

June 29, 2017

Hirsh D. Kravitz
FOIA, Records, and E-Discovery Office
Civil Division
Department of Justice
Room 8020
1100 L Street, NW
Washington, D.C. 20035

Dear Mr. Kravitz:

This is a request for a production of documents pursuant to the Freedom of Information Act, 5 U.S.C. § 552, on behalf of the National Women's Law Center.

The National Women's Law Center seeks documents related to settlement negotiations between the Department of Justice ("DOJ"), the Department of Health and Human Services ("HHS"), the Department of Labor ("DOL"), the Department of the Treasury ("Treasury") (collectively, "the Departments") and plaintiffs in the following cases:

1. *Priests for Life v. U.S. Department of Health and Human Services*, Nos. 13-5368, 13-5371, 14-5021 (D.C. Cir.);
2. *Catholic Health Care System v. Price*, No. 14-0427 (2d Cir.);
3. *Geneva College, v. Price*, Nos. 13-3536, 14-1374, 14-1376, 14-1377 (3d Cir.);
4. *East Texas Baptist University v. Price*, Nos. 14-20112; 14-10661; 14-40212, 14-10241 (5th Cir.);
5. *Michigan Catholic Conference v. Burwell*, Nos. 13-2723; 13-6640 (6th Cir.);
6. *Grace Schools v. Price*, Nos. 14-1430, 14-1431 (7th Cir.);
7. *University of Notre Dame v. Price*, No. 13-3853 (7th Cir.);
8. *Wheaton College v. Burwell*, No. 14-2396 (7th Cir.);
9. *Archdiocese of St. Louis v. Price*, No. 14-3016 (8th Cir.);
10. *School of the Ozarks v. U.S. Department of Health and Human Services*, No. 15-1330 (8th Cir.);
11. *Dordt College and Cornerstone University v. Burwell*, No. 14-2726 (8th Cir.);
12. *Sharpe Holdings, Inc., v. U.S. Department of Health and Human Services*, No. 14-1507 (8th Cir.);
13. *Little Sisters of the Poor v. Price*, Nos. 13-1540; 14-6026; 14-6028 (10th Cir.); and
14. *Eternal World Television Network v. Secretary, U.S. Department of Health and Human Services*, Nos. 14-12696, 14-12890, 14-13239 (11th Cir.).

These cases concern the women's preventive services provision of the Patient Protection and Affordable Care Act (ACA), 42 U.S.C. § 300gg-13(a)(4) (Public Health Service Act § 2713) and its implementing regulations, which ensure individuals covered by group health plans or through health insurance issuers offering group or individual health insurance obtain coverage for the full range of FDA approved contraceptives without cost sharing.

With the law on your side, great things are possible.

In these cases, the Departments have repeatedly indicated through a series of status reports and motions that the parties are engaged in ongoing settlement discussions and negotiations. It has been 13 months since the Supreme Court's order in *Zubik v. Burwell*, 136 S. Ct. 1557 (2016) and still, these brief status reports and motions give no detail as to the content or progression of the alleged discussions. And Intervenor representing third parties who will be harmed should the circuit courts adopt plaintiffs' positions have not been included in any of the discussions. Status Report of Intervenor-Appellees, *University of Notre Dame v. Price*, No. 13-3853 (7th Cir. May 1, 2017). The National Women's Law Center is filing this request to collect information that will inform the public about these settlement discussions.

The National Women's Law Center is seeking documents and communications in these cases that are not protected by attorney-client privilege. Moreover, the request does not concern documents or communications that are considered deliberative process are protected by the work product doctrine, or fall into any of the nine exemptions to FOIA's general presumption of mandatory disclosure, 5 U.S.C. § 552(b)(1)-(9).

I hereby request access to, or copies of, the following documents:

1. All documents and communications shared between HHS and any plaintiffs in the above listed cases in preparation for, during, or in response to the meetings held between the Departments and plaintiffs on April 25, 2017; May 12, 2017; May 23, 2017; May 30, 2017; or on any dates not disclosed in plaintiffs' or the Departments' status reports.
2. All drafts of proposed settlement agreements in the above listed cases that were shared with plaintiffs between January 20, 2017 and June 29, 2017.

I am requesting this information for non-commercial use in the public interest, and believe that it will contribute significantly to public understanding of the operations and activities of the government. Disclosure of the information will inform the public – including those individuals whose rights are implicated by the outcome of these cases – about the Departments' carrying out of their duty to defend the birth control regulation implicated in the above cases and the status of the negotiations. Accordingly, I request a waiver of fees.

Thank you for your consideration of this request. I will expect a response within 20 working days as provided by law, 5 U.S.C. §552(a)(6)(A)(i). If my request is denied in whole or in part, I expect a detailed justification for withholding the records. I also request any segregable portions that are not exempt to be disclosed.

Thank you for your consideration of this request.

Sincerely,



Gretchen Borchelt, Vice President, Reproductive Rights & Health
National Women's Law Center