

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

COMMONWEALTH OF
MASSACHUSETTS,

Plaintiff-Appellant,

v.

No. 18-1514

UNITED STATES DEPARTMENT
OF HEALTH AND HUMAN
SERVICES, *ET AL.*

Defendant-Appellee.

**MOTION OF THE AMERICAN CIVIL LIBERTIES UNION,
THE AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS,
THE ANTI-DEFAMATION LEAGUE, THE LEADERSHIP
CONFERENCE ON CIVIL AND HUMAN RIGHTS, NARAL PRO-
CHOICE MASSACHUSETTS AND THE NATIONAL URBAN LEAGUE
FOR LEAVE TO FILE AMICI CURIAE BRIEF
SUPPORTING PLAINTIFF-APPELLANT AND
REVERSAL OF THE DECISION BELOW**

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure, the American Civil Liberties Union, the American Civil Liberties Union of Massachusetts, the Anti-Defamation League, the Leadership Conference on Civil and Human Rights, NARAL Pro-Choice Massachusetts and the National Urban League (collectively, *amici*) move for leave to file the attached proposed brief of *amici curiae* supporting Plaintiff-Appellant and reversal of the decision below. In support of its motion, *amici* state the following.

1. *Amici* are nonprofit civil rights organizations with an interest in protecting the economic and reproductive justice furthered by the guaranteed contraceptive coverage in the Affordable Care Act, as well as the religious liberties guaranteed by the U.S. Constitution as a means to protect individual religious exercise, not as a vehicle to discriminate against others.

2. The American Civil Liberties Union (“ACLU”) is a nationwide, nonprofit, nonpartisan organization with more than 2 million members dedicated to defending the principles of liberty and equality embodied in the Constitution and the nation’s civil rights laws. The American Civil Liberties Union of Massachusetts, Inc., (“ACLUM”) an affiliate of the national ACLU, is a statewide nonprofit membership organization dedicated to the principle of liberty and equality embodied in the constitutions and laws of the Commonwealth and the United States. The ACLU and ACLUM have a long history of furthering racial justice and women’s rights, and an equally long history of defending religious liberty. The ACLU also vigorously protects reproductive freedom, and has participated in almost every critical case concerning reproductive rights to reach the Supreme Court.

3. The Anti-Defamation League (“ADL”) was organized in 1913 with a mission to stop the defamation of the Jewish people and to secure justice and fair treatment to all. Today, it is one of the world’s leading organizations fighting hatred, bigotry, discrimination, and anti-Semitism. To this end, ADL is a staunch supporter of the religious liberties guaranteed by both the Establishment and Free Exercise Clauses.

ADL vigorously supported the Religious Freedom Restoration Act (RFRA) as a means to protect individual religious exercise, but not as a vehicle to discriminate by enabling some Americans to impose their religious beliefs on others. ADL views reproductive choice as an issue of personal and religious freedom. Accordingly, it has opposed efforts to curtail access to abortion and contraception by participating as *amicus curiae* in every major reproductive rights case before the U.S. Supreme Court since *Roe v. Wade*, 410 U.S. 113 (1973).

4. The Leadership Conference on Civil and Human Rights (“The Leadership Conference”) is the nation’s oldest, largest, and most diverse coalition of more than 200 national organizations committed to the protection of civil and human rights in the United States. The Leadership Conference was founded in 1950 by leaders of the civil rights and labor rights movements, grounded in the belief that civil rights would be won not by one group alone but through coalition. The Leadership Conference works to build an America that is inclusive and as good as its ideals by promoting laws and policies that promote the civil and human rights for all individuals in the United States.

5. NARAL Pro-Choice Massachusetts (NARAL), formerly Mass NARAL and founded in 1972, is the state affiliate of NARAL Pro-Choice America and is the political grassroots arm of the pro-choice movement in Massachusetts. NARAL is a non-profit organization whose mission is to develop and sustain a grassroots constituency that uses the political process to guarantee every woman the right to make personal decisions regarding the full range of reproductive choices, including

preventing unintended pregnancy, bearing healthy children, and choosing safe, legal and accessible abortion. NARAL champions access to contraception and abortion. Recently, NARAL advocated on behalf of An Act Relative to Advancing Contraceptive Coverage and Economic Security in our State (ACCESS), which is now Chapter 120 of the Massachusetts Acts of 2017.

6. The National Urban League is a historic civil rights organization dedicated to economic empowerment in historically underserved urban communities. Founded in 1910 and headquartered in New York City, the National Urban League improves the lives of more than two million people annually through direct service programs, including education, employment training and placement, housing, and health, which are implemented locally by 90 National Urban League affiliates in 300 communities across 36 states and the District of Columbia. The National Urban League works to provide the guarantee of civil rights for the underserved in America. Recognizing that economic empowerment in underserved communities is inextricably linked to the reduction of racial health disparities in America, the organization has established the goal that by 2025 every American has access to quality and affordable health care solutions.

7. The Defendants-Appellees have consented to the timely filing of amicus curiae briefs in this appeal.

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September 24, 2018

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that on September 24, 2018, the foregoing Motion for Leave to File an *Amici Curiae* Brief was filed electronically through the Court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system.

Dated: September 24, 2018

/s/ Jessie J. Rossman
Jessie J. Rossman