

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
CIVIL DIVISION**

**EMILY WALDORF; THERESA VAN; CHELSEA
STOVALL; ALLISON HOWLAND; KISHAYA
HOLLOWAY; LEITAEA LOWRIMORE; and CHAD
B. TAYLOR, M.D.,** on behalf of himself and his patients,

PLAINTIFFS

v. CASE NO. 60-CV-26-1539

**THE STATE OF ARKANSAS; SARAH HUCKABEE
SANDERS,** in her official capacity as Governor of the State
of Arkansas; **TIM GRIFFIN,** in his official capacity as
Attorney General of Arkansas; **BRANDON CARTER,** in
his official capacity as Prosecuting Attorney of Washington
and Madison Counties; **DANIEL SHUE,** in his official
capacity as Prosecuting Attorney of Sebastian County;
WILL JONES, in his official capacity as Prosecuting
Attorney of Pulaski County; **EDWARD “WARD”
GARDNER, M.D.,** in his official capacity as Chairman of
the Arkansas State Medical Board; and **DON R.
PHILLIPS, M.D., CHRISTOPHER D. DAVIS, P.A.,
BRAD A. THOMAS, M.D., ELIZABETH ANDERSON,
MICHAEL J. BIRRER, M.D., SARAH C. BONE, M.D.,
MARK CAMP, RODNEY GRIFFIN, M.D., KENNETH
B. JONES, M.D., C. WESLEY KLUCK JR., M.D.,
BRIAN L. MCGEE, M.D., TIMOTHY C. PADE, M.D.,
and JOSHUA E. ROLLER, M.D.,** in their official
capacities as officers and members of the Arkansas State
Medical Board,

DEFENDANTS.

**BRIEF IN SUPPORT OF PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION**

Plaintiffs, Emily Waldorf, Theresa Van, Chelsea Stovall, Allison Howland, Kishaya
Holloway, Leitaea Lowrimore (collectively, the “Patient Plaintiffs”), and Chad Taylor, M.D., by

and through undersigned counsel, submit the following Brief in Support of its Motion for Preliminary Injunction:

INTRODUCTION

In the same month that Plaintiffs originally filed this action alleging that Arkansas’s abortion bans unconstitutionally deny pregnant Arkansans their “inherent and inalienable rights” of “enjoying and defending life and liberty” and “of pursuing their own happiness,” at least two more women have been harmed by the bans. As set forth in Plaintiffs’ First Amended Verified Complaint for Preliminary and Permanent Injunctive Relief and Declaratory Judgment,¹ these women—Kishaya Holloway and Leitaea Lowrimore—demonstrate that the harms caused by Arkansas’s abortion bans are urgent and ongoing. To prevent further irreparable harm, Plaintiffs now seek immediate injunctive relief to prohibit Defendants’ enforcement of the abortion bans while this litigation proceeds. The fundamental rights of pregnant Arkansans are too important and their suffering too immense for the State to continue to look the other way.

LAW AND ARGUMENT

A preliminary injunction may be properly issued pursuant to Arkansas Rules of Civil Procedure 65 when (1) irreparable harm will result in the absence of an injunction and (2) the moving party has demonstrated a likelihood of success on the merits. *See Thurston v. Safe Surgery Arkansas*, 2021 Ark. 55, at 12-13, 619 S.W.3d 1, 9 (2021). Plaintiffs satisfy both criteria.

I. Arkansans Will Suffer Irreparable Harm Absent the Issuance of an Injunction

“The prospect of irreparable harm or lack of an otherwise adequate remedy is the foundation of the power to issue injunctive relief.” *Three Sisters Petroleum, Inc. v. Langley*, 348 Ark. 167, 175, 72 S.W.3d 95, 100 (2002) (citation omitted). “Harm is . . . irreparable when it

¹ Plaintiffs incorporate the Complaint (“Compl.”) herein by reference.

cannot be adequately compensated by money damages or redressed in a court of law.” *Id.* 348 Ark. at 176, 72 S.W.3d at 101; *Delancy v. State*, 356 Ark. 259, 264, 151 S.W.3d 301, 304 (2004). For this reason, “[a] violation of a constitutional right is deemed irreparable harm for purposes of injunctive relief.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *Planned Parenthood of Minn., Inc. v. Citizens for Community Action*, 558 F.2d 861, 867 (8th Cir. 1977); *see also Bentonville Sch. Dist. v. Sitton*, 2022 Ark. 80, at 20, 643 S.W.3d 763, 775 (2022) (Webb, J., dissenting) (citing *Elrod v. Burns* and other cases concluding the same). Denial of a constitutional right, even for a short period of time, constitutes irreparable harm. *Muntaqim v. Hobbs*, 2017 Ark. 97, at 4, 514 S.W.3d 464, 468 (2017).

Here, pregnant people are being denied their constitutional rights to life, liberty, equality, and the pursuit of happiness each time they need an abortion. Critically, Arkansas’s abortion bans force pregnant people to leave the state for urgent healthcare, which in practice results in expensive and traumatic journeys across vast swaths of rural areas devoid of hospitals. *See* Compl. ¶¶ 226-242; *id.* ¶¶ 120-135 (describing Ms. Lowrimore’s seven-day journey with her husband and infant child to four hospitals in three states to terminate her ectopic pregnancy); *id.* ¶¶ 30-36 (describing Ms. Waldorf’s middle-of-the-night ambulance ride to Kansas after being denied care in Arkansas for five days); *id.* ¶¶ 108-111 (describing Ms. Holloway’s need to reschedule her appointment in Kansas multiple times due to inclement weather and subsequently make the four-and-a-half-hour drive there and back in one day because she could not afford a hotel room). And that is the best case scenario. For others like Ms. Van, travel is impossible, and forced childbirth is the only option. *Id.* ¶¶ 52-60. For some, including Ms. Waldorf and Ms. Lowrimore, this denial of rights has increased urgent risks to their physical health. *Id.* ¶¶ 30-36, 120-135. For others, including Ms. Van and Ms. Stovall, significant mental and emotional harms compounded the physical threats to

their health. *Id.* ¶¶ 52-65 (describing Ms. Van’s suicidal thoughts during the seven weeks she waited for her baby to die in utero); *id.* ¶¶ 75-81 (describing an abortion clinic protester in Illinois throwing a bloody pad at Ms. Stovall’s car). And for some, including Ms. Howland and Ms. Holloway, the affront to their autonomy, dignity, and control over their own destinies is particularly acute. *Id.* ¶¶ 95-99 (describing Ms. Howland seeking abortion care in Illinois after a sexual assault, and how investigators were unable to maintain chain of custody over evidence collected out of state, and how airport security removed from her body and confiscated a portable heating pad on her way home after the abortion); *id.* ¶ 111 (explaining that for Ms. Holloway, “[t]he decision to terminate the pregnancy was not a heavy one” but “the experience of being pregnant was”). In every case, however, Arkansas’s abortion bans rob pregnant people of their fundamental humanity, control over their and their families’ destinies, and enjoyment of their own lives. Several of the Patient Plaintiffs are now divorced from their spouses. *Id.* ¶¶ 62, 83. All struggle with fears about future pregnancies. *Id.* ¶¶ 45, 65, 85, 101, 113, 137. These harms are not unique to the Patient Plaintiffs here and are both urgent and irreparable.

Similarly, Dr. Taylor has spent more than three years practicing OB/GYN medicine under constant threat of an unconstitutionally vague criminal statute while still attempting to provide the best patient care possible. *Id.* ¶ 147; *id.* ¶ 151 (describing, for example, the attempt to determine if 30% or 10% risk of death was sufficient to provide an abortion to a patient with cardiac disease while reflecting “many hospitals do not allow patients to deliver VBAC (vaginal birth after cesarean) because the risk of uterine rupture (not even necessarily maternal death) is less than 1%, yet Arkansas’s abortion bans were forcing patients to regularly accept much higher risks to their lives”). The harms Dr. Taylor has and continues to suffer every day he gets up and goes to work are urgent and irreparable. *Id.* ¶¶ 148-154.

II. Plaintiffs Are Likely to Succeed on the Merits

The test for determining the likelihood of success on the merits is whether there is a “reasonable probability of success in the litigation.” *Custom Microsystems, Inc. v. Blake*, 344 Ark. 536, 542, 42 S.W.3d 453, 457 (2001) (citation omitted). Plaintiffs allege that Arkansas’s abortion bans violate pregnant people’s rights to life, liberty, equality, and the pursuit of happiness, and violate health care providers’ due process right to not be regulated by a vague criminal statute. It is more than reasonably probable that Plaintiffs will prevail on each of their claims, any one of which would be sufficient for the Court to conclude that the abortion bans are unconstitutional.

A. Arkansas’s Abortion Bans Violate Plaintiffs’ Right to Life, Liberty, and the Pursuit of Happiness

Under the Arkansas Constitution, all people have “inherent and inalienable rights” of “enjoying and defending life and liberty” and “of pursuing their own happiness,” Ark. Const. Art. 2, § 2, that they do not lose just because they are pregnant. The plain language of Article 2, Section 2 is unequivocal, and the individual rights it promises are both more expansive than those relied upon by courts applying *Roe v. Wade* and amply supported by Arkansas case law as well as other state supreme courts interpreting similar language. But even if this Court looked to the U.S. Supreme Court’s “history and tradition” test and/or Arkansas’s past attempts to limit funding for abortion, the Arkansas Constitution’s protection of individual liberty for all remains paramount.

It is undisputed that the “inherent and inalienable” rights protected by Article 2, Section 2 of the Arkansas Constitution are more protective of individual Arkansans’ rights than the federal Constitution. *See Jegley v. Picado*, 349 Ark. 600, 631, 80 S.W.3d 332, 349 (2002) (“We have recognized protection of individual rights greater than the federal floor in a number of cases.”). Indeed, the Arkansas Supreme Court has characterized “life and liberty” as having a “comprehensive scope” that “embraces ‘all our liberties, civil, personal and political; in short all

that makes life worth living’ and that each of these rights ‘carries with it, as its natural and necessary coincident, all that effectuates and renders complete and full, unrestrained enjoyment of that right.’” *Carroll v. Johnson*, 263 Ark. 280, 289, 565 S.W.2d 10, 15–16 (1978) (quoting *In re Flukes*, 157 Mo. 125, 57 S.W. 545 (1900)). As particularly relevant for Patient Plaintiffs, protection of life and liberty “encompasses many personal freedoms including the right to enjoy domestic relations and the privileges of family and home.” *Id.*

Other state supreme courts have read similar language regarding inherent and inalienable rights to protect pregnant people, concluding that abortion bans therefore violate those fundamental rights. In interpreting the state’s constitutional promise of “life, liberty, and the pursuit of happiness,” the Kansas Supreme Court framed the question unequivocally: “Is this declaration of rights more than an idealized aspiration? And, if so, do the substantive rights include a woman’s right to make decisions about her body, including the decision whether to continue her pregnancy? We answer these questions, ‘Yes.’” *Hodes & Nauser, MDs, P.A. v. Schmidt*, 309 Kan. 610, 613, 440 P.3d 461, 466 (2019). The court elaborated that this “right of personal autonomy” includes “the ability to control one’s own body, to assert bodily integrity, [] to exercise self-determination,” and “allows a woman to make her own decisions regarding her body, health, family formation, and family life—decisions that can include whether to continue a pregnancy.” *Hodes & Nauser*, 309 Kan. at 614, 440 P.3d at 466. A Justice of the Indiana Supreme Court likewise explained, “[i]t cannot be that ‘upon becoming pregnant, women relinquish virtually all rights’” otherwise guaranteed under the Constitution. *Members of Med. Licensing Bd. of Ind. v. Planned Parenthood (“PPGNHI”)*, 211 N.E.3d 957, 997 (Ind. 2023) (Goff, J., concurring in part and dissenting in part) (quoting *Hodes*, 309 Kan. at 650, 440 P.3d at 486). Supreme Courts have thus concluded that, at the very least, this language protects pregnant people when their health is at risk. *See Okla. Call*

for Reprod. Just. v. Drummond, 526 P.3d 1123, 1130 (Okla. 2023); *Wrigley v. Romanick*, 988 N.W.2d 231, 240–43 (N.D. 2023); *PPGNHI*, 211 N.E.3d at 976.

Because the Constitution clearly protects all Arkansans’ fundamental rights to life, liberty, and the pursuit of happiness, the inquiry should end there. Yet even if this Court looks backwards to the adoption of the 1874 Arkansas Constitution, history and tradition at that time supports Plaintiffs’ claims. The 1874 Convention was a comprehensive effort to curb governmental excess and restore individual liberties, not the other way around.² And while some abortions were prohibited in the 1800s, Arkansas law allowed abortion throughout the weeks and months when most abortions today are performed, and only criminalized certain acts for the purpose of protecting the pregnant person and when directed at a “quick child”—that is, after the pregnant person experienced fetal movement. *See* Rev. Stat. of Ark. ch. 44, div. 3, art. 2, § 6 (1838); *Tiner v. State*, 239 Ark. 819, 826, 394 S.W.2d 608, 612 (1965); James S. Witherspoon, *Reexamining Roe: Nineteenth-Century Abortion Statutes and the Fourteenth Amendment*, 17 St. Mary’s L.J. 29, 30 (1985).

Similarly, Amendment 68 of the Arkansas Constitution cannot and does not eliminate pregnant Arkansans’ inherent rights. Amendment 68 was added to the Constitution in 1988 to prohibit public funding from being used to pay for abortion. The Amendment was passed in Arkansas and many other states across the country in response to policy debates about public funding of abortion that were happening across the United States in the 1980s. Section 1 of the amendment states “[n]o public funds will be used to pay for any abortion, except to save the mother’s life,” Ark. Const. amend. 68, § 1, and Section 2 asserts a general “policy” “to protect the life of every unborn child,” *id.* § 2. As courts have held, however, Section 2 does not create separate

² *Arkansas Constitutional Convention (1874), The Quill Project*, Pembroke College, Oxford, <https://www.quillproject.net/negotiation/392/full-record> (last visited Mar. 13, 2026).

rights. When Amendment 68 was challenged, both the trial court and the Eighth Circuit determined that “Section 1’s function of banning the great majority of public funding for abortions operates as the core provision—Section 2 is a general public policy statement and philosophical foundation for Section 1” and as such has “no practical working purposes” and “no function independent of the first section.” *Little Rock Fam. Plan. Servs., P.A. v. Dalton*, 860 F. Supp. 609, 626 (E.D. Ark. 1994), *aff’d*, 60 F.3d 497, 503 (8th Cir. 1995) (concluding “the district court did not err in holding that section[] 2” has “no function independent of the first section and no practical working purposes”), *rev’d in part on other grounds by sub nom. Dalton v. Little Rock Fam. Plan. Servs.*, 516 U.S. 474 (1996). Indeed, the Arkansas Supreme Court has repeatedly found that where provisions “are so mutually connected with and dependent” on the operative provision, the provisions are not severable. *See Handy Dan Improvement Ctr., Inc. v. Adams*, 276 Ark. 268, 277, 633 S.W.2d 699, 704 (1982); *Allen v. Langston*, 216 Ark. 77, 85, 224 S.W.2d 377, 381 (1949).

If Amendment 68 was truly meant to override pregnant people’s fundamental, constitutionally protected rights to life, liberty, and the pursuit of happiness, it needed to say so clearly. *See Richardson v. Martin*, 2014 Ark. 429, at 9, 444 S.W.3d 855, 861 (upholding ballot initiative where text clearly stated that “all laws which conflict with the amendment . . . are repealed to the extent that they conflict with the amendment”). This is a longstanding principle, reflecting the fundamental nature of individual rights. *See Hale v. Henkel*, 201 U.S. 43, 74 (1906) (recognizing that individuals retain constitutional protections against the State); *United States v. United Mine Workers of Am.*, 330 U.S. 258, 272 (1947) (reflecting the principle that statutes should not be interpreted to divest individuals of established rights absent clear language); *Padelford, Fay & Co. v. Mayor of Savannah*, 14 Ga. 438, 440 (1854) (describing individual rights as “sacred” and of superior importance to government power).

Even to the extent Section 2 of Amendment 68 conflicts with Article 2, Section 2, the fundamental rights guaranteed in Article 2, Section 2 must prevail over any vague “policy.” In other words, the lives of Emily Waldorf, Theresa Van, Chelsea Stovall, Allison Howland, Kishaya Holloway, and Leitaea Lowrimore—real living, breathing Arkansans—cannot be overridden by a vague Arkansas “policy” to protect the embryos or fetuses growing inside them.

B. Arkansas’s Abortion Bans Violate Plaintiffs’ Right to Equality

The Arkansas Constitution protects the equality of all people under the law. Ark. Const. Art. 2, §§ 2, 3, 18. Plaintiffs maintain that Arkansans do not lose their fundamental rights just because they are pregnant. *See* Compl. ¶¶ 250-271. Yet that is exactly what happened to Ms. Waldorf, Ms. Van, Ms. Stovall, Ms. Howland, Ms. Holloway, and Ms. Lowrimore—they did not get the healthcare they needed *because* they were pregnant—and the same continues to happen to more of Dr. Taylor’s patients the longer the laws remain in effect. *See id.* ¶¶ 10-156.

Under Arkansas law, an equal protection challenge is warranted where a law either (1) creates a distinction on its face *or* (2) “has a discriminatory impact and a discriminatory purpose.” *See Thurston v. League of Women Voters of Ark.*, 2024 Ark. 90, at 8, 687 S.W.3d 805, 812. When a statute makes such a distinction based on sex, classifications by gender must serve important governmental objectives and be substantially related to achievement of those objectives. *Jegley*, 349 Ark. at 633, 80 S.W.3d at 351. Here, the abortion bans are discriminatory in both purpose and impact—they strip fundamental rights from pregnant people, and only pregnant people—and they collapse under constitutional review. While largely untested in Arkansas, many courts have found equal protection violations under their state constitutions when state abortion bans discriminate against women and pregnant people. *See, e.g., Allegheny Reprod. Health Ctr. v. Pa. Dep’t of Human Servs.*, 309 A.3d 808, 946 (Pa. 2024); *State, Dep’t of Health & Soc. Servs. v. Planned Parenthood of Alaska, Inc.*, 28 P.3d 904, 908 (Alaska 2001); *N.M. Right to Choose/NARAL v. Johnson*, 975

P.2d 841, 851, 126 N.M. 788 (N.M. 1998); *Sw. Wash. Chapter, Nat'l Elec. Contractors Ass'n v. Pierce County*, 100 Wash. 2d 109, 127, 667 P.2d 1092, 1102 (1983).

Abortion bans discriminate against pregnant women in the exercise of fundamental rights, demanding intermediate if not strict scrutiny, as the courts above have found. Yet even if only rational basis review applies, the abortion bans are irrational. Take Patient Plaintiff Theresa Van, for example. Compl. ¶¶ 47-65. Even assuming the State can assert independent interests in her pregnancy that override her and her family's wishes—which Plaintiffs dispute—it cannot identify a single justification for forcing her to continue a pregnancy for seven weeks when everyone knew her baby would die, because there is none.

On Tuesday of every week, Ms. Van would travel to her small local hospital for two appointments: the first, with her OB/GYN to check to see if her daughter's heart was still beating; the second, with a psychiatrist who tried to help her process the trauma. “Week after week that I went in, she was alive every time and had a strong heartbeat. So I had a false sense of hope. I thought, I'm really going to have to carry her to full term.” For seven long weeks, Ms. Van also struggled to grieve a baby that was not going to make it, while still trying to be a good wife and mother. Every day, she would try to wait until Camille [her then 2-year-old] went down for her nap and then cry for at least an hour. Ms. Van tried to hide her pain, but it was impossible. “I wanted to shield Camille from the hurt I was going through. But she was still breastfeeding, so it wasn't like I could process that at nighttime either.” There were even times she thought about suicide, feelings she suffered in isolation.

Compl. ¶¶ 53-54. Plaintiffs are thus likely to succeed on their claim that Arkansas's abortion bans violate women's and pregnant people's right to equality.

C. Arkansas's Abortion Bans Are Unconstitutionally Vague

Finally, Plaintiffs are likely to succeed on their claim that the abortion bans are unconstitutionally vague in violation of Article 2, Section 8 of the Arkansas Constitution. “It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined.” *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972). Where, as here, the law in question criminalizes conduct (*see* Compl. ¶¶ 170-171), the void-for-vagueness doctrine

has particular force. As the Arkansas Supreme Court has explained, “A criminal statute which does not furnish a sufficiently ascertainable standard of guilt does not meet constitutional due process requirements.” *Davis v. Smith*, 266 Ark. 112, 118, 583 S.W.2d 37, 41 (1979). Criminal laws cannot leave enforcement to ad hoc, subjective judgments that invite arbitrary or discriminatory application. *Id.* Furthermore, “[a] law that is so vague and standardless that it leaves judges or jurors free to decide, without any legally fixed standards, what is prohibited and what is not in each particular case fails to meet due process requirements.” *Id.* Yet that is exactly what the abortion bans do. Compl. ¶¶ 205-225.

Arkansas courts have struck down similarly vague laws, especially where criminal liability and fundamental rights are at stake. In *State v. Bryant*, for example, the Arkansas Supreme Court struck down as void for vagueness a state criminal law that required certain signal devices on trucks but exempted “small farm vehicles” without defining that term. 219 Ark. 313, 315, 241 S.W.2d 473, 474 (1951). The Court explained, “A court and jury in one section of the State might determine a certain vehicle to be small, and, in another section of the State, a court and jury might find the same vehicle to be large. Assuming that a very large vehicle could be definitely classified as large and a very small vehicle could be definitely classified as small, no one would know where the dividing line would be.” *Id.* The court found this uncertainty especially troubling because the law at issue was criminal. *See id.* 219 Ark. at 316, 241 S.W.2d at 474 (“Penal statutes ought not to be expressed in language so uncertain Every man should be able to know with certainty when he is committing a crime.” (internal quotations omitted)); *Handy Dan Improvement Ctr., Inc.*, 276 Ark. at 273, 275, 633 S.W.2d at 701, 703 (finding criminal law unconstitutionally vague where it did not “satisfy the basic principle that no man shall be held criminally responsible for conduct which he could not reasonably understand to be prohibited” and noting that “[i]t is fundamental

that a criminal statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process.”); *see also Kolender v. Lawson*, 461 U.S. 352, 358 n.8 (1983) (“[W]here a statute imposes criminal penalties, the standard of certainty is higher. This concern has, at times, led us to invalidate a criminal statute on its face even when it could conceivably have had some valid application.”); *City of Chicago v. Morales*, 527 U.S. 41, 55 (1999) (facial challenges are appropriate where “vagueness permeates the text” of a “criminal law that contains no *mens rea* requirement and infringes on constitutionally protected rights.” (internal citations omitted)).

Even outside the penal code, Arkansas courts have struck down vague laws because fundamental rights were at stake. *See Davis v. Smith*, 266 Ark. 112, 118 (1979) (striking down a state law that used the term “a proper home” in allowing termination of parental rights because the phrase was vague and the ability to parent is so fundamentally important that more specificity is required); *cf. Abraham v. Beck*, 2015 Ark. 80, at 13–14, 456 S.W.3d 744, 753 (“[I]f the challenged law infringes upon a fundamental right, such as liberty or free speech, a more stringent vagueness test is applied.”).

Here, the abortion bans are both criminal laws and infringe upon fundamental rights—the liberty of the physician and the life of the patient—and therefore, the vagueness test must be applied more stringently. The medical emergency exception is not defined “with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement.” *Anderson v. State*, 2017 Ark. 357, at 4–5, 533 S.W.3d 64, 67. Specifically, the abortion bans fail to clarify “1) *which* health conditions potentially pose sufficient risks to fall within the exception; and 2) *when* in the process of

deteriorating health during pregnancy the patient becomes sick enough to be eligible for an abortion under Arkansas’s exception.” Compl. ¶ 206. This uncertainty has led providers like Dr. Taylor to stop offering otherwise standard care. Compl. ¶ 145. Because “the consequences for *any given physician relying on the exception* turn on an after-the-fact assessment of whether the physician’s determination was a ‘reasonable medical judgment,’” there are no circumstances in which it is clear when the medical emergency exception applies. Compl. ¶¶ 180, 207 (emphasis added). Tellingly, “in both 2023 and 2024—the latest years for which data is available—the Arkansas Department of Health reported that zero abortions were performed in the state.” Compl. ¶ 176. This alone shows that the abortion bans—so opaque and so punitive that not one doctor has felt safe providing and reporting such care—unconstitutionally chill necessary medical treatment. And with each day these laws remain in force, more Arkansans stand to endure the same needless suffering already inflicted on Ms. Waldorf, Ms. Van, Ms. Stovall, Ms. Howland, Ms. Holloway, and Ms. Lowrimore.

CONCLUSION

For the foregoing reasons, this Court should enjoin Defendants from enforcing Arkansas’s abortion bans throughout the pendency of this litigation.

Dated: April 9, 2026

Respectfully submitted,

/s/ Chris Burks

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CERTIFICATE OF SERVICE

I certify that on April 9, 2026, I electronically filed the foregoing document to the eFlex filing system, which notifies the eFlex participants.

/s/ Chris Burks
Chris Burks