

JAMIE A. GLIKSBERG*
CAMILLA B. TAYLOR*
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
105 West Adams, 26th Floor
Chicago, IL 60603-6208
Tel: (312) 663-4413

*Counsel for Plaintiffs Other Than
Santa Clara County*

* Admitted pro hac vice

LEE H. RUBIN (SBN 141331)
MAYER BROWN LLP
Two Palo Alto Square, Suite 300
3000 El Camino Real
Palo Alto, CA 94306-2112
Tel: (650) 331-2000
Fax: (650) 331-2060
lrubin@mayerbrown.com

Counsel for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO,
Plaintiff,

vs.

ALEX M. AZAR II, et al.,
Defendants.

STATE OF CALIFORNIA, by and through
ATTORNEY GENERAL XAVIER BECERRA,
Plaintiff,

vs.

ALEX M. AZAR, et al.,
Defendants.

COUNTY OF SANTA CLARA et al,
Plaintiffs,

vs.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, et al.,
Defendants.

No. C 19-02405 WHA
Related to
No. C 19-02769 WHA
No. C 19-02916 WHA

**DECLARATION OF ALECIA
MANLEY, INTERIM CHIEF
OPERATING OFFICER OF THE
MAZZONI CENTER, IN SUPPORT
OF PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT AND IN
SUPPORT OF THEIR OPPOSITION
TO DEFENDANTS' MOTION TO
DISMISS OR, IN THE
ALTERNATIVE, FOR SUMMARY
JUDGMENT**

Date: October 30, 2019
Time: 8:00 AM
Courtroom: 12
Judge: Hon. William H. Alsup
Action Filed: 5/2/2019

1 I, Alecia Manley, declare as follows:

2 1. Mazzoni Center, located in Philadelphia, Pennsylvania, was founded in 1979 and is
3 a multi-service, community-based healthcare and social-service provider that aims to advance the
4 health and well-being of LGBTQ communities and people living with HIV. The mission of
5 Mazzoni Center is to provide quality comprehensive health and wellness services in an LGBTQ-
6 focused environment, while preserving the dignity and improving the quality of life of the
7 individuals whom it serves.

8 2. I am the Interim Chief Operating Officer and serve as a member of the Interim
9 Leadership Team at Mazzoni Center. I have over twenty years of experience providing social
10 services to HIV positive and LGBTQ+ communities. I joined Mazzoni Center in 2001 as a Medical
11 Case Manager and became the Care Services Director in 2005. I expanded the scope of Mazzoni
12 Center's social services to include services for LGBTQ+ youth and transgender and gender non-
13 conforming communities. I oversee Mazzoni Center's HIV prevention and care services, gender
14 affirming services, education, and legal services. I submit this declaration in support of Plaintiffs'
15 Motion for Summary Judgment and in support of their opposition to Defendants' Motion to Dismiss
16 or, in the alternative, for Summary Judgment.

17 3. Mazzoni Center has been serving the needs of the LGBTQ communities, and people
18 living with HIV, nearly 40 years. To meet the wellness needs of these populations, Mazzoni Center
19 provides a broad continuum of services, including medical, behavioral-health, HIV-testing,
20 prevention and counseling, housing, and legal services. In 2010, Mazzoni Center began offering
21 legal services upon recognizing that the physical and emotional health of people who are LGBTQ
22 is often negatively impacted by external factors resulting from societal prejudices and pressures,
23 and that such impact can be ameliorated by using available legal tools to address and strengthen
24 social determinants of health. Mazzoni Center patients and clients include some of the most
25 vulnerable members of the LGBTQ population, including youth, people of color, and people who
26 are low-income.

27 4. Mazzoni Center programs and services for LGBTQ youth include programming for
28 Gay-Straight Alliances in Philadelphia-area schools and weekly youth and adolescent drop-in hours

1 which offer medical, behavioral-health, and legal services to people under the age of 25. As an
2 agency that provides medical and mental-health services targeted at LGBTQ youth, Mazzoni
3 Center is in a unique position to comment upon the long-term effects of systematic discrimination
4 on people who are LGBTQ.

5 5. In addition to the services they receive from Mazzoni Center, patients of Mazzoni
6 Center often access healthcare services from other organizations, including religiously affiliated
7 organizations. Across its continuum of services, Mazzoni Center serves patients who report having
8 experienced discriminatory treatment when accessing healthcare services from such organizations.
9 To ensure that LGTQ people can access services they need, Mazzoni Center's Education programs
10 provide cultural-competency training to service providers, and its Legal Services program
11 advocates on behalf of those individuals employing a range of strategies that include informal
12 advocacy, structured negotiation, and representation in administrative and court proceedings to
13 address discriminatory treatment.

14 6. Many Mazzoni Center patients and clients report that they have experienced, are
15 experiencing, or fear that they will experience, negative effects from religious discrimination or
16 objections presented as being based on someone else's religious or moral objections. Some patients
17 and clients have experienced rejection that came from religious or moral objections claimed by
18 their family of origin, with long-lasting traumatic effects. Other individuals sought out Mazzoni
19 Center's services because other healthcare providers had rejected them, or because these patients
20 expected and feared that they would be rejected, because those providers objected to them because
21 of their LGBTQ identity. As a result of this discrimination and well-grounded fear of
22 discrimination, LGBTQ patients' health and well-being are compromised.

23 7. Mazzoni Center was founded, and continues to exist, because people who are
24 LGBTQ need access to health and wellness services that affirm them and their identities. Despite
25 that need, there was, and continues to be, an insufficient numbers of providers across the continuum
26 of services who are able and willing to address the needs of LGBTQ people. Many people who
27 contact and receive services from Mazzoni Center inform us that they have had, or are having,
28 difficulty finding LGBTQ-affirming care elsewhere. Some of our patients and clients travel long

1 distances to reach Mazzone Center because of our LGBTQ-affirming environment, and because
2 they do not have access to services closer to their homes.

3 8. By inviting discrimination against LGBTQ people based on their LGBTQ identities
4 and related medical histories, the Denial-of-Care Rule encourages LGBTQ people to remain
5 closeted to the extent possible when seeking medical care. But remaining closeted to a healthcare
6 provider can result in significant adverse health consequences. When patients are unwilling to
7 disclose their sexual orientation and/or gender identity to healthcare providers out of fear of
8 discrimination and being refused treatment, their mental and physical health is critically
9 compromised.

10 9. As a result of the Denial-of-Care Rule, Mazzone Center will be forced to redirect
11 additional staff and resources to assist patrons in finding LGBTQ-affirming healthcare providers.
12 Mazzone Center's staff and resources already have been diverted from other program activities to
13 engage in advocacy, policy analysis, and community outreach to address the ill-effects of the
14 Denial-of-Care Rule. Mazzone Center has a dedicated team of employees who focus on serving its
15 mission by fostering a welcoming, affirming – and nondiscriminatory – atmosphere for patients
16 and clients to access supportive, LGBTQ-affirming healthcare and wellness services. Employees
17 of Mazzone Center will be negatively impacted by the Denial-of-Care Rule in the form of increased
18 demand on their time and resources by patients, a diminished number of affirming resources to
19 provide and refer to, the need to develop new resources and training materials from scratch, and
20 the added trauma that many patients likely will experience by the notices that the Rule requires.

21 10. The Denial-of-Care Rule's requirements are antithetical to Mazzone Center's
22 mission of providing comprehensive services to people in an LGBTQ-affirming environment. The
23 Rule requires that Mazzone Center give notice that providers are able to deny services based on
24 moral objections. The Rule fails to require that objecting employees notify Mazzone Center that
25 they have objections before being hired or even as their religious beliefs change throughout their
26 employment. Those requirements, and the Rule's failure to require staff denying services based on
27 these objections to provide referrals to where patients can get the healthcare services that they need,
28 eviscerate the LGBTQ-affirming environment that is the heart of Mazzone Center's mission.

1 11. Including a notice that providers can deny services based on moral objections in job
2 position announcements, together with the Rule’s prohibition on asking job applicants if they have
3 religious and/or moral objections to treating LGBTQ people, will make it difficult, if not
4 impossible, to confirm that prospective employees will serve our patients and clients with respect
5 – or whether they will serve members of the LGBTQ communities at all.

6 12. Additionally, requiring that Mazzone Center provide notices regarding healthcare
7 providers’ conscience rights in waiting rooms and other areas at Mazzone Center, and implicitly
8 putting the onus on patients to request LGBTQ-affirming healthcare to ensure that they will not be
9 discriminated against by employees of our organization, undermines and frustrates Mazzone
10 Center’s mission. Such notices are the antithesis of the mission that our organization was created
11 to achieve – to provide affirming healthcare for LGBTQ patients and people living with HIV. Such
12 notices, in and of themselves, would cause significant harm to our patients’ health and well-being
13 by confronting them with rude and painful reminders of the rejection, hostility, and discrimination
14 that they experienced elsewhere by people claiming objections to their LGBTQ identities. These
15 notices would virtually slam the door in our patients’ faces, telling them that despite our mission,
16 they should brace themselves even while they are here for the disapproval and objections that may
17 be lurking inside.

18 13. Members of the LGBTQ community, including the people whom Mazzone Center
19 serves, are well aware of the existence of those objections, and do not need to be reminded of them
20 when seeking healthcare, certainly not when they seek healthcare from a place like Mazzone Center
21 that was established to achieve the exact opposite. People come to Mazzone Center because it is a
22 place of healing, a place that ensures that all patients have a safe, identity-affirming space to access
23 care and treatment that preserves their dignity. The Denial-of-Care Rule compromises Mazzone
24 Center’s reputation and existence.

25 14. Mazzone Center receives various forms of Health and Human Services funding,
26 including Public Health Service Act funding. Mazzone Center receives Title X Family Planning
27 funding, HIV Prevention funding from the Centers for Disease Control and Prevention,
28 Underserved Populations funding from the Office of Violence Against Women, Department of

1 Justice, and both pass-through and direct Ryan White CARE Act funding through Health Resources
2 and Services Administration grants. Mazzoni Center, therefore, has a reasonable fear that it could
3 be sanctioned and lose federal funding if subject to a complaint under the Denial-of-Care Rule in
4 the course of Mazzoni Center's efforts to ensure the best possible medical care for its patrons.

5 I declare under penalty of perjury under the laws of the United States that the foregoing is
6 true and correct to the best of my knowledge.

7
8 Executed on September 9, 2019, in Philadelphia, Pennsylvania.

9
10 

11 Alecia Manley
12 Interim Chief Operating Officer

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28