

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION 1

FILED BY CLERK
KS. DISTRICT COURT
JUDICIAL DIST.
TOPEKA, KS

2013 JUL 26 A 11: 39

HODES & NAUSER, MDs, P.A.;)
HERBERT C. HODES, M.D.; and)
TRACI LYNN NAUSER, M.D.,)

Plaintiffs,)

Case No. 13-C-705

v.)

DEREK SCHMIDT, in his official)
capacity as Attorney General)
of the State of Kansas; ROBERT)
MOSER, M.D., in his official capacity)
as Kansas Secretary of Health and)
Environment; and NICK JORDAN,)
in his official capacity as Kansas)
Secretary of Revenue,)

Defendants.)

Plaintiffs' Motion for Summary Judgment

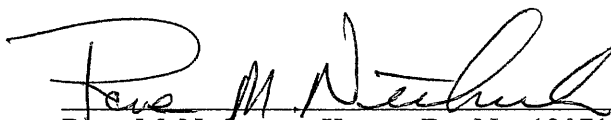
Pursuant to K.S.A. § 60-256, Plaintiffs respectfully move the Court to grant them summary judgment on the first claim for relief asserted in their Petition: that HB 2253 (2013-14 Session), 2013 Kansas Laws ch. 119, (the "Act") violates Article 2, § 16, of the Kansas Constitution. In support of this motion, Plaintiffs rely on the Act itself, annexed hereto as Exhibit A, and the memorandum of law submitted herewith.

WHEREFORE Plaintiffs request that the Court:

- a. grant this motion for summary judgment;
 - b. issue a declaratory judgment that the Act as a whole is unconstitutional and therefore unenforceable;
 - c. issue a permanent injunction restraining Defendants, their agents, and their successors in office from enforcing the Act in its entirety or any provision thereof;
- and

d. grant such other and further relief as the Court deems just, proper, and equitable.

Dated: Topeka, Kansas
July 26, 2013



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**Admitted *Pro Hac Vice*

**Motion for Admission *Pro Hac Vice*
Pending


COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above and foregoing was filed with the Clerk of the Court and served on the following by electronic mail, pursuant to an agreement of the parties, on July 26, 2013.

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