE OF MARYLAND; THE STATE OF MINNESOTA, BY AND THROUGH ITS DEPARTMENT OF HUMAN SERVICES; THE STATE OF NEW YORK; THE STATE OF NORTH CAROLINA; THE STATE OF RHODE ISLAND; THE STATE OF VERMONT; THE COMMONWEALTH OF VIRGINIA; THE STATE OF WASHINGTON,

Plaintiffs,

THE STATE OF OREGON,

Plaintiff-Intervenor,

THE STATE OF COLORADO; THE STATE OF MICHIGAN; THE STATE OF NEVADA,

Proposed-Plaintiffs-Intervenors,

v.

ALEX M. AZAR II, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; EUGENE SCALIA,¹ IN HIS OFFICIAL

4:17-cv-05783-HSG

NOTICE OF WITHDRAWAL OF CERTAIN CLAIMS

Date: December 16, 2020
Time: 2:00 p.m.
Dept: 2, 4th Floor
Judge: Hon. Haywood S. Gilliam, Jr.
Action Filed: October 6, 2017

¹ Secretary Scalia replaces former Secretary Acosta as a defendant, in his official capacity, by operation of Federal Rule of Civil Procedure 25(d).

1 **CAPACITY AS SECRETARY OF THE U.S.**
2 **DEPARTMENT OF LABOR; U.S.**
3 **DEPARTMENT OF LABOR; STEVEN**
4 **MNUCHIN, IN HIS OFFICIAL CAPACITY AS**
5 **SECRETARY OF THE U.S. DEPARTMENT OF THE**
6 **TREASURY; U.S. DEPARTMENT OF THE**
7 **TREASURY; DOES 1-100,**

Defendants,

and,

8 **THE LITTLE SISTERS OF THE POOR,**
9 **JEANNE JUGAN RESIDENCE; MARCH**
10 **FOR LIFE EDUCATION AND DEFENSE**
11 **FUND,**

Defendant-Intervenors.

12 **NOTICE OF VOLUNTARY WITHDRAWAL OF CERTAIN CLAIMS**

13 WHEREAS, on December 18, 2018, the States filed the operative Second Amended
14 Complaint in the above-captioned action, ECF No. 170;

15 WHEREAS, on July 8, 2020, the Supreme Court issued its decision in *Little Sisters of the*
16 *Poor Saints Peter & Paul Home v. Pennsylvania* and *Trump v. Pennsylvania*, 140 S. Ct. 2367
17 (2020) (*Little Sisters*);

18 WHEREAS, the *Little Sisters* decision affects some of the States' claims in this action;

19 The States hereby voluntarily withdraw portions of their claims in the Second Amended
20 Complaint as follows:

21 The First Cause of Action, insofar as the States claimed that the Interim Final Rules violate
22 5 U.S.C. § 553 because Defendants failed to adhere to notice and comment, is withdrawn;

23 The Second Cause of Action, insofar as the States claimed that the final Exemption Rules
24 violate 5 U.S.C. § 553 because Defendants failed to adhere to notice and comment, is withdrawn;

25 The Third Cause of Action, insofar as the States claimed that the final Exemption Rules
26 violate 5 U.S.C. § 706(2)(c) because Defendants exceeded their statutory authority with respect to
27 the Women's Health Amendment, is dismissed inasmuch as it conflicts with *Little Sisters*.

1 Dated: November 4, 2020

Respectfully submitted,

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8 /s/ Karli Eisenberg
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