

General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 19-15615

Docketed: 04/02/2019
Termed: 03/24/2020

Nature of Suit: 2895 Freedom of Information Act of 1974

Goldwater Institute v. HHS

Appeal From: U.S. District Court for Arizona, Phoenix

Fee Status: Paid

Case Type Information:

- 1) civil
- 2) united states
- 3) null

Originating Court Information:

District: 0970-2 : [2:15-cv-01055-SRB](#)

Court Reporter: Laurie Anne Adams

Trial Judge: Susan R. Bolton, District Judge

Date Filed: 06/09/2015

Date Order/Judgment:	Date Order/Judgment EOD:	Date NOA Filed:	Date Rec'd COA:
02/08/2019	02/08/2019	04/01/2019	04/01/2019

Prior Cases:

None

Current Cases:

None

GOLDWATER INSTITUTE
Plaintiff - Appellant,

Jonathan Riches
Direct: 602-462-5000
[COR NTC Retained]
Goldwater Institute
500 E. Coronado Road
Phoenix, AZ 85004

Timothy Sandefur, Attorney
Direct: 602-462-5000
[COR NTC Retained]
Goldwater Institute
500 E. Coronado Road
Phoenix, AZ 85004

v.

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
Defendant - Appellee,

Peter Michael Lantka, Assistant U.S. Attorney
[COR LD NTC Assist US Attorney]
USPX - Office of the US Attorney
Two Renaissance Square
40 N. Central Avenue
Phoenix, AZ 85004

Sarah W. Carroll, Attorney
[COR NTC Government]
DOJ - U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

NEW CIVIL LIBERTIES ALLIANCE
Amicus Curiae,

Margaret A. Little, Senior Litigation Counsel
Direct: 202-869-5210
[COR LD NTC Retained]
New Civil Liberties Alliance
1225 19th St. NW
Suite 450
Washington, DC 20036

GOLDWATER INSTITUTE,

Plaintiff - Appellant,

v.

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES,

Defendant - Appellee.

04/02/2019	1 26 pg, 834.64 KB	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Mediation Questionnaire due on 04/09/2019. Transcript ordered by 05/01/2019. Transcript due 05/31/2019. Appellant Goldwater Institute opening brief due 07/10/2019. Appellee United States Department of Health and Human Services answering brief due 08/09/2019. Appellant's optional reply brief is due 21 days after service of the answering brief. [11249665] (JBS) [Entered: 04/02/2019 10:12 AM]
04/02/2019	2	Filed (ECF) notice of appearance of Sarah Carroll for Appellee United States Department of Health and Human Services. Date of service: 04/02/2019. (Party previously proceeding without counsel: No) [11249847] [19-15615] (Carroll, Sarah) [Entered: 04/02/2019 11:02 AM]
04/02/2019	3	Added attorney Sarah W. Carroll for United States Department of Health and Human Services, in case 19-15615. [11250013] (CW) [Entered: 04/02/2019 11:46 AM]
04/05/2019	4 2 pg, 681.94 KB	Filed (ECF) Appellant Goldwater Institute Mediation Questionnaire. Date of service: 04/05/2019. [11254048] [19-15615] (Dynar, Aditya) [Entered: 04/05/2019 09:30 AM]
04/05/2019	5	The Mediation Questionnaire for this case was filed on 04/05/2019. To submit pertinent confidential information directly to the Circuit Mediators, please use the following link . Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts.[11254487] (AD) [Entered: 04/05/2019 12:44 PM]
04/09/2019	6	Filed (ECF) notice of appearance of Jonathan Matthew Riches for Appellant Goldwater Institute. Date of service: 04/09/2019. (Party previously proceeding without counsel: No) [11257723] [19-15615] (Riches, Jonathan) [Entered: 04/09/2019 11:30 AM]
04/09/2019	7	Added attorney Jonathan Riches for Goldwater Institute, in case 19-15615. [11257738] (CW) [Entered: 04/09/2019 11:33 AM]
04/12/2019	8 5 pg, 163.95 KB	MEDIATION CONFERENCE SCHEDULED - DIAL-IN Assessment Conference, 04/23/2019, 11:00 a.m. PACIFIC Time. The briefing schedule previously set by the court remains in effect. See order for instructions and details. [11262170] (CL) [Entered: 04/12/2019 12:06 PM]
04/15/2019	9 2 pg, 778.6 KB	Filed (ECF) Appellant Goldwater Institute Correspondence: Representation Statement. Date of service: 04/15/2019 [11263841] [19-15615] (Dynar, Aditya) [Entered: 04/15/2019 12:55 PM]
04/25/2019	10 1 pg, 86.29 KB	MEDIATION ORDER FILED: This case is RELEASED from the Mediation Program. Counsel are requested to contact the Circuit Mediator should circumstances develop that warrant further settlement discussions. [11276886] (CL) [Entered: 04/25/2019 10:39 AM]
06/17/2019	11	Filed (ECF) notice of appearance of Timothy Sandefur for Appellant Goldwater Institute. Substitution for Attorney Mr. Aditya Dynar for Appellant Goldwater Institute. Date of service: 06/17/2019. (Party previously proceeding without counsel: No) [11334358] [19-15615] (Sandefur, Timothy) [Entered: 06/17/2019 03:00 PM]
06/17/2019	12	Attorney Aditya Dynar in 19-15615 substituted by Attorney Timothy Sandefur in 19-15615 [11334389] (CW) [Entered: 06/17/2019 03:07 PM]
07/10/2019	13	Submitted (ECF) Opening Brief for review. Submitted by Appellant Goldwater Institute. Date of service: 07/10/2019. [11359959] [19-15615]--[COURT UPDATE: Attached corrected PDF.

019	62 pg, 746.43 KB	07/11/2019 by LA] (Riches, Jonathan) [Entered: 07/10/2019 05:56 PM]
07/10/2019	14 418 pg, 32.32 MB	Submitted (ECF) excerpts of record. Submitted by Appellant Goldwater Institute. Date of service: 07/10/2019. [11359963] [19-15615]--[COURT UPDATE: Attached corrected PDFs. 07/11/2019 by LA] (Riches, Jonathan) [Entered: 07/10/2019 05:59 PM]
07/11/2019	15 2 pg, 95.88 KB	Filed clerk order: The opening brief [13] submitted by Goldwater Institute is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: blue. The Court has reviewed the excerpts of record [14] submitted by Goldwater Institute. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [11360989] (LA) [Entered: 07/11/2019 02:45 PM]
07/15/2019	16	Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellee United States Department of Health and Human Services. New requested due date is 09/09/2019. [11362685] [19-15615] (Carroll, Sarah) [Entered: 07/15/2019 06:30 AM]
07/15/2019	17	Streamlined request [16] by Appellee United States Department of Health and Human Services to extend time to file the brief is approved. Amended briefing schedule: Appellee United States Department of Health and Human Services answering brief due 09/09/2019. The optional reply brief is due 21 days from the date of service of the answering brief. [11363697] (DLM) [Entered: 07/15/2019 02:43 PM]
07/16/2019	18	Filed 4 paper copies of excerpts of record [14] in 3 volume(s) filed by Appellant Goldwater Institute. [11365446] (LA) [Entered: 07/16/2019 02:42 PM]
07/16/2019	19	Received 7 paper copies of Opening Brief [13] filed by Goldwater Institute. [11365516] (DB) [Entered: 07/16/2019 03:13 PM]
07/17/2019	20 25 pg, 227.53 KB	Submitted (ECF) Amicus brief for review (by government or with consent per FRAP 29(a)). Submitted by Brief Amicus Curiae of the New Civil Liberties Alliance in Support of Plaintiff-Appellant and Reversal. Date of service: 07/17/2019. [11366389] [19-15615] (Little, Margaret) [Entered: 07/17/2019 11:19 AM]
07/17/2019	21	Entered appearance of Amicus Curiae New Civil Liberties Alliance. [11367239] (LA) [Entered: 07/17/2019 06:10 PM]
07/17/2019	22 2 pg, 95.53 KB	Filed clerk order: The amicus brief [20] submitted by New Civil Liberties Alliance is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: green. The paper copies shall be submitted to the principal office of the Clerk. [11367240] (LA) [Entered: 07/17/2019 06:11 PM]
07/22/2019	23	Received 7 paper copies of Amicus Brief [20] filed by New Civil Liberties Alliance. [11371165] (SD) [Entered: 07/22/2019 10:19 AM]
09/09/2019	24 63 pg, 272.68 KB	Submitted (ECF) Answering Brief for review. Submitted by Appellee USHHS. Date of service: 09/09/2019. [11424923] [19-15615] (Carroll, Sarah) [Entered: 09/09/2019 11:34 AM]
09/09/2019	25 41 pg, 2.34 MB	Submitted (ECF) supplemental excerpts of record. Submitted by Appellee USHHS. Date of

service: 09/09/2019. [11424946] [19-15615] (Carroll, Sarah) [Entered: 09/09/2019 11:39 AM]

09/09/2019 [26](#)
2 pg, 96.51 KB

Filed clerk order: The answering brief [\[24\]](#) submitted by USHHS is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The Court has reviewed the supplemental excerpts of record [\[25\]](#) submitted by USHHS. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [11425397] (LA) [Entered: 09/09/2019 02:27 PM]

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Filed (ECF) Streamlined request for extension of time to file Reply Brief by Appellant Goldwater Institute. New requested due date is 10/21/2019. [11426428] [19-15615] (Riches, Jonathan) [Entered: 09/10/2019 10:22 AM]

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Streamlined request [27] by Appellant Goldwater Institute to extend time to file the brief is approved. Streamline requests allow for 30 day extensions. Amended briefing schedule: the optional reply brief is due 10/30/2019. [11427041] (DLM) [Entered: 09/10/2019 02:22 PM]

09/11/2019 29

Received 7 paper copies of Answering Brief [\[24\]](#) filed by USHHS. [11428747] (DB) [Entered: 09/11/2019 03:55 PM]

09/11/2019 30

Filed 4 paper copies of supplemental excerpts of record [\[25\]](#) in 1 volume(s) filed by Appellee USHHS. [11428764] (LA) [Entered: 09/11/2019 03:59 PM]

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Terminated participation of Court Reporter Elizabeth A. Lemke in this case (no longer active). [11444532] [19-10034, 19-10070, 19-10071, 19-10140, 19-10141, 19-10145, 19-10299, 19-10316, 19-15225, 19-15343, 19-15510, 19-15615, 19-15811, 19-15922, 19-16254, 19-80114] (ASW) [Entered: 09/26/2019 10:31 AM]

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This case is being considered for an upcoming oral argument calendar in Phoenix

Please review the Phoenix sitting dates for February 2020 and the 2 subsequent sitting months in that location at http://www.ca9.uscourts.gov/court_sessions. If you have an unavoidable conflict on any of the dates, please file [Form 32](#) within **3 business days of this notice** using the CM/ECF filing type **Response to Case Being Considered for Oral Argument**. Please follow the form's [instructions](#) carefully.

When setting your argument date, the court will try to work around unavoidable conflicts; the court is not able to accommodate mere scheduling preferences. You will receive notice that your case has been assigned to a calendar approximately 10 weeks before the scheduled oral argument date.

If the parties wish to discuss settlement before an argument date is set, they should jointly request referral to the mediation unit by filing a letter **within 3 business days of this notice**, using CM/ECF (**Type of Document**: File Correspondence to Court; **Subject**: request for mediation).[11447335][19-15615] (AW) [Entered: 09/27/2019 06:11 PM]

09/30/2019 [33](#)
1 pg, 697.57 KB

Filed (ECF) Attorney Jonathan Riches for Appellant Goldwater Institute response to notice for case being considered for oral argument. Date of service: 09/30/2019. [11448223] [19-15615] (Riches, Jonathan) [Entered: 09/30/2019 11:00 AM]

10/29/2019 [34](#)
23 pg, 514.64 KB

Submitted (ECF) Reply Brief for review. Submitted by Appellant Goldwater Institute. Date of service: 10/29/2019. [11482216] [19-15615] (Riches, Jonathan) [Entered: 10/29/2019 03:20 PM]

10/29/2019	35 2 pg, 96.03 KB	Filed clerk order: The reply brief [34] submitted by Goldwater Institute is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: gray. The paper copies shall be submitted to the principal office of the Clerk. [11482345] (LA) [Entered: 10/29/2019 03:58 PM]
10/31/2019	36	Received 7 paper copies of Reply Brief [34] filed by Goldwater Institute. (sent to panel) [11484709] (SD) [Entered: 10/31/2019 11:15 AM]
11/24/2019	37	Notice of Oral Argument on Friday, February 7, 2020 - 09:30 A.M. - ASU Phx Great Hall - Arizona State U Phoenix. View the Oral Argument Calendar for your case here . Be sure to review the GUIDELINES for important information about your hearing, including when to arrive (30 minutes before the hearing time) and when and how to submit additional citations (filing electronically as far in advance of the hearing as possible). If you are the specific attorney or self-represented party who will be arguing, use the ACKNOWLEDGMENT OF HEARING NOTICE filing type in CM/ECF no later than 21 days before Friday, February 7, 2020. No form or other attachment is required. If you will not be arguing, do not file an acknowledgment of hearing notice.[11509976]. [Array, 19-15615] (AW) [Entered: 11/24/2019 06:08 AM]
11/29/2019	38	Filed (ECF) Acknowledgment of hearing notice by Attorney Sarah W. Carroll for Appellee USHHS. Hearing in Other (Phoenix) on 02/07/2020 at 09:30 A.M. (Courtroom: ASU Phoenix Great Hall). Filer sharing argument time: No. (Argument minutes: 15.) Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 11/29/2019. [11515670] [19-15615] (Carroll, Sarah) [Entered: 11/29/2019 08:45 AM]
12/03/2019	39	Filed (ECF) Acknowledgment of hearing notice by Attorney Jonathan Riches for Appellant Goldwater Institute. Hearing in Other (Arizona State University Beus Center for Law & Society, Phoenix, AZ) on 02/07/2020 at 09:30 A.M. (Courtroom: N/A). Filer sharing argument time: No. (Argument minutes: 15.) Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 12/03/2019. [11518812] [19-15615] (Riches, Jonathan) [Entered: 12/03/2019 10:18 AM]
02/07/2020	40	ARGUED AND SUBMITTED TO A. WALLACE TASHIMA, ANDREW D. HURWITZ and ERIC D. MILLER. [11589993] (BY) [Entered: 02/07/2020 02:18 PM]
02/07/2020	41 1 pg, 28.74 MB	Filed Audio recording of oral argument. Note: Video recordings of public argument calendars are available on the Court's website, at http://www.ca9.uscourts.gov/media/ [11594189] (DO) [Entered: 02/12/2020 07:10 AM]
03/24/2020	42 11 pg, 184.75 KB	FILED MEMORANDUM DISPOSITION (A. WALLACE TASHIMA, ANDREW D. HURWITZ and ERIC D. MILLER) VACATED and REMANDED. Goldwater shall recover its costs on appeal. FILED AND ENTERED JUDGMENT. [11639641] (MM) [Entered: 03/24/2020 08:59 AM]
