

The Hobby Lobby “Minefield”:

The Harm, Misuse, and Expansion
of the Supreme Court Decision

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DISCLAIMER

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Introduction

ON JUNE 30, 2014, THE SUPREME COURT ISSUED ITS UNPRECEDENTED DECISION in *Burwell v. Hobby Lobby Stores, Inc. and Conestoga Wood Specialties v. Burwell (Hobby Lobby)* that allowed some employers to impose their religious beliefs on their employees.¹ In a closely-divided decision, the Court held that under the Religious Freedom Restoration Act (RFRA) certain for-profit employers can refuse to comply with a federal law requiring insurance coverage of birth control. This decision not only put at risk the health and wellbeing of the companies' employees, but also opened the door to allowing individuals and companies to claim that any number of laws do not apply to them. As Justice Ginsburg warned in her dissent, "The Court, I fear, has ventured into a minefield."²

It turns out Justice Ginsburg's warning was prescient. It has been nearly a year since the *Hobby Lobby* decision, and already, there have been lawsuits and claims by those wishing to escape their legal obligations in a variety of ways.³

As described in more detail in this report, in the last year, there have been attempts to use RFRA to challenge laws that: protect women, LGBTQ individuals, and students from discrimination; protect employees by allowing them to unionize; promote public health by requiring vaccinations; and require pharmacies to fill lawful prescriptions. It has even been raised as a defense in a case involving violent kidnappings. The *Hobby Lobby* decision and RFRA have also been used to justify challenges to and further the expansion of religious accommodations, to the detriment of those the law was meant to protect. And, in the wake of *Hobby Lobby*, at least three courts have accepted new claims that use religion to discriminate, further expanding the decision's reach in troubling new ways.

"The Court, I fear, has ventured into a minefield."

Justice Ginsburg's dissent in *Hobby Lobby*

Background: The Supreme Court's *Hobby Lobby* Decision and its Subsequent *Holt* Decision

IN *HOBBY LOBBY*, THE SUPREME COURT ISSUED A 5-4 DECISION holding for the first time ever that certain closely-held family owned for-profit businesses like Hobby Lobby are “persons” capable of exercising religion and can bring claims under RFRA.⁴ The majority of the Court then held that these businesses can use RFRA to get out of complying with the Affordable Care Act (ACA) requirement that health insurance plans cover all FDA-approved methods of birth control, sterilization, and related education and counseling without co-pays or other out-of-pocket costs.⁵

The Court's decision gave bosses a license to discriminate against their workers. It means that women working for these companies – including the tens of thousands who work for Hobby Lobby stores across the country – no longer have a benefit in the health insurance they earned through their work and paid for through their premiums. The decision makes it more difficult for women to access the basic health care they need, undermining the rights and economic stability of women workers and their families.

Since the *Hobby Lobby* decision, other for-profit companies have also been allowed to refuse to comply with the federal birth control benefit. Companies ranging from scrap metal businesses to car dealerships to law firms are now – as a result of *Hobby Lobby* – using religion to deny their female employees and dependents insurance coverage of a critical health care service,⁶ one

that 99% of sexually active women will use at some point in their lives.⁷ Not only are these women harmed when they are denied coverage, but the lack of coverage could mean that some women do not get the birth control that is medically appropriate for them.

The *Hobby Lobby* decision was the first Supreme Court decision to allow a religious-based exemption when it would harm others. A subsequent Supreme Court case, *Holt v. Hobbs*, addressed this point squarely.⁸ Gregory Holt, a prisoner in an Arkansas prison, was barred from growing a half-inch long beard in accordance with his religious beliefs because the prison claimed that beards posed a security risk.⁹ The facts in *Holt* differed from the facts in *Hobby Lobby* in one critical way – Holt's request to grow a half-inch long beard in accordance with his religious beliefs did not impose his beliefs on anyone else. For that reason, the Supreme Court unanimously ruled in his favor.¹⁰ As Justice Ginsburg noted in her concurring opinion: “Unlike the exemption this Court approved in *Burwell v. Hobby Lobby Stores, Inc.*, accommodating petitioner's religious belief in this case would not detrimentally affect others who do not share petitioner's belief.”¹¹

Unfortunately, as described below, it appears that it is *Hobby Lobby's* use of religion to discriminate, rather than *Holt's* recognition of the danger of harm to others, that is being advanced fervently by those who seek to avoid complying with the nation's laws, no matter the harm to others.

Hobby Lobby is Being Used to Undermine Laws to the Detriment of Those the Laws Protect

IN THE YEAR SINCE THE *HOBBY LOBBY* DECISION, new claims have been brought by those who wish to use their religion to get out of laws and harm the individuals the law was meant to protect. Some claims have already seen success in the courts, including in child labor, public accommodations, and employment discrimination cases. Other claims represent troubling new directions that – if accepted – could result in harm to others in numerous areas, including in education, employment, public health, and criminal law. And the decision has given new life to claims that challenge existing religious accommodations as too narrow, indicating that accommodations will never be enough because those who cite religion want a total exemption from laws with which they disagree, no matter the effect on others.

THREE COURTS HAVE ACCEPTED CLAIMS THAT *HOBBY LOBBY* ALLOWS THE OPTING OUT OF LAWS DESPITE THE HARM TO OTHERS.

A federal judge held that a witness did not have to testify in a child labor case.

The Department of Labor conducted a child labor investigation into the activities of Paragon Contractors Corporation and the Fundamentalist Church of the Latter Day Saints (FLDS), who are alleged to have jointly and unlawfully employed children at a pecan ranch.¹² A member of the FLDS Church refused to answer questions about FLDS' operations during a deposition because he had taken a "religious vow" not to discuss it.¹³ Although a magistrate judge rejected his claim, the district court judge ruled that he did not have to testify pursuant to RFRA as set forth in *Hobby Lobby*.¹⁴ If other courts follow this judge's decision, individuals and organizations will be able to opt out of testifying in important cases when the law otherwise says that they must – no matter what is at stake in the case.

A Kentucky court ruled in favor of a print shop that refused to make t-shirts for a "gay pride" festival.

In 2012, Hands on Originals, a printer of promotional materials in Fayette County, Kentucky, refused to print the official t-shirts for the local "gay pride" festival.¹⁵ Although the Lexington-Fayette Urban County Human Rights Commission ruled that the printer violated a local anti-discrimination ordinance that barred discrimination based on sexual orientation in public accommodations, a circuit court in April 2015 reversed the decision.¹⁶ Relying in part on the *Hobby Lobby* decision, the court held that there was no discrimination in the case because the print shop was not discriminating against individuals because they were gay but because they opposed the message on the shirt.¹⁷ The court also found that there was no harm done because the festival organizers were able to get t-shirts from another supplier.¹⁸ This decision flies in the face of non-discrimination law and the understanding that discrimination itself constitutes harm.

A military judge issued an interim order barring military women from some of their duties.

Female guards at the U.S. Naval Station at Guantanamo Bay have been blocked from performing some of their regular duties. A detainee claimed that having female guards escort him and shackle him -- both of which involve touching him -- violated his religious beliefs, basing his legal arguments in part on RFRA and *Hobby Lobby*.¹⁹ A military judge issued an interim order accepting the detainee's arguments. In barring female guards from these duties, the judge did not consider the harm to them at all – but rather said he needed to balance the religious issues raised by the detainee and the "need of the Detention Facility Commander to allocate resources and preserve security."²⁰ The judge's interim order accepted the idea

that one person's beliefs could determine which jobs women are allowed to have, undermining their right to be free of discrimination in the work place.²¹ The female guards have filed an EEO complaint.²²

NEW CLAIMS ARE BEING ADVANCED THAT WOULD UNDERMINE EXISTING LAWS, RESULTING IN HARM TO INDIVIDUALS

Advancing New Claims That Would Undermine Protections against Discrimination

The United States Conference of Catholic Bishops wants exemptions from a long-standing requirement that government contractors not discriminate against their employees based on sex.

Since 1965, government contractors have been barred from discriminating against their employees on the basis of sex under Executive Order 11246. Recently, the Office of Federal Contract Compliance Programs issued proposed new regulations pursuant to this Executive Order that further clarify the non-discrimination protections.²³ Relying on RFRA and the *Hobby Lobby* decision, the United States Conference of Catholic Bishops (USCCB) has demanded broad exceptions to these requirements.²⁴ Specifically, the USCCB wants to be able to fire LGBTQ individuals and refuse to provide women with critical health care services. In other words, the USCCB is advancing claims that RFRA and *Hobby Lobby* allow it to contract with the federal government, but not abide by the non-discrimination rules that all other federal contractors must follow.

The Family Research Council, Concerned Women for America, Alliance Defending Freedom, USCCB and 11 other organizations are objecting to D.C. non-discrimination laws.

In January 2015, the District of Columbia enacted two laws protecting against discrimination in D.C. workplaces and schools. The Human Rights Amendment Act ensures that all educational institutions in D.C. provide access to school facilities and services for all student clubs equally, repealing a congressionally-imposed exemption to D.C.'s Human Rights Act that allowed religiously-affiliated schools to discriminate on the basis of sexual orientation.²⁵ The Reproductive Health Non-Discrimination Amendment Act (RHNDAA) makes it clear that

employees cannot be discriminated against based on personal reproductive health care decisions.²⁶ For example, it prohibits an employer from firing an employee for decisions about whether and when to start a family, such as using *in vitro* fertilization, birth control, or abortion.

After the bills passed the D.C. Council and were signed by the Mayor, they were submitted for Congressional review. In February 2015, a group of 15 organizations called on Congress to disapprove the resolutions, claiming that the laws violate RFRA.²⁷ These organizations believe that certain groups are entitled to an exemption from the non-discrimination laws that other D.C. employers and schools have to obey and that protect students and employees in D.C. from harsh discrimination. Although the U.S. House of Representatives voted to disapprove RHNDAA, the Senate did not act, and both laws went into effect "from May 2, 2015."²⁸

After the laws went into effect, eight organizations that are also D.C. employers -- including the Family Research Council and Alliance Defending Freedom -- issued a letter in which they stated that they would not abide by RHNDAA.²⁹

Advancing New Claims that Question the Application of Labor Protections

A religiously-affiliated school and anti-union activists argued for exemptions from labor laws.

In 2013, the Service Employees International Union (SEIU) petitioned the National Labor Relations Board (NLRB) to represent adjunct faculty at Pacific Lutheran University (PLU), in order to negotiate employment contracts on their behalf.³⁰ PLU challenged the petition, claiming that as a church-operated institution it was exempt from the NLRB's jurisdiction.³¹

After *Hobby Lobby* was decided, the National Right to Work Legal Defense and Education Foundation petitioned the NLRB to file a supplemental brief arguing that the Supreme Court's decision in *Hobby Lobby* indicated that PLU should succeed in its claims.³² It not only claimed that the NLRB had no jurisdiction over PLU, but also that allowing unionization at the school would violate the university's "conscience."³³ In other words, PLU and the National Right to Work Foundation believe certain employers are entitled to use their religion to opt out of long-standing labor laws that protect workers from harmful employer practices.

Advancing New Claims that Threaten the Public Health

A paramedic student claimed his religion should exempt him from vaccination requirements.

Nicholas George, a paramedic student at Kankakee Community College in Illinois, brought suit in federal court because the school required that students in the paramedic program receive certain vaccinations.³⁴ Such requirements are supported by mainstream medical organizations because they prevent the spread of infectious diseases, such as measles.³⁵ George asked to be excused from the requirement but the school refused.³⁶ As a result, George brought suit claiming that the school's decision violated his constitutional rights as well as several state laws.³⁷ In July 2014, he added a new claim, stating that pursuant to *Hobby Lobby*, the school's decision also violated RFRA.³⁸ Although George was ultimately unsuccessful, his claim indicates that some view the *Hobby Lobby* decision as justification for seeking exemptions to basic health care requirements meant to protect the public health.³⁹

Pharmacies and pharmacists are arguing that they can refuse to comply with state regulations governing the dispensation of drugs.

In July 2014, shortly after the *Hobby Lobby* decision, the owners of a pharmacy and two pharmacists in Washington filed a brief in their ongoing case against state regulations that govern drug dispensing.⁴⁰ The regulations were put into place in 2007 and require pharmacies to fill prescriptions and provide requested medication.⁴¹ The regulations responded to incidents in which pharmacists refused – because of personal beliefs – to provide prescribed medications to women, whose health suffered as a result.⁴² These pharmacy owners and pharmacists believe *Hobby Lobby* provides support for their claims that they should be able to refuse to comply with state regulations that govern other pharmacies and pharmacists in the state of Washington. This could result in women being harmed when they are turned away from the pharmacy counter.⁴³

Advancing New Claims to Escape Criminal Prosecution

Criminal defendants are invoking *Hobby Lobby* as a defense for violent crimes.

Four Orthodox Jewish men were charged with kidnapping and attempted kidnapping in 2014. Allegedly, they were paid to kidnap and torture other Orthodox Jewish men who refused to consent to divorcing their wives.⁴⁴ (Under Orthodox Jewish law, a woman cannot get a divorce without the consent of her husband.) In January 2015, the defendants filed a motion seeking dismissal of the charges under RFRA.⁴⁵ In their brief, which relied on *Hobby Lobby*, they argued that they should be exempt from prosecution because their religion ordered them to help these women.⁴⁶ Although their claims were ultimately unsuccessful, it is troubling that some would invoke RFRA and *Hobby Lobby* to avoid the application of criminal law.⁴⁷

NEW CLAIMS ARE BEING MADE TO CHALLENGE AND EXPAND RELIGIOUS ACCOMMODATIONS

Non-profit entities are challenging the existing birth control accommodation and the process for opting out of the law's requirements.

As for-profit companies harm their female employees by denying them birth control coverage under *Hobby Lobby*, cases brought by non-profit entities continue to move through the courts.⁴⁸ The non-profit entities are making new claims post-*Hobby Lobby*, which would not only deny women coverage of birth control, but would also upend the process of granting religious accommodations. That is because non-profit entities that object to birth control coverage were given an “accommodation” allowing them to opt out of providing birth control coverage in the group health insurance plan by filling out paperwork notifying either the insurer or the Department of Health and Human Services.⁴⁹ After an opt out, the female employees and students get the coverage directly from the insurance company, an arrangement to which the Supreme Court referred approvingly in its *Hobby Lobby* decision.⁵⁰

Yet, some non-profit entities are challenging the accommodation itself. These non-profit entities are claiming that filling out the form is a substantial burden on their religion, since the women get the birth control coverage to which the entities are opposed.⁵¹

The entities argue that the *Hobby Lobby* decision means they can impose their religion to the detriment of their female employees and students, who would either be denied birth control coverage altogether or would be confronted with financial, administrative, and logistical burdens in order to obtain birth control by some other means. As troubling, the entities' claims in these cases say that the very mechanism designed to "free themselves entirely" from the legal requirement is itself a burden.⁵² While these claims have so far been rejected by courts,⁵³ they indicate a troubling new effort to push the boundaries of *Hobby Lobby* and to challenge the process by which religious accommodations are granted.

The United States Conference of Catholic Bishops, the National Association of Evangelicals, and three other organizations believe they have the right to refuse to provide sexually abused child refugees with the full range of health services.

In December 2014, the Administration issued an interim final rule setting standards for organizations providing services for unaccompanied minors coming to the United

States from other countries who had suffered sexual abuse and sexual harassment.⁵⁴ The Administration proposed that grantees and contractors that were religious organizations opposed to some of the services would be "accommodated" by having others provide the services.

USCCB, the National Association of Evangelicals, World Vision, Catholic Relief Services, and World Relief filed comments on the rule opposing the accommodation because they believe that they should be completely exempt from the requirement.⁵⁵ Relying on RFRA, the groups demanded that this exemption not only allow them to refuse to provide such services but also allow them to refuse to refer the children to other organizations for the services.⁵⁶ Instead, they want the government funding without having to comply with the same terms and conditions as other grantees and contractors. If this exemption is granted, children who have been sexually abused may not get access to all of the health care that they need.

Conclusion

THE *HOBBY LOBBY* DECISION HAS BECOME A RALLYING CRY FOR THOSE WHO SEEK TO USE RELIGION TO DISCRIMINATE AND TO HARM OTHERS. Its reach has extended far beyond access to birth control. In the past year, *Hobby Lobby* and the Religious Freedom Restoration Act have been used in myriad ways to undermine basic civil rights and liberties. Although RFRA was intended as shield to protect religious exercise from governmental interference, the Supreme Court's decision in *Hobby Lobby* has allowed it to be misused as a sword.

Endnotes

- 1 Burwell v. Hobby Lobby Stores, Inc., 134 S. Ct. 2751, Nos. 13-354, 13-356, 2014 WL 2921709 (June 30, 2014).
- 2 *Id.* at 2805 (Ginsburg, J., dissenting).
- 3 This paper's review encompasses June 30, 2014 – May 30, 2015.
- 4 *Hobby Lobby*, 134 S. Ct. at 2767-75.
- 5 See *Hobby Lobby*, 134 S. Ct. 2751.
- 6 *Status of the Lawsuits Challenging the Affordable Care Act's Birth Control Coverage Benefit*, NAT'L WOMEN'S LAW CTR., <http://www.nwlc.org/status-lawsuits-challenging-affordable-care-acts-birth-control-coverage-benefit> (last visited June 10, 2015).
- 7 Kimberly Daniels et al., *Contraceptive Methods Women Have Ever Used: United States, 1982–2010*, 62 NAT'L HEALTH STAT. REPORTS 1, 3 (2013), <http://www.cdc.gov/nchs/data/nhsr/nhsr062.pdf>.
- 8 *Holt v. Hobbs*, 135 S. Ct. 853 (2015).
- 9 *Id.* at 860-61.
- 10 See *Hobbs*, 135 S. Ct. 853.
- 11 *Id.* at 867 (2015) (Ginsburg, J., concurring).
- 12 Motion For Recons. at 2, *Perez v. Paragon Contractors, Corp.*, No. 2:13CV00281-DS, 2014 WL 4628572 (D. Utah Sept. 11, 2014).
- 13 *Paragon Contractors*, 2014 WL 4628572 at *3.
- 14 See *id.*
- 15 *Hands on Originals, Inc. v. Lexington-Fayette Urban Cty. Human Rights Comm'n., et al.*, No. 14-CI-04474 at 2 (Fayette Cir. Ct. Civ. Branch 3d Div. Apr. 27, 2015).
- 16 *Id.*
- 17 *Id.* at 13-15.
- 18 *Id.* at 15.
- 19 Emer. Defense Motion For Appropriate Relief to Cease Physical Contact with Female Guards at 3-5, *United States v. Abd Al Hadi Al-Iraqi*, No. AE021 (Military Comm'n's Trial Judiciary Guantanamo Bay Oct. 16, 2014).
- 20 Interim Order at 1-2, *United States v. Adb Al Hadi Al-Iraqi*, No. AE021B (Military Comm'n's Trial Judiciary Guantanamo Bay Nov. 7, 2014).
- 21 As of yet, no decision has been issued with regards to the female guards' complaints or in the underlying case.
- 22 Associated Press, *Complaints Challenge Orders Limiting Female Guards at Gitmo* N.Y. TIMES (Jan. 26, 2015), http://www.nytimes.com/aponline/2015/01/26/us/ap-us-guantanamo-female-guards.html?_r=0 (noting that military officials would not make copies of the female guards' complaints available to the public in an effort to avoid partiality by the presiding judge).
- 23 Discrimination on the Basis of Sex, 80 Fed. Reg. 5246, 5247 (proposed Jan. 30, 2015) (to be codified at 41 C.F.R. pt 60-20).
- 24 Comments from United States Conference of Catholic Bishops to Office of Federal Contract Compliance Programs (Mar. 30, 2015), available at <http://www.usccb.org/about/general-counsel/rulemaking/upload/Comments-Discrimination-Basis-of-Sex-March-2015.pdf>.
- 25 Council of the District of Columbia Committee on the Judiciary and Public Safety Report, *Report on Bill 20-803, 'Human Rights Amendment Act of 2014'* 2-3 (Oct. 15, 2014), available at <http://lims.dccouncil.us/Download/31754/B20-0803-CommitteeReport1.pdf>. (citing D.C. CODE § 2-1402.4(1)).
- 26 Reproductive Health Non-Discrimination Amendment Act of 2014, D.C. CODE § 2-1402.11.
- 27 Letter from Casey Mattox, Alliance Defending Freedom, et al. to the United States House of Representatives (Feb. 5, 2015) (on file with author).
- 28 161 CONG. REC. H2, 742 (daily ed. April 30, 2015).
- 29 Casey Mattox, Alliance Defending Freedom, et al., *Joint Statement Regarding District of Columbia Reproductive Health Non-Discrimination Amendment Act* (May 4, 2015), available at <http://www.adfmedia.org/files/RHNDASTatement.pdf>.
- 30 *Pac. Lutheran Univ. and Serv. Emps. Int'l Union, Local 925*, 361 N.L.R.B. 157 (2014).
- 31 *Id.* at 25.
- 32 Notice of Supplemental Authority and Supplemental Brief of Amicus Curiae National Right to Work Legal Defense and Education Foundation, Inc. Regarding *Burwell v. Hobby Lobby Store, Inc.* at 1, *Pac. Lutheran Univ. and Serv. Emps. Int'l Union, Local 925*, No. 19-RC-102521 (N.L.R.B. Sept. 24, 2014).
- 33 *Id.* at 5. Ultimately, the NLRB rejected PLU's argument and held that it did have jurisdiction in the matter. *Pac. Lutheran Univ.*, 361 N.L.R.B. at 25. The NLRB did not consider National Right to Work's brief in its decision. *Id.*, at n. 3.

- 34 *George v. Kankakee Cmty. Coll.*, No. 14–CV–2160, 2014 WL 6434152 (C.D. Ill. Nov. 17, 2014).
- 35 AM. ACAD. OF PEDIATRICS, *Conflicts Between Religious or Spiritual Beliefs and Pediatric Care: Informed Refusal, Exemptions, and Public Funding*, 132 PEDIATRICS 962, 963 (2013) (writing that medical experts, like the American Academy of Pediatrics, oppose religious exceptions to public health laws “in cases of direct harm to third parties, such as the risk of transmitting serious infectious diseases”).
- 36 Plaintiff’s Complaint at 4, *George v. Kankakee Cmty. Coll.*, No. 14–CV–2160 (C.D. Ill. May 2, 2014).
- 37 *Id.* at 1.
- 38 Plaintiff’s Response To Presence Hospitals PRV’s Mot. To Dismiss The Complaint, *George v. Kankakee Cmty. Coll.*, No. 14–CV–2160 (C.D. Ill. Jul. 28, 2014).
- 39 Because the complaint was about state action, and RFRA does not apply to the states, the Court dismissed the RFRA claim without considering the merits. The Court also dismissed George’s constitutional claims. *George*, 2014 WL 6434152, at *6.
- 40 Supplemental Brief For Appellees at 1-10, *Stormans, Inc. v. Wiesman*, No. 12-35221 (9th Cir. Jul. 28, 2014).
- 41 Opening Brief Of Intervenor-Appellants at 1-2, *Stormans, Inc. v. Wiesman*, No. 12-35221 (9th Cir. Aug. 13, 2012).
- 42 *Id.* at 2.
- 43 Oral arguments took place in the 9th Circuit in November 2014, and no decision has been issued as of this writing.
- 44 Evan Simon and Josh Margolin, *Rabbi Accused of Kidnapping, Torturing Husbands Into Granting Divorces Goes to Trial*, ABC NEWS (Feb. 19, 2015), <http://abcnews.go.com/US/rabbi-accused-kidnapping-torturing-husbands-granting-divorces-trial/story?id=29076272>.
- 45 Memorandum Of Law In Support Of Defendant’s Motion To Dismiss at 7, *United States v. Stimler*, No. CR 3:14-287 FLW (D.N.J. Jan. 1, 2015).
- 46 *United States v. Epstein*, No. CR 14-287 FLW, 2015 WL 1255008, at *2 (D.N.J. Mar. 19, 2015).
- 47 All four of the defendants were convicted on grounds raised in this case. *Three Orthodox Jewish Rabbis Convicted of Conspiracy to Kidnap Jewish Husbands in Order to Force Them to Consent to Religious Divorces*, FEDERAL BUREAU OF INVESTIGATION (April 21, 2015), <http://www.fbi.gov/newark/press-releases/2015/three-orthodox-jewish-rabbis-convicted-of-conspiracy-to-kidnap-jewish-husbands-in-order-to-force-them-to-consent-to-religious-divorces>.
- 48 See *Status of the Lawsuits Challenging the Affordable Care Act’s Birth Control Coverage Benefit*, *supra* note 6.
- 49 45 C.F.R. § 147.131.
- 50 *Hobby Lobby*, 134 S. Ct. at 2782.
- 51 See e.g., *Priests for Life v. U.S. Dep’t of Health and Human Serv.*, 772 F.3d 229, 235 (D.C. Cir. 2014).
- 52 *Id.* at 245.
- 53 See *Status of the Lawsuits Challenging the Affordable Care Act’s Birth Control Coverage Benefit*, *supra* note 6.
- 54 Standards To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children, 79 Fed. Reg. 77,768 (Dec. 24, 2014) (to be codified at 45 C.F.R. pt. 411).
- 55 Comments from Galen Carey, National Association of Evangelicals, et al. to Office of Refugee Resettlement (Feb. 20, 2015) (on file with author).
- 56 *Id.*



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