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## Federal Court Rules Conscience Act Procedurally Invalidated

New York Federal Judge Paul Engelmayer ruled in November that the Trump administration had not violated the Establishment Clause with their conscience act, “Protecting Statutory Conscience Rights in Health Care, Delegations of Authority,” though they had exceeded the President’s authority.

The rule was announced by the U.S. Department of Health and Human Services (HHS) in May 2019. It determined that 30-plus existing laws and regulations must be interpreted as providing people and organizations the right to refrain from activities violating conscience. Nineteen states and several Planned Parenthood organizations filed for an injunction, saying the act violated the Establishment Clause and was not within HHS authority.

The Federal court determined that, while it did not violate the Establishment Clause, it did step beyond the “separation of powers” assigned to each branch of government. Congress makes

law, Administration carries out law, and the Judicial Branch interprets law. The Executive Branch is not allowed to create and impose new laws as regulations. Thus, the entire rule was found to violate the separation of powers, and the conscience act was invalidated.

“This is a case about executive power and whether any U.S. President can piece together existing legislation to form a fundamentally different new law,” notes ReligiousLiberty.TV, a website devoted to the free exercise and establishment clauses of the U.S. Constitution. “While conservatives may be very disappointed with this ruling, they may want to consider what would happen if a left-leaning administration engaged in similar lawmaking activity.” The limitations on power within the government branches, when maintained, protect each side from the excesses of the other — much like the concept that religious liberty is for all, not just for those of your own faith.

# Transgender Man Sues Hospital That Canceled Hysterectomy

A California appeals court has said a transgender man, Evan Minton, may sue the Catholic hospital that refused to conduct a hysterectomy which was part of his transition. His lawsuit claims that they violated his civil rights.

The 2016 surgery was scheduled at Mercy San Juan Medical Center in Carmichael, Calif., where Minton's doctor, Lindsey Dawson, had performed numerous hysterectomies. A surgery-prep discussion with the hospital revealed that Minton was transgender. The hospital subsequently canceled the procedure, saying that no hysterectomies would be allowed for gender dysphoria rather than medical diagnosis.

The ACLU filed suit against Mercy's parent corporation on Minton's behalf in 2017, claiming sex discrimination under California's Unruh Civil Rights Act. Dignity Health retaliated that the hospital's freedom of religion rights allow their stance.

A San Francisco Superior Court sided with Dignity Health. However, in November 2019 an appellate

court granted Minton's appeal. Minton quoted Justice Stuart Pollak as saying that "any burden [state law] places on the exercise of religion is justified by California's compelling interest in ensuring full and equal access to medical treatment for all its residents."

Dignity Health maintains that "Catholic hospitals do not perform sterilizing procedures such as hysterectomies for any patient, regardless of their gender identity, unless there is a serious threat to the life or health of the patient," noting that their denial was not because Minton is transgender. "Dignity Health has a legacy of providing care to all people regardless of their background, sexual orientation, or gender identity. Our services are available to everyone without discrimination and all are welcome at our care sites."

Ironically, Minton had the procedure done at another Dignity Health facility a few days later. He says Dignity Health suggested an alternative hospital after he and his doctor "exerted pressure ... through the media and political connections." A new court date hasn't been set.

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• A Tennessee woman, Shandle Riley, has sued two Hamilton County, TN, deputies after one forcibly baptized her. She says Daniel Wilkey baptized her in a frigid lake during a traffic stop. He had seen her buying cigarettes and fuel, and followed her to a friend's house on suspicion of meth possession. Her lawsuit alleges that the deputy asked if she had been "saved," and said that God was "talking to him during the vehicle search" and he "felt the Lord wanted him to baptize [her]." She also accuses him of groping her sexually during a drug search which found a single marijuana cigarette. A coerced baptism by a law enforcement officer would constitute religious liberty violation of both the Establishment Clause and Free Exercise. All charges against Riley have been dropped.

• NEWS OF THE WORLD: The U.S. Commission on International Religious Freedom has recommended the State Department designate Vietnam a "country of particular concern" because of persecution of religious minorities and religious freedom advocates. One such is Nguyen Bac Truyen, targeted and sentenced to 11 years in prison for assisting prisoners of conscience and their families, particularly Hoa Hao Buddhists.

## KEEP YOUR EYE ON THIS: Fairness for All Act Introduced

The Fairness for All Act was introduced in the House of Representatives Friday, December 6. The Act will attempt to protect gay and

transgender Americans from discrimination, while also safeguarding numerous religious entities and individuals such as schools,

adoption agencies, marriage counselors, etc.

Waymarks will be keeping you updated as the Fairness for All Act develops.

# Catholic Sisters Appeal to Supreme Court Regarding Birth Control

The Little Sisters of the Poor, a Catholic order dedicated to the care of those who are elderly and poor, received a religious exemption in 2017 which said they did not have to comply with the HHS Contraceptive Mandate of the Affordable Care Act. Several states have since sued them, arguing that the religious exemption issued by the federal government violates law, and in October 2019 the Sisters filed another petition with the U.S. Supreme Court.

The contraceptive mandate was made law in 2011. Originally, the Sisters were told they would have to provide contraception to employees in their insurance plan because they did not qualify as a religious employer; their disqualification was based on serving and employing individuals from many faiths. However, in 2017 the Department of Health and Human Services made a new rule that exempted religious non-profits from the mandate,

**“...[argued that] religious exemption issued by the federal government violates law.”**

and the Little Sisters of the Poor were considered protected.

The cases against the Sisters have only been filed by states. No employees of the organization has complained of being unable to obtain contraception.

The Little Sisters of the Poor await the final decision of the Supreme Court. If ruled against, they will owe thousands of dollars in fines to the government.

## Bring a Special Religious Liberty Day to Your Church

### ***Would you like to have a religious liberty Sabbath/weekend at your local church?***

In the Spirit of Christ, the Public Affairs and Religious Liberty Department is working to defend, preserve, and expand religious freedom for all. We provide church member assistance, legislative advocacy for religious freedom in your state, *Liberty* magazine sent to thought leaders, education and training tools for members, and preaching and teaching about religious liberty.

Our services are free of charge and can be tailored to your church's interests. Contact our office directly to schedule a Religious Liberty Day at your church.

Email [ReligiousLiberty@southernunion.com](mailto:ReligiousLiberty@southernunion.com), or call 770-408-1800.

### ***Afternoon seminars include the following topics:***

- Current Events Relating to Religious Liberty (our most popular seminar)
- Sabbath Accommodation in the Workplace
- The State of the First Amendment and Religious Liberty
- Religious Liberty in Light of Prophecy
- An Historical Adventist Review of Religious Liberty: Why Our Founders Thought it Important.
- A Clash of Rights: When Religious Liberty Comes into Conflict with Other Rights

If you do not see a topic you want, feel free to suggest one when you call to schedule an appointment.

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# SCOTUS Will Not Review Religious Liberty Challenge to Public School Unit on Islam

Earlier in 2019 a Maryland public high school lesson plan on Islam was challenged as violating the Establishment Clause. The plaintiff parents claimed it was an inappropriate promotion of the faith, but the 4th U.S. Circuit Court of Appeals ruled against them. Most recently, the U.S. Supreme Court has affirmed the ruling, and declined to examine the case.

In response, some accused the SCOTUS deci-

sion of being anti-Christian, because the plaintiffs were Christians who didn't want their daughter learning about Islam. However, the appeals court examined the lesson plans, and said that they were "precisely the sort of academic exercise that the Supreme Court has indicated would not run afoul of the Establishment Clause." Additionally, there are similar units on Judaism and Christianity in use.

The First Amendment

guards against government promotion of religion, but does not rule out public schools teaching about religions and beliefs as long as they remain neutral on matters of faith and are not negative about believers.

The court warned against academic micromanagement, and pointed out that it could threaten academic freedom, but also reminded teachers to maintain religious neutrality during instruction.

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