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**SWLC Statement Regarding *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania***

The Supreme Court of the United States (the “Court”) decided the contraceptive access case, *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania*<sup>1</sup>, which upheld two Trump administration regulations allowing employers to deny contraceptive coverage under the Affordable Care Act (ACA) for “sincerely held” religious or moral reasons. This expands the exemptions that already exist for churches and other houses of worship, religiously-affiliated non-profits, and closely held corporations whose religious beliefs equate some forms of contraception with abortion,<sup>2</sup> to now include for-profit companies and any employer that claims to have religious and/or moral objections to the provision of birth control. The Court cloaks this decision with the justification of religious liberty, but the impact will be to deny women, specifically low income and women of color, access to family planning services that are desperately needed.

This ruling will cause 70,000 to 126,000 women to lose coverage for contraception at work, and it remains unclear whether insurers or states will pick up the tab, or if the affected women will be forced to pay out-of-pocket for their contraception.<sup>3</sup> When birth control isn’t covered by insurance, women are put in the position of having to choose between paying for their contraceptive prescription or paying for pressing essentials, like rent or groceries. We know that these kinds of decisions lead to lapses in birth control use, which contributes to high rates of unintended pregnancy in the United States. This is of course quite ironic, given the Trump administration’s attempts to pack the federal courts with anti-choice judges. Wendy Basgall, staff attorney, says this sends the following message: “We are not going to help you prevent unplanned pregnancies, nor will we allow you to choose to terminate an unplanned pregnancy that resulted from your inability to pay for contraception.”

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<sup>1</sup> 591 U.S. \_\_\_\_ (2020). This case is being decided together with *Trump, President of the United States, et al. v. Pennsylvania et al. No. 19-454*.

<sup>2</sup> *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.C. 682 (2014)

<sup>3</sup> <https://www.nytimes.com/2020/07/08/us/supreme-court-birth-control-obamacare.html>

Access to contraceptives is an essential part of bodily autonomy, giving individuals a say in whether and when to expand their families. Yet the Court's decision effectively allows bosses to dictate whether their employees can access contraceptives—this isn't a comprehensive approach to health care.

New Mexico has made the importance of contraceptive coverage clear: in our state, insurance plans that cover prescription drugs must include contraceptives with no out-of-pocket payment.<sup>4</sup> The only exemption is for religious entities. However, this ruling may open the door for nearly any New Mexico employer to claim a moral exemption, leaving their employees in the lurch. Terrelene Massey, Executive Director states, "The Southwest Women's Law Center believes that contraceptive access is a right and is essential to the well-being of New Mexico's women and girls. We also believe that creating a health insurance gap is bad policy and bad healthcare. We need to protect this access for all New Mexicans."

If your employer refuses to cover birth control because of a religious or moral objection, we want to hear from you! Contact us at [info@swwomenslaw.org](mailto:info@swwomenslaw.org) or 505-244-0502.

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<sup>4</sup> [1978 NMSA §59A-22-42.](#)