



4. J.D. had an appointment scheduled for counseling and a medical examination on September 28, 2017, and an appointment for the abortion on September 29, 2017. Defendants, through their counsel, announced on September 27, 2017 that they were prohibiting J.D. from keeping her appointments on September 28 or September 29. Defendants refused – and are continuing to refuse – to transport J.D., and are refusing to allow anyone to transport J.D. to the abortion facility.

5. On September 28, 2017, I contacted Defendants’ counsel to clarify Defendants’ position about J.D.’s access to abortion. Defendants’ counsel told me that Defendants would not allow J.D. access to abortion. I indicated that Plaintiff would likely seek to challenge Defendants’ blatantly unconstitutional actions in court.

6. Given Defendants’ continued refusal to transport or permit J.D. to be transported to the abortion facility, J.D. sought to obtain emergency relief on October 5, 2017, by joining as a named plaintiff in *American Civil Liberties Union of Northern California v. Burwell*, No. 3:16-cv-03539-LB (N.D. Cal), a case arising from other Office of Refugee Resettlement (“ORR”) practices that interfere with the ability of unaccompanied immigrant minors’ ability to access to abortion care, proceeding against the same Defendants in the U.S. District Court for the Northern District of California.

7. On October 11, 2017, after expedited briefing, Magistrate Judge Beeler issued an order denying Plaintiffs leave to amend the complaint in that case to add J.D. as a named plaintiff, finding that venue and joinder would be improper. In that ruling, however, the court noted that had it granted leave to amend, it would have granted the TRO and ordered the requested relief, as the government has “no justification for restricting [J.D.]’s access.” *See American Civil Liberties Union of Northern California v. Burwell*, No. 3:16-cv-03539-LB (N.D.

Cal), October 11, 2017 Order Denying Motions for Leave to Amend and a TRO (attached hereto as Exhibit J).<sup>1</sup>

9. In support of Plaintiff's Application for a Temporary Restraining Order and Motion for a Preliminary Injunction, Plaintiff relies upon documents that the ACLU of Northern California received from Defendants in discovery in *American Civil Liberties Union of Northern California v. Burwell, et. al.* and from advocates working with unaccompanied immigrant minors. The documents that the ACLU of Northern California received in discovery have been redacted pursuant to the parties' protective order and further agreements in that case. These documents are attached to and referenced in Plaintiff's Memorandum in Support of Plaintiff's Application for a Temporary Restraining Order and Motion for a Preliminary Injunction as follows:

7. **Exhibit A:** March 4, 2017 Memorandum from Kenneth Tota, Acting Director, Office of Refugee Resettlement, Re: ORR custodial decisions to preserve the health of a pregnant UAC, PRICE\_PROD\_00005146.

8. **Exhibit B:** March 3, 2017 Email from Acting ORR Director Ken Tota to Staff Re: Heightened Medical Procedures Guidance; March 10, 2017 Email Re: ORR Guidance for Pregnant UC, PRICE\_PROD\_00004528-32.

9. **Exhibit C:** March Email Exchanges between ORR Director Scott Lloyd and Senior Management Regarding UC Pregnancy Termination Policies, Including Director Lloyd's Instructions that "Grantees Should Not Be Supporting Abortion Services Pre or Post-Release; Only Pregnancy Services and Life-Affirming Options Counseling", PRICE\_PROD\_00010706.

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<sup>1</sup> J.D., with the assistance of her guardian and attorney ad litem, also initiated a confidential and sealed state court proceeding, under state law, against the shelter where she currently resides for abuse and neglect for failure to ensure that her medical care needs are met. Although that case raises no federal question, the Department of Justice is now representing the shelter, has removed the state case to federal court, and is seeking its dismissal.

10. **Exhibit D:** March 14, 2017 Email from S. Lloyd Re: Personal Meeting with UAC in San Antonio, Texas and Discussion Regarding Her Pregnancy Decision, PRICE\_PROD\_00010950-52.

11. **Exhibit E:** April 1 – 4, 2017 Email Exchange Regarding Scott Lloyd’s Discussion with UAC in Arizona, PRICE\_PROD\_00010616.

12. **Exhibit F:** ORR’s “Trusted Providers in HHS Cities” Excel Spreadsheet (Reformatted as PDF).

13. **Exhibit G:** March 24, 2017 Email from S. Lloyd Re: CPC Counseling, PRICE\_PROD\_00010709-10.

14. **Exhibit H:** March 29 – April 3, 2017 Internal ORR Email Exchange Regarding Informing UAC’s Mother and Sponsor about Abortion Procedure, PRICE\_PROD\_00010866-67.

15. **Exhibit I:** March 31, 2017 Email to ORR’s J. De La Cruz Re Directions to Notify Mother of UAC Despite UAC’s Desire Not To, PRICE\_PROD\_00010623.

16. **Exhibit J:** October 11, 2017, Judge Beeler Order

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed October 13, 2017, in New York, New York.

By: /s/ Brigitte Amiri  
Brigitte Amiri