

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 19-4254; 20-41

Caption [use short title]

Motion for: consolidation

State of New York v. United States Department of Health & Human Services

Set forth below precise, complete statement of relief sought:

Consolidate these cases with Case Nos. 20-31 and 20-41. Each case seeks review of the same Nov. 6, 2019, decision by the Hon. Paul A. Engelmayer (S.D.N.Y.), vacating a rule issued by the U.S. Department of Health & Human Services.

MOVING PARTY: U.S. Dep't of Health & Human Services, et al.

OPPOSING PARTY: State of New York et al.

- Plaintiff Defendant Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Leif Overvold

OPPOSING ATTORNEY: Ester Murdukhayeva

[name of attorney, with firm, address, phone number and e-mail]

U.S. Department of Justice 950 Pennsylvania Ave. NW, Washington, DC 20530 (202) 532-4631; leif.overvold2@usdoj.gov

New York State Office of the Attorney General 28 Liberty Street, New York, NY 10005 212-416-6279; ester.murdukhayeva@ag.ny.gov

Court-Judge/Agency appealed from: S.D.N.Y.; Hon. Paul A. Engelmayer

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1): Yes No (explain):

Opposing counsel's position on motion: Unopposed Opposed Don't Know

Does opposing counsel intend to file a response: Yes No Don't Know

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request for relief been made below? Has this relief been previously sought in this Court? Requested return date and explanation of emergency:

Is oral argument on motion requested? Yes No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? Yes No If yes, enter date:

Signature of Moving Attorney: /s/ Leif Overvold

Date: 1/30/2020

Service by: CM/ECF Other [Attach proof of service]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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STATE OF NEW YORK, et al.,

Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF HEALTH &  
HUMAN SERVICES, et al.,

Defendants-Appellants,

DR. REGINA FROST, et al.,

Intervenor-Defendants-Appellants.

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Nos. 19-4254, 20-41

PLANNED PARENTHOOD FEDERATION  
OF AMERICA, INC., et al.,

Plaintiffs-Appellees,

v.

ALEX M. AZAR, II, et al.,

Defendants-Appellants.

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No. 20-31

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

Plaintiffs-Appellees,

v.

ALEX M. AZAR, II, et al.,

Defendants-Appellants.

No. 20-32

### **UNOPPOSED MOTION TO CONSOLIDATE**

Defendants-Appellants Alex M. Azar, II, in his official capacity; the U.S. Department of Health & Human Services (“HHS”); Roger T. Severino, in his official capacity; the Office for Civil Rights, HHS; and the United States respectfully move to consolidate the above-captioned cases.

1. On December 18, 2019, Intervenor-Defendants Dr. Regina Frost and the Christian Medical and Dental Associations filed a notice of appeal from the November 6, 2019, orders and final judgment entered by the U.S. District Court for the Southern District of New York in the consolidated cases Nos. 19-cv-04676, 19-cv-05433, and 19-cv-05435. That appeal has been docketed in this Court as *State of New York v. HHS*, No. 19-4254.

2. On January 3, 2020, the government Defendants-Appellants also filed notices of appeals from the November 6, 2019, orders and final judgment entered by the U.S. District Court for the Southern District of New York in the consolidated

cases Nos. 19-cv-04676, 19-cv-05433, and 19-cv-05435. Those appeals have been docketed in this Court as *Planned Parenthood Federation of America, Inc. v. Azar*, No. 20-31; *National Family Planning & Reproductive Health Association v. Azar*, No. 20-32; and *State of New York v. HHS*, No. 20-41. The appeals docketed as No. 19-4254 and No. 20-41 have been consolidated.

3. To promote judicial economy, the government Defendants-Appellants respectfully request that *Planned Parenthood Federation of America, Inc. v. Azar*, No. 20-31, and *National Family Planning & Reproductive Health Association v. Azar*, No. 20-32, be consolidated with *State of New York v. HHS*, Nos. 19-4254, 20-41, as well, and that a single, unified briefing schedule be established for the consolidated cases.

4. We have contacted counsel for the Plaintiffs-Appellees and the Intervenor-Defendants-Appellants in these four cases, and they have no objection to consolidation.

Respectfully submitted,

MICHAEL RAAB  
LOWELL V. STURGILL  
SARAH CARROLL

*/s/ Leif Overvold*

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JANUARY 2020

