

The Honorable Ronald B. Leighton

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

STATE OF WASHINGTON,

Plaintiff,

v.

DONALD TRUMP, in his official capacity as  
President of the United States of America;  
ERIC D. HARGAN, in his official capacity as  
Acting Secretary of Health and Human  
Services; U.S DEPARTMENT OF HEALTH  
AND HUMAN SERVICES; STEVEN T.  
MNUCHIN, in his official capacity as  
Secretary of the Treasury, U.S.  
DEPARTMENT OF TREASURY; R.  
ALEXANDER ACOSTA, in his official  
capacity as Secretary of Labor; and UNITED  
STATES DEPARTMENT OF LABOR,

Defendants.

No. 2:17-cv-01510-RBL

**DEFENDANTS' MOTION FOR A  
PROTECTIVE ORDER AND TO  
STAY DISCOVERY**

NOTE ON MOTION CALENDAR:  
December 15, 2017

1 The State of Washington has issued eight third-party subpoenas purportedly to  
2 develop facts regarding the use by Washington companies of the exemption created by the  
3 challenged regulations to the Affordable Care Act's ("ACA's") contraception coverage  
4 requirements. *See* Exhibits A-H, attached hereto. Those subpoenas are premature, because  
5 Defendants intend to move to dismiss for lack of jurisdiction pursuant to Federal Rule of  
6 Civil Procedure 12(b)(1) or for summary judgment by December 11, 2017. If the Court  
7 grants the motion to dismiss, the third-party discovery would be unnecessary.

8 Defendants' motion to dismiss will explain that jurisdiction is lacking because  
9 Washington has failed to plead any cognizable injury. Because the Complaint is inadequate  
10 on its face, jurisdictional discovery will be unnecessary to decide the motion to dismiss.  
11 Defendants accordingly respectfully move for a protective order and to quash the subpoenas  
12 for documents and deposition testimony that Plaintiff served on Cherry Creek Mortgage  
13 Company, Conestoga Wood Specialties Corporation, Continuant, Inc., Cummins-Allison  
14 Corp., Electric Mirror, LLC, J.E. Dunn Construction Company, Franciscan Health System  
15 d/b/a/ CHI-Franciscan, and Hobby Lobby Stores, Inc., as well as for a stay of all discovery.  
16 Because this discovery is not necessary to respond to Defendants' Rule 12(b)(1) arguments,  
17 a stay until this Court resolves Defendants' forthcoming motion to dismiss would cause no  
18 prejudice to Plaintiff. Pursuant to Federal Rule of Civil Procedure 26(c) and Local Rule  
19 26.1(f), Defendants certify that they have in good faith and after reasonable effort attempted  
20 to confer with Plaintiff in an effort to resolve the dispute without action by this Court.

### 21 **BACKGROUND**

22 On May 4, 2017, the President issued an Executive Order "Promoting Free Speech  
23 and Religious Liberty." Exec. Order No. 13,798, 82 Fed. Reg. 21,675 (May 4, 2017). It  
24 instructed the Agencies to "consider issuing amended regulations, consistent with applicable  
25 law, to address conscience-based objections to the preventive-care mandate promulgated  
26 under section 300gg-13(a)(4)." *Id.* at 21,675. Consistent with the Executive Order, the  
27 Agencies concluded that it was "appropriate to reexamine the exemption and accommodation  
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1 scheme currently in place for the Mandate” and issued the Rules at issue here on October 6,  
2 2017. Religious Exemptions Rule, 82 Fed. Reg. 47,799 (Oct. 13, 2017); Moral Exemptions  
3 Rule, 82 Fed. Reg. 47,838 (Oct. 13, 2017) (collectively, “the Rules”). The Agencies have  
4 requested public comments on the Rules by December 5, 2017.

5 The Religious Exemption Rule expands the exemption for non-governmental plan  
6 sponsors that object to providing coverage for all or a subset of contraceptive services based  
7 on sincerely held religious beliefs, as well as for institutions of higher education in their  
8 arrangement of student health plans, to the extent of these entities’ sincerely held religious  
9 beliefs. 45 C.F.R. § 147.132(a)(2). The Moral Exemption Rule provides an exemption for  
10 certain non-governmental plan sponsors that object to providing all or a subset of  
11 contraceptive services based on sincerely held moral convictions, as well as for institutions  
12 of higher education in their arrangement of student health plans, to the extent of these entities’  
13 sincerely held moral convictions. *Id.* § 147.133(a)(2).<sup>1</sup>

14 Under the Rules, the Health Resources and Services Administration (“HRSA”)  
15 remains free to define “contraceptive services” as “contraceptive or sterilization items,  
16 procedures, or services, or related patient education or counseling, to the extent specified for  
17 purposes of § 147.130(a)(1)(iv)” for all non-exempt employers. *See* 82 Fed. Reg. at 47,835;  
18 45 C.F.R. §§ 147.132(c), 147.133(c). “Contraceptive services” do not include contraceptive  
19 services for men, and never have, because the ACA only authorizes HRSA to develop  
20 guidelines for “additional preventive care and screenings” to be covered “with respect to  
21 women.” 42 U.S.C. § 300gg-13(a)(4); Coverage of Certain Preventive Services Under the  
22 ACA, 78 Fed. Reg. 8,456, 8,458 n.3 (Feb. 6, 2013) (excluding “services relating to a man’s  
23 reproductive capacity, such as vasectomies and condoms” from the definition of “preventive  
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25 <sup>1</sup> Each rule also includes an “individual exemption” that allows a willing plan sponsor of a  
26 group health plan or a willing health insurance issuer offering group or individual health  
27 insurance coverage to provide a separate benefit package option or separate policy,  
28 certificate, or contract of insurance to an individual who objects to coverage for contraceptive  
services based on sincerely held religious beliefs or moral convictions. 45 C.F.R.  
§§ 147.132(b), 147.133(b).

1 services” that must be provided without cost sharing).<sup>2</sup> As under the previous rule, exempt  
2 entities are not required to self-certify, but they are still subject to regulatory disclosure  
3 requirements for plan exclusions or reductions in a covered benefit. 82 Fed. Reg. at 47,808  
4 & n.54; *id.* at 47,804 & n.32. The Rules also maintain the accommodation process as a  
5 voluntary mechanism to provide contraceptive availability for women covered by the plans  
6 of exempt entities that choose to use it. 45 C.F.R. § 147.131; 26 C.F.R § 54.9815-2713A; 29  
7 C.F.R. § 2590.715-2713A. On October 6, 2017, HRSA updated its Guidelines to exempt  
8 entities and individuals that qualify for exemptions from the Guidelines’ requirements. *See*  
9 HRSA, *Women’s Preventive Services Guidelines*, (Oct. 2017),  
10 <http://www.hrsa.gov/womens-guidelines>.

11 On October 9, 2017, Washington filed a Complaint challenging the Rules in this  
12 Court, despite the fact it could not point to any employers of the “up to 1.5 million insureds”  
13 in Washington who receive insurance through their employers’ self-funded plans that would  
14 be newly qualified for the expanded exemptions, much less that they would seek an  
15 exemption rather than an accommodation.<sup>3</sup> *See* Compl. ¶ 73.

16 On November 30, 2017, Washington issued eight third-party subpoenas purportedly  
17 to develop facts regarding the use by Washington companies of the exemption created by the  
18 challenged Rules to the ACA’s requirement to cover contraceptives without cost-sharing.  
19 Five of these third parties—Cherry Creek Mortgage Company, Conestoga Wood Specialties  
20 Corporation, Cummins-Allison Corp., J.E. Dunn Construction Company, and Hobby Lobby  
21 Stores, Inc.—are out-of-state companies. These subpoenas requested documents and  
22

23 <sup>2</sup> “Contraceptive services” under the Rules also do not include drugs or methods approved by  
24 the FDA for contraceptive use that are prescribed for medical treatment, because 42 U.S.C.  
25 § 300gg-13(a)(4) does not apply to non-preventive care provided for treatment of an existing  
26 condition. *See* 82 Fed. Reg. at 47,805 & n.48. In other words, if drugs or methods approved  
27 by the FDA for contraceptive use are used for a non-contraceptive purpose, the Rules do not  
28 exempt them from coverage (if they would otherwise be covered by a plan).

<sup>3</sup> Employers seeking the exemption are subject to ERISA’s timely disclosure requirements  
for plan exclusions or reductions in a covered service or benefit. *See* 82 Fed. Reg. at 47,808  
& n.54.

1 depositions of third-party witnesses under Fed. R. Civ. P. 26 and 30(b)(6) on December 15,  
2 December 18, and December 19, 2017.

### 3 ARGUMENT

#### 4 **I. Discovery Is Not Warranted Because the Court Does Not Have Subject Matter** 5 **Jurisdiction.**

6 “The requirement that jurisdiction be established as a threshold matter ‘spring[s] from  
7 the nature and limits of the judicial power of the United States’ and is ‘inflexible and without  
8 exception.’” *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 94-95 (1998) (quoting  
9 *Mansfield, C. & L.M. Ry. Co. v. Swan*, 111 U.S. 379, 382 (1884)). Thus, the “first and  
10 fundamental” question for this Court is that of jurisdiction. *Id.* at 94 (quoting *Great S. Fire*  
11 *Proof Hotel Co. v. Jones*, 177 U.S. 449, 453 (1900)). “Without jurisdiction the court cannot  
12 proceed at all in any cause,” other than to “announc[e] the fact and dismiss[]” the case. *Id.*

13 A plaintiff bears the burden of demonstrating that its case meets the requirements of  
14 subject matter jurisdiction. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992). There  
15 is a presumption that a federal court lacks jurisdiction in a particular case until plaintiffs meet  
16 that burden. *Renne v. Geary*, 501 U.S. 312, 316 (1991). Unless and until plaintiffs make that  
17 threshold showing, the “defendant[s] should not be put to the trouble and expense of any  
18 further proceeding, and the time of [the] court should not be occupied with any further  
19 proceeding.” *United Transp. Serv. Emps. of Am., CIO v. Nat’l Mediation Bd.*, 179 F.2d 446,  
20 454 (D.C. Cir. 1949). Plaintiff has not met its burden here. As Defendants will demonstrate  
21 in their motion to dismiss, the face of Plaintiff’s Complaint demonstrates that Plaintiff cannot  
22 establish this Court’s jurisdiction over its claims.

#### 23 **II. This Court Should Stay Discovery Pending Resolution of Defendant’s** 24 **Forthcoming Motion to Dismiss.**

25 A court may relieve a party of the burdens of discovery where a dispositive motion  
26 renders such discovery unnecessary. *See Davis v. Speer*, No. C10-5185 RJB KLS, 2010 WL  
27 4568047, at \*1 (W.D. Wash. Nov. 3, 2010) (citing *DiMartini v. Ferrin*, 889 F.2d 922 (9th  
28 Cir. 1989), *amended at* 906 F.2d 465 (9th Cir.1990); *Rae v. Union Bank*, 725 F.2d 478, 481

1 (9th Cir. 1984)). This Court has broad discretion to control the nature and timing of  
2 discovery, and “should not hesitate to exercise appropriate control over the discovery  
3 process.” *Herbert v. Lando*, 441 U.S. 153, 177 (1979). It may issue a protective order under  
4 Federal Rule of Civil Procedure 26(c) upon a showing of good cause in order to “protect a  
5 party or person from annoyance, embarrassment, oppression, or undue burden or expense,  
6 including . . . forbidding the disclosure or discovery.” Fed. R. Civ. P. 26(c).<sup>4</sup> “[T]he Ninth  
7 Circuit Court of Appeals has recognized a court’s ability to issue a protective order staying  
8 discovery pending the resolution of a dispositive motion.” *See Johnson v. Monsanto Co.*,  
9 No. 16-00075 JMS-RLP, 2016 WL 2753445, at \*1 (D. Haw. Apr. 20, 2016) (citing, *e.g.*,  
10 *Wenger v. Monroe*, 282 F.3d 1068, 1077 (9th Cir. 2002) (affirming district court’s grant of  
11 protective order staying discovery pending resolution of motion to dismiss filed pursuant to  
12 Rule 12(b)(6)).

13 Where a party moves to dismiss on jurisdictional grounds, a stay of discovery is  
14 particularly appropriate. 8A Charles Allan Wright et al., *Federal Practice and Procedure*  
15 § 2040 (3d ed. 2010); *Orchid Biosciences, Inc. v. St. Louis Univ.*, 198 F.R.D. 670, 675 (S.D.  
16 Cal. 2001) (noting courts “have routinely stayed discovery on the merits altogether while  
17 challenges to jurisdiction are pending”). This is because the “first and fundamental” question  
18 for any court is whether it has jurisdiction. *Steel Co.*, 523 U.S. at 94; *see also Vt. Agency of*  
19 *Nat. Res. v. U.S. ex rel. Stevens*, 529 U.S. 765, 778-79 (2000) (“Questions of jurisdiction, of  
20 course, should be given priority—since if there is no jurisdiction there is no authority to sit  
21 in judgment of anything else.”).

22 This Court should be particularly open to a stay of jurisdictional discovery, because  
23 such discovery is generally reserved for instances where “pertinent facts bearing on the  
24 question of jurisdiction are controverted or where a more satisfactory showing of the facts is

25 \_\_\_\_\_  
26 <sup>4</sup> Because a motion to stay discovery is equivalent to a request for a protective order  
27 prohibiting or limiting discovery pursuant to Fed. R. Civ. P. 26(c)(2), a motion to stay  
28 discovery may be granted pursuant to Fed. R. Civ. P. 26(c)(2). *See, e.g., Silva v. TEKsystems,*  
*Inc.*, No. 12-cv-05347-LHK, 2013 WL 3388255, at n.1 (N.D. Cal. July 8, 2013) (citing 10A  
Fed. Proc., L. Ed. § 26:334).

1 necessary.” *Cascade Yarns, Inc. v. Knitting Fever, Inc.*, No. C10-861RSM, 2011 WL  
 2 2470671, at \*5 (W.D. Wash. June 17, 2011) (citing *Butcher’s Union Local No. 498, United*  
 3 *Food and Commercial Workers v. SDC Inv., Inc.*, 788 F.2d 535 (9th Cir. 1986)). There is no  
 4 factual dispute about standing here.

5 The forthcoming Motion will demonstrate, based on the face of the Complaint, that  
 6 this Court does not have subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1). (It will  
 7 also establish that dismissal under Fed. R. Civ. P. 12(b)(6) or summary judgment in favor of  
 8 Defendants is appropriate.<sup>5</sup>) *First*, Plaintiff’s allegation that it will suffer a cognizable  
 9 proprietary injury that is traceable to the Rules fails as a matter of law. Theorizing that state  
 10 residents will lose coverage as a result of the Rules<sup>6</sup> and these employees would then qualify  
 11 for and seek coverage through state-funded programs that provide access to contraceptives  
 12 for some low-income residents, Compl. ¶¶ 76-77, is not a plausible allegation of injury to the  
 13 Commonwealth, much less an injury that is “*certainly impending.*” *Lujan v. Defenders of*  
 14 *Wildlife*, 504 U.S. 555, 564 n.2 (1992). Even more speculative is the assertion that these  
 15 employees will forego contraception entirely and have unplanned pregnancies, the costs of  
 16 which would be borne by the state, Compl. ¶¶ 78-82, even though such pregnancies would  
 17 presumptively be otherwise covered by the employees’ health plans. And conclusory  
 18 allegations that a state’s budget or tax revenues will be harmed in some general way by a  
 19 federal policy are not sufficient to support state standing; otherwise, any state could challenge

20 \_\_\_\_\_  
 21 <sup>5</sup> Plaintiff has not requested discovery purportedly to respond to non-jurisdictional challenges  
 22 to its Complaint. Even if it had, with respect to Plaintiff’s claims under the Administrative  
 23 Procedure Act, this Court has further reason to stay discovery— “[g]enerally, judicial review  
 24 of an agency action is limited to review of the administrative record.” *Evans v. Salazar*, No.  
 25 C08-0372-JCC, 2010 WL 11565108, at \*1 (W.D. Wash. July 7, 2010) (citing *Animal Def.*  
 26 *Council v. Hodel*, 840 F.2d 1432, 1436 (9th Cir. 1988)); *see also Citizens to Pres. Overton*  
 27 *Park, Inc., v. Volpe*, 401 U.S. 402, 420 (1971). The Administrative Record will be filed along  
 28 with Defendants’ motion to dismiss or for summary judgment, on or before December 11,  
 2017. With respect to Plaintiff’s remaining claims, discovery would not be necessary or  
 appropriate on these constitutional claims. *See, e.g., Islamic Am. Relief Agency v. Gonzales*,  
 477 F.3d 728, 737-38 (D.C. Cir. 2007) (upholding denial of discovery on constitutional  
 challenge to agency action); *Overton Park*, 401 U.S. at 420 (“inquiry into the mental  
 processes of administrative decisionmakers is usually to be avoided”).

<sup>6</sup> As noted above, five of the eight third-party subpoenas were issued to out-of-state  
 companies.

1 any federal policy. *See Wyoming v. U.S. Dep't of the Interior*, 674 F.3d 1220, 1234 (10th  
2 Cir. 2012) (requiring “concrete evidence” of an impact on state finances given the “the  
3 unavoidable economic repercussions of virtually all federal policies”). *Second*, Plaintiff  
4 cannot, as a matter of law, pursue this litigation on behalf of the purported interest of its  
5 citizens. *See Massachusetts v. Mellon*, 262 U.S. 447, 485-86 (1923) (“It is the United States,  
6 and not the state, which represents [its citizens] as *parens patriae*,” and “it is no part of [a  
7 state’s] duty or power to enforce rights in respect of their relations with the federal  
8 government.”).

9 None of the facts that Washington seeks to develop through its third-party subpoenas  
10 would change these conclusions. *See, e.g., Jarvis v. Regan*, 833 F.2d 149, 155 (9th Cir. 1987)  
11 (upholding district court’s decision to stay discovery “pending the disposition of the motions  
12 to dismiss, on the ground that discovery was ‘not required to address the issues raised by  
13 defendants’ motions to dismiss”); *Alaska Cargo Transp., Inc. v. Alaska R.R. Corp.*, 5 F.3d  
14 378, 383 (9th Cir. 1993) (affirming a district court’s stay of discovery when there was no  
15 indication that “the discovery sought was relevant to whether or not the court has subject  
16 matter jurisdiction”); *Lescs v. Martinsburg Police Dep’t*, 138 F. App’x 562, 564 (4th Cir.  
17 2005) (citing *Harlow v. Fitzgerald*, 457 U.S. 800, 817–18 (1982) to support holding that  
18 “[t]he district court was required to rule on Defendants’ dispositive motion to dismiss or for  
19 summary judgment raising sovereign and qualified immunity issues prior to allowing any  
20 discovery”).

### 21 **III. Discovery Imposes Substantial Burdens on Defendants and Will Likely Lead to** 22 **Unnecessary Litigation over Particular Discovery Demands.**

23 Allowing discovery to proceed prior to this Court’s disposition of facial jurisdictional  
24 questions would place a substantial burden on Defendants and lead to litigation over  
25 particular discovery requests. Defendants are in the midst of litigating eight separate cases  
26 challenging the Rules, in districts across the country, a number of which have deadlines in  
27 the month of December. *See ACLU v. Wright*, No. 4:17-cv-5772 (N.D. Cal. filed Oct. 6,  
28 2017); *California v. HHS*, No. 4:17-cv-5783 (N.D. Cal. filed Oct. 6, 2017); *Massachusetts v.*

1 *HHS*, No. 1:17-cv-11930 (D. Mass. filed Oct. 6, 2017); *Medical Students for Choice v.*  
2 *Wright*, No. 1:17-cv-2096 (D.D.C. filed Oct. 10, 2017); *Pennsylvania v. Trump*, No. 2:17-  
3 cv-4540 (E.D. Pa. filed Oct. 11, 2017); *Campbell v. Trump*, No. 1:17-cv-2455 (D. Colo. filed  
4 Oct. 13, 2017); *Shiraef v. Hargan*, No. 3:17-cv-0817 (N.D. Ind. filed Oct. 31, 2017).  
5 Plaintiff's subpoenas proposed depositions of third-party witnesses in Seattle, Washington  
6 on December 15, December 18, and December 19, 2017. Counsel for Defendants promptly  
7 notified counsel for Plaintiff that, in addition to Defendants' belief that discovery is  
8 unnecessary at this stage of the litigation, the undersigned counsel is unavailable on  
9 December 15, 2017, because she will be at a hearing in Philadelphia that is set for December  
10 14-15, 2017. Undersigned counsel will then be required to file proposed findings of fact in  
11 that case by noon on December 19, 2017.

12 Responding and objecting to Plaintiff's requests for third-party discovery and  
13 attending depositions in Seattle would thus not only impose significant burdens on  
14 Defendants, but would also likely lead to litigation in this Court—all of which will have been  
15 unnecessary if the Court ultimately dismisses the case based on legal flaws evident from the  
16 face of the Complaint. In contrast, a stay of discovery pending a ruling on Defendants'  
17 dispositive motion would conserve the time and resources of the Court and the parties, and  
18 would not prejudice Plaintiff because, as discussed above, it is not necessary to respond to  
19 Defendants' motion to dismiss.

### 20 CONCLUSION

21 For the foregoing reasons, this Court should stay discovery and toll all relevant  
22 deadlines until the disposition of Defendants' forthcoming motion to dismiss.

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DATED: December 7, 2017

Respectfully submitted,

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# **EXHIBIT A**

UNITED STATES DISTRICT COURT

for the

Western District of Washington

STATE OF WASHINGTON,

Plaintiff

v.

DONALD TRUMP, et al.,

Defendant

Civil Action No. 2:17-cv-01510 RBL

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Cherry Creek Mortgage Company

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Schedule A

Table with 2 columns: Place (Washington Office of the Attorney General, 800 Fifth Avenue, 20th Floor, Seattle WA 98104) and Date and Time (12/15/2017 3:00 pm)

The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

See Schedule B

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/30/2017

CLERK OF COURT

OR

/s/ Jeffrey T. Sprung

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) State of Wasington, who issues or requests this subpoena, are:

Jeffrey T. Sprung, 7141 Cleanwater Drive SW, PO BOX 40111, Olympia WA 98504-0111; 360-709-6470

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:17-cv-01510 RBL

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

### (c) Place of Compliance.

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

### (d) Protecting a Person Subject to a Subpoena; Enforcement.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

### (e) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

## **SCHEDULE A**

### **A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean Cherry Creek Mortgage Company, including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

3. “Full-time employee” means any employee employed on average, over the past year, at least 30 hours of service per week, or 130 hours of service per month.

### **B. Items for Examination**

In accordance with Fed. R. Civ. P. 30(b)(6), Cherry Creek Mortgage Company is advised of its duty to designate one or more of its officers, directors, or managing agents or other persons most qualified to testify on its behalf with respect to the following:

1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

3. Your consideration or use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in the Interim Final Rules.

4. The manner in which you have, or are planning to, communicate with your employees about your use or possible use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in the Interim Final Rules.

5. The number of your full-time employees whose annual compensation is less than \$60,750 a year or whose hourly rate is less than \$29 an hour.

6. The number of your full-time employees whose annual compensation is less than \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

7. The number of your full-time employees whose annual compensation is less than \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

8. The number of your full-time employees whose annual compensation is less than \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

9. The number of your full-time employees whose annual compensation is less than \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

10. The number of your full-time employees whose annual compensation is less than \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

11. The number of your full-time employees whose annual compensation is less than \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

12. The number of your full-time employees whose annual compensation is less than \$16,642 a year or whose effective hourly rate is less than \$8 an hour.

**SCHEDULE B**

1. All documents reflecting your communications with the U.S. Department of Labor, the U.S. Department of Health and Human Services, any other government agency, any claims administrator, or any health insurance issuer or administrator related to your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

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11. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$16,642 a year or whose effective hourly rate is less than \$8 an hour.

The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

DONALD TRUMP, et al.,

Defendants.

NO. 2:17-cv-01510 RBL

PLAINTIFF STATE OF  
WASHINGTON'S NOTICE OF  
DEPOSITION OF CHERRY CREEK  
MORTGAGE COMPANY PURSUANT  
TO FED. R. CIV. P. 30(B)(6)

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 26 and 30(b)(6), Plaintiff State of Washington will take the deposition upon oral examination of Cherry Creek Mortgage Company at the time and place designated below:

Date of Deposition: December 15, 2017 at 3:00 p.m.

Location of Deposition: Washington Attorney General's Office  
800 Fifth Avenue  
20th Floor  
Seattle, WA 98104

The deposition will be taken before a notary public or some other officer qualified to administer oaths pursuant to Fed. R. Civ. P. 28(a), will be recorded by stenographic means, and will continue from day-to-day, excluding Sundays and holidays, until completed.

1 Pursuant to Fed. R. Civ. P. 30(b)(6), Cherry Creek Mortgage Company is to designate  
2 and produce for deposition one or more officers, directors, or agents who are most qualified to  
3 testify on its behalf as to all matters known or reasonably available to it concerning the subject  
4 matter described on Schedule A hereto.

5 DATED this 30th day of November, 2017.

6  
7 ROBERT W. FERGUSON  
8 Attorney General

9 /s/ Jeffrey T. Sprung  
10 JEFFREY T. SPRUNG, WSBA #23607  
11 ALICIA O. YOUNG, WSBA #35553  
12 CYNTHIA L. ALEXANDER, WSBA #46019  
13 AUDREY L. UDASHEN, WSBA #42868  
14 Assistant Attorneys General  
15 *Attorneys for Plaintiff State of Washington*

**SCHEDULE A**

**A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean Cherry Creek Mortgage Company, including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

3. “Full-time employee” means any employee employed on average, over the past year, at least 30 hours of service per week, or 130 hours of service per month.

**B. Items for Examination**

In accordance with Fed. R. Civ. P. 30(b)(6), Cherry Creek Mortgage Company is advised of its duty to designate one or more of its officers, directors, or managing agents or other persons most qualified to testify on its behalf with respect to the following:

1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

1           3.       Your consideration or use of the religious or moral exemption or accommodation  
2 for coverage of or payment for contraceptive services provided in the Interim Final Rules.

3           4.       The manner in which you have, or are planning to, communicate with your  
4 employees about your use or possible use of the religious or moral exemption or accommodation  
5 for coverage of or payment for contraceptive services provided in the Interim Final Rules.  
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7           5.       The number of your full-time employees whose annual compensation is less than  
8 \$60,750 a year or whose hourly rate is less than \$29 an hour.

9           6.       The number of your full-time employees whose annual compensation is less than  
10 \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

11          7.       The number of your full-time employees whose annual compensation is less than  
12 \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

13          8.       The number of your full-time employees whose annual compensation is less than  
14 \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

15          9.       The number of your full-time employees whose annual compensation is less than  
16 \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

17          10.       The number of your full-time employees whose annual compensation is less than  
18 \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

19          11.       The number of your full-time employees whose annual compensation is less than  
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**DECLARATION OF SERVICE**

I hereby certify that on November 30, 2017, I electronically served the foregoing document upon the following:

Elizabeth L. Kade  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue NW  
Washington, DC 20530  
Elizabeth.L.Kade@usdoj.gov  
*Attorney for Defendants*

DATED this 30th day of November, 2017, at Tumwater, Washington.

/s/ Jennifer D. Williams  
JENNIFER D. WILLIAMS  
Paralegal

# **EXHIBIT B**

UNITED STATES DISTRICT COURT

for the

Western District of Washington

STATE OF WASHINGTON,

Plaintiff

v.

DONALD TRUMP, et al.,

Defendant

Civil Action No. 2:17-cv-01510 RBL

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Franciscan Health System dba CHI-Franciscan

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Schedule A

Table with 2 columns: Place (Washington Office of the Attorney General, 800 Fifth Avenue, 20th Floor, Seattle WA 98104) and Date and Time (12/19/2017 1:00 pm)

The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

See Schedule B

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/30/2017

CLERK OF COURT

OR

/s/ Jeffrey T. Sprung

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) State of Wasington

Jeffrey T. Sprung, 7141 Cleanwater Drive SW, PO BOX 40111, Olympia WA 98504-0111; 360-709-6470

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:17-cv-01510 RBL

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

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(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

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**A. Definitions and Instructions**

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The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

DONALD TRUMP, et al.,

Defendants.

NO. 2:17-cv-01510 RBL

PLAINTIFF STATE OF  
WASHINGTON'S NOTICE OF  
DEPOSITION OF CHI-FRANCISCAN  
PURSUANT TO FED. R. CIV. P. 30(B)(6)

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 26 and 30(b)(6), Plaintiff State of Washington will take the deposition upon oral examination of Franciscan Health System dba CHI-Franciscan at the time and place designated below:

Date of Deposition: December 19, 2017 at 1:00 p.m.

Location of Deposition: Washington Attorney General's Office  
800 Fifth Avenue  
20th Floor  
Seattle, WA 98104

The deposition will be taken before a notary public or some other officer qualified to administer oaths pursuant to Fed. R. Civ. P. 28(a), will be recorded by stenographic means, and will continue from day-to-day, excluding Sundays and holidays, until completed.

1 Pursuant to Fed. R. Civ. P. 30(b)(6), Franciscan Health System dba CHI-Franciscan is to  
2 designate and produce for deposition one or more officers, directors, or agents who are most  
3 qualified to testify on its behalf as to all matters known or reasonably available to it concerning  
4 the subject matter described on Schedule A hereto.

5 DATED this 30th day of November, 2017.

6  
7 ROBERT W. FERGUSON  
8 Attorney General

9 */s/ Jeffrey T. Sprung*

10 JEFFREY T. SPRUNG, WSBA #23607  
11 ALICIA O. YOUNG, WSBA #35553  
12 CYNTHIA L. ALEXANDER, WSBA #46019  
13 AUDREY L. UDASHEN, WSBA #42868  
14 Assistant Attorneys General  
15 *Attorneys for Plaintiff State of Washington*

**SCHEDULE A**

**A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean Franciscan Health System dba CHI-Franciscan, including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

3. “Full-time employee” means any employee employed on average, over the past year, at least 30 hours of service per week, or 130 hours of service per month.

**B. Items for Examination**

In accordance with Fed. R. Civ. P. 30(b)(6), Franciscan Health System dba CHI-Franciscan is advised of its duty to designate one or more of its officers, directors, or managing agents or other persons most qualified to testify on its behalf with respect to the following:

1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

1           3.       Your consideration or use of the religious or moral exemption or accommodation  
2 for coverage of or payment for contraceptive services provided in the Interim Final Rules.

3           4.       The manner in which you have, or are planning to, communicate with your  
4 employees about your use or possible use of the religious or moral exemption or accommodation  
5 for coverage of or payment for contraceptive services provided in the Interim Final Rules.  
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7           5.       The number of your full-time employees whose annual compensation is less than  
8 \$60,750 a year or whose hourly rate is less than \$29 an hour.

9           6.       The number of your full-time employees whose annual compensation is less than  
10 \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

11          7.       The number of your full-time employees whose annual compensation is less than  
12 \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

13          8.       The number of your full-time employees whose annual compensation is less than  
14 \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

15          9.       The number of your full-time employees whose annual compensation is less than  
16 \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

17          10.       The number of your full-time employees whose annual compensation is less than  
18 \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

19          11.       The number of your full-time employees whose annual compensation is less than  
20 \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

21          12.       The number of your full-time employees whose annual compensation is less than  
22 \$16,642 a year or whose effective hourly rate is less than \$8 an hour.  
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**DECLARATION OF SERVICE**

I hereby certify that on November 30, 2017, I electronically served the foregoing document upon the following:

Elizabeth L. Kade  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue NW  
Washington, DC 20530  
Elizabeth.L.Kade@usdoj.gov  
*Attorney for Defendants*

DATED this 30th day of November, 2017, at Tumwater, Washington.

*/s/ Jennifer D. Williams*  
JENNIFER D. WILLIAMS  
Paralegal

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# **EXHIBIT C**

UNITED STATES DISTRICT COURT

for the

Western District of Washington

STATE OF WASHINGTON,

Plaintiff

v.

DONALD TRUMP, et al.,

Defendant

Civil Action No. 2:17-cv-01510 RBL

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Conestoga Wood Specialties Corporation

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Schedule A

Table with 2 columns: Place (Washington Office of the Attorney General, 800 Fifth Avenue, 20th Floor, Seattle WA 98104) and Date and Time (12/15/2017 9:00 am)

The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

See Schedule B

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/30/2017

CLERK OF COURT

OR

/s/ Jeffrey T. Sprung

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) State of Wasington

Jeffrey T. Sprung, 7141 Cleanwater Drive SW, PO BOX 40111, Olympia WA 98504-0111; 360-709-6470

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:17-cv-01510 RBL

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

## SCHEDULE A

### **A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean Conestoga Wood Specialties Corporation, including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf. For purposes of this Notice, the terms “Defendant,” “you,” or “your” also mean Citizens Solutions, Inc.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

3. “Full-time employee” means any employee employed on average, over the past year, at least 30 hours of service per week, or 130 hours of service per month.

### **B. Items for Examination**

In accordance with Fed. R. Civ. P. 30(b)(6), Conestoga Wood Specialties Corporation is advised of its duty to designate one or more of its officers, directors, or managing agents or other persons most qualified to testify on its behalf with respect to the following:

1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

3. Your consideration or use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in the Interim Final Rules.

4. The manner in which you have, or are planning to, communicate with your employees about your use or possible use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in the Interim Final Rules.

5. The number of your full-time employees whose annual compensation is less than \$60,750 a year or whose hourly rate is less than \$29 an hour.

6. The number of your full-time employees whose annual compensation is less than \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

7. The number of your full-time employees whose annual compensation is less than \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

8. The number of your full-time employees whose annual compensation is less than \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

9. The number of your full-time employees whose annual compensation is less than \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

10. The number of your full-time employees whose annual compensation is less than \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

11. The number of your full-time employees whose annual compensation is less than \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

12. The number of your full-time employees whose annual compensation is less than \$16,642 a year or whose effective hourly rate is less than \$8 an hour.

**SCHEDULE B**

1. All documents reflecting your communications with the U.S. Department of Labor, the U.S. Department of Health and Human Services, any other government agency, any claims administrator, or any health insurance issuer or administrator related to your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. All documents reflecting your communications with your employees related to your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

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4. Documents sufficient to show the number the number of your full-time employees whose annual compensation is less than \$60,750 a year or whose hourly rate is less than \$29 an hour.

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The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

DONALD TRUMP, et al.,

Defendants.

NO. 2:17-cv-01510 RBL

PLAINTIFF STATE OF  
WASHINGTON'S NOTICE OF  
DEPOSITION OF CONESTOGA WOOD  
SPECIALTIES CORPORATION  
PURSUANT TO FED. R. CIV. P. 30(B)(6)

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 26 and 30(b)(6), Plaintiff State of Washington will take the deposition upon oral examination of Conestoga Wood Specialties at the time and place designated below:

Date of Deposition: December 15, 2017 at 9:00 a.m.

Location of Deposition: Washington Attorney General's Office  
800 Fifth Avenue  
20th Floor  
Seattle, WA 98104

The deposition will be taken before a notary public or some other officer qualified to administer oaths pursuant to Fed. R. Civ. P. 28(a), will be recorded by stenographic means, and will continue from day-to-day, excluding Sundays and holidays, until completed.

1 Pursuant to Fed. R. Civ. P. 30(b)(6), Conestoga Wood Specialties Corporation is to  
2 designate and produce for deposition one or more officers, directors, or agents who are most  
3 qualified to testify on its behalf as to all matters known or reasonably available to it concerning  
4 the subject matter described on Schedule A hereto.

5 DATED this 30th day of November, 2017.

6  
7 ROBERT W. FERGUSON  
8 Attorney General

9 */s/ Jeffrey T. Sprung*

10 JEFFREY T. SPRUNG, WSBA #23607

11 ALICIA O. YOUNG, WSBA #35553

12 CYNTHIA L. ALEXANDER, WSBA #46019

13 AUDREY L. UDASHEN, WSBA #42868

14 Assistant Attorneys General

15 *Attorneys for Plaintiff State of Washington*

**SCHEDULE A**

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2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

1           3.       Your consideration or use of the religious or moral exemption or accommodation  
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5 for coverage of or payment for contraceptive services provided in the Interim Final Rules.  
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14 \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

15          9.       The number of your full-time employees whose annual compensation is less than  
16 \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

17          10.       The number of your full-time employees whose annual compensation is less than  
18 \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

19          11.       The number of your full-time employees whose annual compensation is less than  
20 \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

21          12.       The number of your full-time employees whose annual compensation is less than  
22 \$16,642 a year or whose effective hourly rate is less than \$8 an hour.  
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**DECLARATION OF SERVICE**

I hereby certify that on November 30, 2017, I electronically served the foregoing document upon the following:

Elizabeth L. Kade  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue NW  
Washington, DC 20530  
Elizabeth.L.Kade@usdoj.gov  
*Attorney for Defendants*

DATED this 30th day of November, 2017, at Tumwater, Washington.

*/s/ Jennifer D. Williams*  
JENNIFER D. WILLIAMS  
Paralegal

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# **EXHIBIT D**

UNITED STATES DISTRICT COURT

for the

Western District of Washington

STATE OF WASHINGTON,

Plaintiff

v.

DONALD TRUMP, et al.,

Defendant

Civil Action No. 2:17-cv-01510 RBL

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Continuant, Inc.

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Schedule A

Table with 2 columns: Place (Washington Office of the Attorney General, 800 Fifth Avenue, 20th Floor, Seattle WA 98104) and Date and Time (12/15/2017 12:00 pm)

The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

See Schedule B

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/30/2017

CLERK OF COURT

OR

/s/ Jeffrey T. Sprung

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) State of Wasington

Jeffrey T. Sprung, 7141 Cleanwater Drive SW, PO BOX 40111, Olympia WA 98504-0111; 360-709-6470

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:17-cv-01510 RBL

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

### (c) Place of Compliance.

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

### (d) Protecting a Person Subject to a Subpoena; Enforcement.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

### (e) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

## **SCHEDULE A**

### **A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean Continuant, Inc., including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf. For purposes of this Notice, the terms “Defendant,” “you,” or “your” also mean Citizens Solutions, Inc.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

3. “Full-time employee” means any employee employed on average, over the past year, at least 30 hours of service per week, or 130 hours of service per month.

### **B. Items for Examination**

In accordance with Fed. R. Civ. P. 30(b)(6), Continuant, Inc. is advised of its duty to designate one or more of its officers, directors, or managing agents or other persons most qualified to testify on its behalf with respect to the following:

1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

3. Your consideration or use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in the Interim Final Rules.

4. The manner in which you have, or are planning to, communicate with your employees about your use or possible use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in the Interim Final Rules.

5. The number of your full-time employees whose annual compensation is less than \$60,750 a year or whose hourly rate is less than \$29 an hour.

6. The number of your full-time employees whose annual compensation is less than \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

7. The number of your full-time employees whose annual compensation is less than \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

8. The number of your full-time employees whose annual compensation is less than \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

9. The number of your full-time employees whose annual compensation is less than \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

10. The number of your full-time employees whose annual compensation is less than \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

11. The number of your full-time employees whose annual compensation is less than \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

12. The number of your full-time employees whose annual compensation is less than \$16,642 a year or whose effective hourly rate is less than \$8 an hour.

**SCHEDULE B**

1. All documents reflecting your communications with the U.S. Department of Labor, the U.S. Department of Health and Human Services, any other government agency, any claims administrator, or any health insurance issuer or administrator related to your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. All documents reflecting your communications with your employees related to your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

3. All documents reflecting your consideration or use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

4. Documents sufficient to show the number the number of your full-time employees whose annual compensation is less than \$60,750 a year or whose hourly rate is less than \$29 an hour.

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11. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$16,642 a year or whose effective hourly rate is less than \$8 an hour.

The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

DONALD TRUMP, et al.,

Defendants.

NO. 2:17-cv-01510 RBL

PLAINTIFF STATE OF  
WASHINGTON'S NOTICE OF  
DEPOSITION OF CONTINUANT, INC.  
PURSUANT TO FED. R. CIV. P. 30(B)(6)

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 26 and 30(b)(6), Plaintiff State of Washington will take the deposition upon oral examination of Continuant, Inc. at the time and place designated below:

Date of Deposition: December 15, 2017 at 12:00 p.m.

Location of Deposition: Washington Attorney General's Office  
800 Fifth Avenue  
20th Floor  
Seattle, WA 98104

The deposition will be taken before a notary public or some other officer qualified to administer oaths pursuant to Fed. R. Civ. P. 28(a), will be recorded by stenographic means, and will continue from day-to-day, excluding Sundays and holidays, until completed.

1 Pursuant to Fed. R. Civ. P. 30(b)(6), Continuant, Inc. is to designate and produce for  
2 deposition one or more officers, directors, or agents who are most qualified to testify on its behalf  
3 as to all matters known or reasonably available to it concerning the subject matter described on  
4 Schedule A hereto.

5  
6 DATED this 30th day of November, 2017.

7 ROBERT W. FERGUSON  
8 Attorney General

9 */s/ Jeffrey T. Sprung*

10 JEFFREY T. SPRUNG, WSBA #23607  
11 ALICIA O. YOUNG, WSBA #35553  
12 CYNTHIA L. ALEXANDER, WSBA #46019  
13 AUDREY L. UDASHEN, WSBA #42868  
14 Assistant Attorneys General  
15 *Attorneys for Plaintiff State of Washington*

**SCHEDULE A**

**A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean Continuant, Inc., including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

3. “Full-time employee” means any employee employed on average, over the past year, at least 30 hours of service per week, or 130 hours of service per month.

**B. Items for Examination**

In accordance with Fed. R. Civ. P. 30(b)(6), Continuant, Inc. is advised of its duty to designate one or more of its officers, directors, or managing agents or other persons most qualified to testify on its behalf with respect to the following:

1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

1           3.       Your consideration or use of the religious or moral exemption or accommodation  
2 for coverage of or payment for contraceptive services provided in the Interim Final Rules.

3           4.       The manner in which you have, or are planning to, communicate with your  
4 employees about your use or possible use of the religious or moral exemption or accommodation  
5 for coverage of or payment for contraceptive services provided in the Interim Final Rules.  
6

7           5.       The number of your full-time employees whose annual compensation is less than  
8 \$60,750 a year or whose hourly rate is less than \$29 an hour.

9           6.       The number of your full-time employees whose annual compensation is less than  
10 \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

11          7.       The number of your full-time employees whose annual compensation is less than  
12 \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

13          8.       The number of your full-time employees whose annual compensation is less than  
14 \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

15          9.       The number of your full-time employees whose annual compensation is less than  
16 \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

17          10.      The number of your full-time employees whose annual compensation is less than  
18 \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

19          11.      The number of your full-time employees whose annual compensation is less than  
20 \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

21          12.      The number of your full-time employees whose annual compensation is less than  
22 \$16,642 a year or whose effective hourly rate is less than \$8 an hour.  
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24  
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**DECLARATION OF SERVICE**

I hereby certify that on November 30, 2017, I electronically served the foregoing document upon the following:

Elizabeth L. Kade  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue NW  
Washington, DC 20530  
Elizabeth.L.Kade@usdoj.gov  
*Attorney for Defendants*

DATED this 30th day of November, 2017, at Tumwater, Washington.

/s/ Jennifer D. Williams  
JENNIFER D. WILLIAMS  
Paralegal

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# **EXHIBIT E**

UNITED STATES DISTRICT COURT

for the

Western District of Washington

STATE OF WASHINGTON,

Plaintiff

v.

DONALD TRUMP, et al.,

Defendant

Civil Action No. 2:17-cv-01510 RBL

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Cummins-Allison Corp.

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Schedule A

Table with 2 columns: Place (Washington Office of the Attorney General, 800 Fifth Avenue, 20th Floor, Seattle WA 98104) and Date and Time (12/18/2017 3:00 pm)

The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

See Schedule B

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/30/2017

CLERK OF COURT

OR

/s/ Jeffrey T. Sprung

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) State of Wasington

Jeffrey T. Sprung, 7141 Cleanwater Drive SW, PO BOX 40111, Olympia WA 98504-0111; 360-709-6470

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:17-cv-01510 RBL

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

### (c) Place of Compliance.

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

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10. The number of your full-time employees whose annual compensation is less than \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

11. The number of your full-time employees whose annual compensation is less than \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

12. The number of your full-time employees whose annual compensation is less than \$16,642 a year or whose effective hourly rate is less than \$8 an hour.

**SCHEDULE B**

1. All documents reflecting your communications with the U.S. Department of Labor, the U.S. Department of Health and Human Services, any other government agency, any claims administrator, or any health insurance issuer or administrator related to your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. All documents reflecting your communications with your employees related to your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

3. All documents reflecting your consideration or use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

4. Documents sufficient to show the number the number of your full-time employees whose annual compensation is less than \$60,750 a year or whose hourly rate is less than \$29 an hour.

5. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

6. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

7. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

8. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

9. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

10. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

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The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

DONALD TRUMP, et al.,

Defendants.

NO. 2:17-cv-01510 RBL

PLAINTIFF STATE OF  
WASHINGTON'S NOTICE OF  
DEPOSITION OF CUMMINS-ALLISON  
CORP. PURSUANT TO FED. R. CIV. P.  
30(B)(6)

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 26 and 30(b)(6), Plaintiff State of Washington will take the deposition upon oral examination of Cummins-Allison Corp. at the time and place designated below:

Date of Deposition: December 18, 2017 at 3:00 p.m.

Location of Deposition: Washington Attorney General's Office  
800 Fifth Avenue  
20th Floor  
Seattle, WA 98104

The deposition will be taken before a notary public or some other officer qualified to administer oaths pursuant to Fed. R. Civ. P. 28(a), will be recorded by stenographic means, and will continue from day-to-day, excluding Sundays and holidays, until completed.

1 Pursuant to Fed. R. Civ. P. 30(b)(6), Cummins-Allison Corp. is to designate and produce  
2 for deposition one or more officers, directors, or agents who are most qualified to testify on its  
3 behalf as to all matters known or reasonably available to it concerning the subject matter  
4 described on Schedule A hereto.

5 DATED this 30th day of November, 2017.

6  
7 ROBERT W. FERGUSON  
8 Attorney General

9 /s/ Jeffrey T. Sprung  
10 JEFFREY T. SPRUNG, WSBA #23607  
11 ALICIA O. YOUNG, WSBA #35553  
12 CYNTHIA L. ALEXANDER, WSBA #46019  
13 AUDREY L. UDASHEN, WSBA #42868  
14 Assistant Attorneys General  
15 *Attorneys for Plaintiff State of Washington*

**SCHEDULE A**

**A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean Cummins-Allison Corp., including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

3. “Full-time employee” means any employee employed on average, over the past year, at least 30 hours of service per week, or 130 hours of service per month.

**B. Items for Examination**

In accordance with Fed. R. Civ. P. 30(b)(6), Cummins-Allison Corp. is advised of its duty to designate one or more of its officers, directors, or managing agents or other persons most qualified to testify on its behalf with respect to the following:

1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

1           3.       Your consideration or use of the religious or moral exemption or accommodation  
2 for coverage of or payment for contraceptive services provided in the Interim Final Rules.

3           4.       The manner in which you have, or are planning to, communicate with your  
4 employees about your use or possible use of the religious or moral exemption or accommodation  
5 for coverage of or payment for contraceptive services provided in the Interim Final Rules.  
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7           5.       The number of your full-time employees whose annual compensation is less than  
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9           6.       The number of your full-time employees whose annual compensation is less than  
10 \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

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14 \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

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16 \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

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18 \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

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21          12.       The number of your full-time employees whose annual compensation is less than  
22 \$16,642 a year or whose effective hourly rate is less than \$8 an hour.  
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**DECLARATION OF SERVICE**

I hereby certify that on November 30, 2017, I electronically served the foregoing document upon the following:

Elizabeth L. Kade  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue NW  
Washington, DC 20530  
Elizabeth.L.Kade@usdoj.gov  
*Attorney for Defendants*

DATED this 30th day of November, 2017, at Tumwater, Washington.

/s/ Jennifer D. Williams  
JENNIFER D. WILLIAMS  
Paralegal

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# **EXHIBIT F**

UNITED STATES DISTRICT COURT

for the

Western District of Washington

STATE OF WASHINGTON,

Plaintiff

v.

DONALD TRUMP, et al.,

Defendant

Civil Action No. 2:17-cv-01510 RBL

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Electric Mirror, LLC

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Schedule A

Table with 2 columns: Place (Washington Office of the Attorney General, 800 Fifth Avenue, 20th Floor, Seattle WA 98104) and Date and Time (12/18/2017 9:00 am)

The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

See Schedule B

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/30/2017

CLERK OF COURT

OR

/s/ Jeffrey T. Sprung

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) State of Wasington

Jeffrey T. Sprung, 7141 Cleanwater Drive SW, PO BOX 40111, Olympia WA 98504-0111; 360-709-6470

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:17-cv-01510 RBL

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

### (c) Place of Compliance.

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

### (d) Protecting a Person Subject to a Subpoena; Enforcement.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

### (e) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**SCHEDULE A**

**A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean Electric Mirror, LLC, including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf. For purposes of this Notice, the terms “Defendant,” “you,” or “your” also mean Citizens Solutions, Inc.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

3. “Full-time employee” means any employee employed on average, over the past year, at least 30 hours of service per week, or 130 hours of service per month.

**B. Items for Examination**

In accordance with Fed. R. Civ. P. 30(b)(6), Electric Mirror, LLC is advised of its duty to designate one or more of its officers, directors, or managing agents or other persons most qualified to testify on its behalf with respect to the following:

1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

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The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

DONALD TRUMP, et al.,

Defendants.

NO. 2:17-cv-01510 RBL

PLAINTIFF STATE OF  
WASHINGTON'S NOTICE OF  
DEPOSITION OF ELECTRIC MIRROR,  
LLC PURSUANT TO FED. R. CIV. P.  
30(B)(6)

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 26 and 30(b)(6), Plaintiff State of Washington will take the deposition upon oral examination of Electric Mirror, LLC at the time and place designated below:

Date of Deposition: December 18, 2017 at 9:00 a.m.

Location of Deposition: Washington Attorney General's Office  
800 Fifth Avenue  
20th Floor  
Seattle, WA 98104

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3 as to all matters known or reasonably available to it concerning the subject matter described on  
4 Schedule A hereto.

5  
6 DATED this 30th day of November, 2017.

7 ROBERT W. FERGUSON  
8 Attorney General

9 /s/ Jeffrey T. Sprung  
10 JEFFREY T. SPRUNG, WSBA #23607  
11 ALICIA O. YOUNG, WSBA #35553  
12 CYNTHIA L. ALEXANDER, WSBA #46019  
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14 Assistant Attorneys General  
15 *Attorneys for Plaintiff State of Washington*

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**DECLARATION OF SERVICE**

I hereby certify that on November 30, 2017, I electronically served the foregoing document upon the following:

Elizabeth L. Kade  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue NW  
Washington, DC 20530  
Elizabeth.L.Kade@usdoj.gov  
*Attorney for Defendants*

DATED this 30th day of November, 2017, at Tumwater, Washington.

/s/ Jennifer D. Williams  
JENNIFER D. WILLIAMS  
Paralegal

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# **EXHIBIT G**

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_)
Plaintiff )
v. ) Civil Action No.
\_\_\_\_\_)
Defendant )

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:
(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Date and Time:

The deposition will be recorded by this method:

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party), who issues or requests this subpoena, are:

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**SCHEDULE A**

**A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean Hobby Lobby Stores, Inc., including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf. For purposes of this Notice, the terms “Defendant,” “you,” or “your” also mean Citizens Solutions, Inc.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

3. “Full-time employee” means any employee employed on average, over the past year, at least 30 hours of service per week, or 130 hours of service per month.

**B. Items for Examination**

In accordance with Fed. R. Civ. P. 30(b)(6), Hobby Lobby Stores, Inc. is advised of its duty to designate one or more of its officers, directors, or managing agents or other persons most qualified to testify on its behalf with respect to the following:

1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

3. Your consideration or use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in the Interim Final Rules.

4. The manner in which you have, or are planning to, communicate with your employees about your use or possible use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in the Interim Final Rules.

5. The number of your full-time employees whose annual compensation is less than \$60,750 a year or whose hourly rate is less than \$29 an hour.

6. The number of your full-time employees whose annual compensation is less than \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

7. The number of your full-time employees whose annual compensation is less than \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

8. The number of your full-time employees whose annual compensation is less than \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

9. The number of your full-time employees whose annual compensation is less than \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

10. The number of your full-time employees whose annual compensation is less than \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

11. The number of your full-time employees whose annual compensation is less than \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

12. The number of your full-time employees whose annual compensation is less than \$16,642 a year or whose effective hourly rate is less than \$8 an hour.

**SCHEDULE B**

1. All documents reflecting your communications with the U.S. Department of Labor, the U.S. Department of Health and Human Services, any other government agency, any claims administrator, or any health insurance issuer or administrator related to your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. All documents reflecting your communications with your employees related to your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

3. All documents reflecting your consideration or use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

4. Documents sufficient to show the number the number of your full-time employees whose annual compensation is less than \$60,750 a year or whose hourly rate is less than \$29 an hour.

5. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

6. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

7. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

8. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

9. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

10. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

11. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$16,642 a year or whose effective hourly rate is less than \$8 an hour.

The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

DONALD TRUMP, et al.,

Defendants.

NO. 2:17-cv-01510 RBL

PLAINTIFF STATE OF  
WASHINGTON'S NOTICE OF  
DEPOSITION OF HOBBY LOBBY  
STORES, INC. PURSUANT TO FED. R.  
CIV. P. 30(B)(6)

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 26 and 30(b)(6), Plaintiff State of Washington will take the deposition upon oral examination of Hobby Lobby Stores, Inc. at the time and place designated below:

Date of Deposition: December 19, 2017 at 9:00 a.m.

Location of Deposition: Washington Attorney General's Office  
800 Fifth Avenue  
20th Floor  
Seattle, WA 98104

The deposition will be taken before a notary public or some other officer qualified to administer oaths pursuant to Fed. R. Civ. P. 28(a), will be recorded by stenographic means, and will continue from day-to-day, excluding Sundays and holidays, until completed.

1 Pursuant to Fed. R. Civ. P. 30(b)(6), Hobby Lobby Stores, Inc. is to designate and  
2 produce for deposition one or more officers, directors, or agents who are most qualified to testify  
3 on its behalf as to all matters known or reasonably available to it concerning the subject matter  
4 described on Schedule A hereto.

5 DATED this 30th day of November, 2017.

6  
7 ROBERT W. FERGUSON  
8 Attorney General

9 /s/ Jeffrey T. Sprung  
10 JEFFREY T. SPRUNG, WSBA #23607  
11 ALICIA O. YOUNG, WSBA #35553  
12 CYNTHIA L. ALEXANDER, WSBA #46019  
13 AUDREY L. UDASHEN, WSBA #42868  
14 Assistant Attorneys General  
15 *Attorneys for Plaintiff State of Washington*

**SCHEDULE A**

**A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean Hobby Lobby Stores, Inc., including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

3. “Full-time employee” means any employee employed on average, over the past year, at least 30 hours of service per week, or 130 hours of service per month.

**B. Items for Examination**

In accordance with Fed. R. Civ. P. 30(b)(6), Hobby Lobby Stores, Inc. is advised of its duty to designate one or more of its officers, directors, or managing agents or other persons most qualified to testify on its behalf with respect to the following:

1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

1           3.       Your consideration or use of the religious or moral exemption or accommodation  
2 for coverage of or payment for contraceptive services provided in the Interim Final Rules.

3           4.       The manner in which you have, or are planning to, communicate with your  
4 employees about your use or possible use of the religious or moral exemption or accommodation  
5 for coverage of or payment for contraceptive services provided in the Interim Final Rules.  
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7           5.       The number of your full-time employees whose annual compensation is less than  
8 \$60,750 a year or whose hourly rate is less than \$29 an hour.

9           6.       The number of your full-time employees whose annual compensation is less than  
10 \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

11          7.       The number of your full-time employees whose annual compensation is less than  
12 \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

13          8.       The number of your full-time employees whose annual compensation is less than  
14 \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

15          9.       The number of your full-time employees whose annual compensation is less than  
16 \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

17          10.       The number of your full-time employees whose annual compensation is less than  
18 \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

19          11.       The number of your full-time employees whose annual compensation is less than  
20 \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

21          12.       The number of your full-time employees whose annual compensation is less than  
22 \$16,642 a year or whose effective hourly rate is less than \$8 an hour.  
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**DECLARATION OF SERVICE**

I hereby certify that on November 30, 2017, I electronically served the foregoing document upon the following:

Elizabeth L. Kade  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue NW  
Washington, DC 20530  
Elizabeth.L.Kade@usdoj.gov  
*Attorney for Defendants*

DATED this 30th day of November, 2017, at Tumwater, Washington.

/s/ Jennifer D. Williams  
JENNIFER D. WILLIAMS  
Paralegal

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# **EXHIBIT H**

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Washington

STATE OF WASHINGTON,

Plaintiff

v.

DONALD TRUMP, et al.,

Defendant

Civil Action No. 2:17-cv-01510 RBL

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: J.E. Dunn Construction Company

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Schedule A

Table with 2 columns: Place (Washington Office of the Attorney General, 800 Fifth Avenue, 20th Floor, Seattle WA 98104) and Date and Time (12/18/2017 12:00 pm)

The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

See Schedule B

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/30/2017

CLERK OF COURT

OR

/s/ Jeffrey T. Sprung

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) State of Wasington

Jeffrey T. Sprung, 7141 Cleanwater Drive SW, PO BOX 40111, Olympia WA 98504-0111; 360-709-6470

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:17-cv-01510 RBL

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

### (c) Place of Compliance.

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

### (d) Protecting a Person Subject to a Subpoena; Enforcement.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

### (e) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**SCHEDULE A**

**A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean J.E. Dunn Construction Company, including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf. For purposes of this Notice, the terms “Defendant,” “you,” or “your” also mean Citizens Solutions, Inc.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

3. “Full-time employee” means any employee employed on average, over the past year, at least 30 hours of service per week, or 130 hours of service per month.

**B. Items for Examination**

In accordance with Fed. R. Civ. P. 30(b)(6), J.E. Dunn Construction Company is advised of its duty to designate one or more of its officers, directors, or managing agents or other persons most qualified to testify on its behalf with respect to the following:

1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

3. Your consideration or use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in the Interim Final Rules.

4. The manner in which you have, or are planning to, communicate with your employees about your use or possible use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in the Interim Final Rules.

5. The number of your full-time employees whose annual compensation is less than \$60,750 a year or whose hourly rate is less than \$29 an hour.

6. The number of your full-time employees whose annual compensation is less than \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

7. The number of your full-time employees whose annual compensation is less than \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

8. The number of your full-time employees whose annual compensation is less than \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

9. The number of your full-time employees whose annual compensation is less than \$33,948 a year or whose effective hourly rate is less than \$16 an hour.

10. The number of your full-time employees whose annual compensation is less than \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

11. The number of your full-time employees whose annual compensation is less than \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.

12. The number of your full-time employees whose annual compensation is less than \$16,642 a year or whose effective hourly rate is less than \$8 an hour.

**SCHEDULE B**

1. All documents reflecting your communications with the U.S. Department of Labor, the U.S. Department of Health and Human Services, any other government agency, any claims administrator, or any health insurance issuer or administrator related to your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. All documents reflecting your communications with your employees related to your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

3. All documents reflecting your consideration or use of the religious or moral exemption or accommodation for coverage of or payment for contraceptive services provided in (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

4. Documents sufficient to show the number the number of your full-time employees whose annual compensation is less than \$60,750 a year or whose hourly rate is less than \$29 an hour.

5. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

6. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

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11. Documents sufficient to show the number of your full-time employees whose annual compensation is less than \$16,642 a year or whose effective hourly rate is less than \$8 an hour.

The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

DONALD TRUMP, et al.,

Defendants.

NO. 2:17-cv-01510 RBL

PLAINTIFF STATE OF  
WASHINGTON'S NOTICE OF  
DEPOSITION OF J.E. DUNN  
CONSTRUCTION COMPANY  
PURSUANT TO FED. R. CIV. P. 30(B)(6)

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 26 and 30(b)(6), Plaintiff State of Washington will take the deposition upon oral examination of J.E. Dunn Construction Company at the time and place designated below:

Date of Deposition: December 18, 2017 at 12:00 p.m.

Location of Deposition: Washington Attorney General's Office  
800 Fifth Avenue  
20th Floor  
Seattle, WA 98104

The deposition will be taken before a notary public or some other officer qualified to administer oaths pursuant to Fed. R. Civ. P. 28(a), will be recorded by stenographic means, and will continue from day-to-day, excluding Sundays and holidays, until completed.

1 Pursuant to Fed. R. Civ. P. 30(b)(6), J.E. Dunn Construction Company is to designate  
2 and produce for deposition one or more officers, directors, or agents who are most qualified to  
3 testify on its behalf as to all matters known or reasonably available to it concerning the subject  
4 matter described on Schedule A hereto.

5  
6 DATED this 30th day of November, 2017.

7 ROBERT W. FERGUSON  
8 Attorney General

9 */s/ Jeffrey T. Sprung*

10 JEFFREY T. SPRUNG, WSBA #23607  
11 ALICIA O. YOUNG, WSBA #35553  
12 CYNTHIA L. ALEXANDER, WSBA #46019  
13 AUDREY L. UDASHEN, WSBA #42868  
14 Assistant Attorneys General  
15 *Attorneys for Plaintiff State of Washington*

**SCHEDULE A**

**A. Definitions and Instructions**

1. As used in this Notice, the terms “you” or “your” mean J.E. Dunn Construction Company, including any present or former officers, directors, attorneys, agents, subsidiaries, affiliates, holding companies, employees, contractors and other representatives or any other person acting or purporting to act on its behalf.

2. The “Interim Final Rules” mean the documents entitled (i) “Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47792 (Oct. 13, 2017), and (ii) “Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act,” 82 Fed. Reg. 47838 (Oct. 13, 2017), and the regulations promulgated to implement these rules.

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**B. Items for Examination**

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1. Your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

2. The manner in which you communicated to your employees your use of the religious accommodation created by 45 C.F.R. § 147.131, 26 C.F.R. § 54.9815-2713A, and/or 29 C.F.R. § 715-2713A for any time prior to October 6, 2017.

1           3.       Your consideration or use of the religious or moral exemption or accommodation  
2 for coverage of or payment for contraceptive services provided in the Interim Final Rules.

3           4.       The manner in which you have, or are planning to, communicate with your  
4 employees about your use or possible use of the religious or moral exemption or accommodation  
5 for coverage of or payment for contraceptive services provided in the Interim Final Rules.  
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7           5.       The number of your full-time employees whose annual compensation is less than  
8 \$60,750 a year or whose hourly rate is less than \$29 an hour.

9           6.       The number of your full-time employees whose annual compensation is less than  
10 \$50,400 a year or whose effective hourly rate is less than \$24 an hour.

11          7.       The number of your full-time employees whose annual compensation is less than  
12 \$40,400 a year or whose effective hourly rate is less than \$19 an hour.

13          8.       The number of your full-time employees whose annual compensation is less than  
14 \$29,700 a year or whose effective hourly rate is less than \$14 an hour.

15          9.       The number of your full-time employees whose annual compensation is less than  
16 \$33,948 a year or whose effective hourly rate is less than \$16 an hour.  
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18          10.      The number of your full-time employees whose annual compensation is less than  
19 \$28,179 a year or whose effective hourly rate is less than \$13.50 an hour.

20          11.      The number of your full-time employees whose annual compensation is less than  
21 \$22,411 a year or whose effective hourly rate is less than \$10.70 an hour.  
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23          12.      The number of your full-time employees whose annual compensation is less than  
24 \$16,642 a year or whose effective hourly rate is less than \$8 an hour.  
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26

**DECLARATION OF SERVICE**

I hereby certify that on November 30, 2017, I electronically served the foregoing document upon the following:

Elizabeth L. Kade  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue NW  
Washington, DC 20530  
Elizabeth.L.Kade@usdoj.gov  
*Attorney for Defendants*

DATED this 30th day of November, 2017, at Tumwater, Washington.

/s/ Jennifer D. Williams  
JENNIFER D. WILLIAMS  
Paralegal

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The Honorable Ronald B. Leighton

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

STATE OF WASHINGTON,

Plaintiff,

v.

DONALD TRUMP, in his official capacity as  
President of the United States of America;  
ERIC D. HARGAN, in his official capacity as  
Acting Secretary of Health and Human  
Services; U.S DEPARTMENT OF HEALTH  
AND HUMAN SERVICES; STEVEN T.  
MNUCHIN, in his official capacity as  
Secretary of the Treasury, U.S.  
DEPARTMENT OF TREASURY; R.  
ALEXANDER ACOSTA, in his official  
capacity as Secretary of Labor; and UNITED  
STATES DEPARTMENT OF LABOR,

Defendants.

No. 2:17-cv-01510-RBL

**[PROPOSED] ORDER**

NOTE ON MOTION CALENDAR:  
December 15, 2017

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Defendants’ motion for a protective order and to stay discovery is hereby GRANTED.

It is hereby ordered that:

Defendants’ motion for a protective order and to quash the subpoenas for documents and deposition testimony that Plaintiff served on Cherry Creek Mortgage Company, Conestoga Wood Specialties Corporation, Continuant, Inc., Cummins-Allison Corp., Electric Mirror, LLC, J.E. Dunn Construction Company, Franciscan Health System d/b/a/ CHI-Franciscan, and Hobby Lobby Stores, Inc., is GRANTED; and

Discovery is stayed until after this Court rules on Defendants’ motion to dismiss for lack of jurisdiction.

IT IS SO ORDERED.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

Presented by:

/s/ Elizabeth L. Kade  
ELIZABETH L. KADE  
(D.C. Bar No. 1009679)  
Trial Counsel  
U.S. Dep’t of Justice, Civil Div.  
Federal Programs Branch  
20 Massachusetts Avenue, N.W.  
Washington, D.C. 20530  
(202) 616-8491  
Elizabeth.L.Kade@usdoj.gov

*Attorneys for Defendants*