

In the Supreme Court of the United States

WHOLE WOMAN'S HEALTH, et al.,

Petitioners,

v.

TEXAS CATHOLIC CONFERENCE OF BISHOPS, et al.,

Respondents.

**APPLICATION TO THE HONORABLE JUSTICE SAMUEL A. ALITO, JR.,
FOR AN EXTENSION OF TIME TO FILE A BRIEF IN OPPOSITION**

Pursuant to Supreme Court Rules 15 and 30, Respondent Texas Catholic Conference of Bishops ("Bishops"), an unincorporated ecclesiastical association, hereby requests an extension of time of 28 days, to and including Friday, January 11, 2019, for the filing of their brief in opposition to the petition for certiorari in the above-captioned matter. The current deadline for filing the brief is December 14, 2018.¹

In support of this request, the Bishops state as follows:

1. The court of appeals entered judgment on July 15, 2018, Pet. App. 45a, and it denied Petitioners' petition for rehearing *en banc* on August 16, 2018, Pet. App. 82a. Petitioners' petition for a writ of certiorari was docketed on November 12, 2018.

¹ This application is filed solely on behalf of Respondent Bishops. The other Respondent is Charles Smith, Executive Commissioner of the Texas Health and Human Services Commission, who is separately represented by the Attorney General of the State of Texas.

2. This appeal involves the church autonomy guarantees of the Religion Clauses of the First Amendment, which protect the internal religious deliberations of church leaders. The court of appeals rightly applied that protection to exercise jurisdiction over, and ultimately safeguard against, the Petitioners' abuse of the third-party subpoena power to pry into the Bishops' theological deliberations concerning abortion. Ignoring almost 150 years of this Court's precedent, Petitioners now renew their attempt here.

3. The Bishops' counsel of record, Eric Rassbach, is currently out on a sabbatical which ends on the due date of the Bishops' brief in opposition, December 14. The other attorneys who share principal responsibility for preparing the brief are likewise heavily engaged in other matters. These include filing a reply brief in support of certiorari in *Morris County Board of Chosen Freeholders v. Freedom From Religion Foundation*, No. 18-364 (reply due Dec. 10, 2018); motions practice in both the Third Circuit and the Eastern District of Pennsylvania representing the Little Sisters of the Poor as intervenors in *Commonwealth of Pennsylvania v. Trump*, No. 17-3752 (3d Cir.), and *Commonwealth of Pennsylvania v. Trump*, No. 17-cv-04540 (E.D. Pa.); motions practice on behalf of the Little Sisters in *State of California v. Health & Human Services*, No. 17-cv-05783 (N.D. Cal.), *on appeal sub. nom. State of California v. The Little Sisters of the Poor*, Nos. 18-15144; 18-15166; 18-15255 (9th Cir.) (argument held Oct. 19, 2018); filing a summary judgment motion in *InterVarsity Christian Fellowship/USA v. University of Iowa*, No. 18-cv-00080 (S.D. Iowa); and conducting expedited discovery in *Dumont v. Lyon*, No. 17-cv-13080 (E.D. Mich.).

For the foregoing reasons, the Bishops respectfully request that an extension of time to and including January 11, 2019 be granted within which to file their brief in opposition.

Respectfully submitted.

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