

2022-38397 / Court: 269

CAUSE NO. \_\_\_\_\_

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

\_\_\_\_\_ JUDICIAL DISTRICT

WHOLE WOMAN'S HEALTH, on behalf of  
itself, its staff, physicians, nurses, pharmacists,  
and patients; WHOLE WOMAN'S HEALTH  
ALLIANCE, on behalf of itself, its staff,  
physicians, nurses, pharmacists, and patients;  
ALAMO CITY SURGERY CENTER PLLC  
d/b/a ALAMO WOMEN'S REPRODUCTIVE  
SERVICES, on behalf of itself, its staff,  
physicians, nurses, pharmacists, and patients;  
BROOKSIDE WOMEN'S MEDICAL CENTER  
PA d/b/a BROOKSIDE WOMEN'S HEALTH  
CENTER AND AUSTIN WOMEN'S HEALTH  
CENTER, on behalf of itself, its staff,  
physicians, nurses, pharmacists, and patients;  
HOUSTON WOMEN'S CLINIC, on behalf of  
itself, its staff, physicians, nurses, pharmacists,  
and patients; HOUSTON WOMEN'S  
REPRODUCTIVE SERVICES, on behalf of  
itself, its staff, physicians, nurses, pharmacists,  
and patients; and SOUTHWESTERN  
WOMEN'S SURGERY CENTER, on behalf of  
itself, its staff, physicians, nurses, pharmacists,  
and patients,

Plaintiffs,

V.

KEN PAXTON, in his official capacity as  
Attorney General of Texas; TEXAS MEDICAL  
BOARD; STEPHEN BRINT CARLTON, in his  
official capacity as Executive Director of the  
Texas Medical Board; TEXAS BOARD OF  
NURSING; KATHERINE A. THOMAS, in her  
official capacity as Executive Director of the  
Texas Board of Nursing; TEXAS HEALTH  
AND SERVICES COMMISSION; CECILE  
ERWIN YOUNG, in her official capacity as  
Executive Commissioner of the Texas Health  
and Human Services Commission; TEXAS  
BOARD OF PHARMACY; TIM TUCKER in  
his official capacity as Executive Director of the  
Texas Board of Pharmacy; JOSÉ GARZA in his  
capacity as District Attorney for Travis County,  
TX; JOE GONZALES, in his official capacity as

District Attorney for Bexar County, TX; KIM OGG, in her official capacity as District Attorney for Harris County, TX; JOHN CREUZOT, in his official capacity as District Attorney for Dallas County, TX; SHARON WILSON, in her official capacity as District Attorney for Tarrant County, TX; RICARDO RODRIGUEZ, JR., in his official capacity as District Attorney for Hidalgo County, TX; and GREG WILSON, in his official capacity as District Attorney for Collin County, TX;

Defendants.

**TEMPORARY RESTRAINING ORDER AND  
ORDER SETTING HEARING ON MOTION FOR TEMPORARY INJUNCTION**

On the 28th day of June, 2022, the Court considered Plaintiffs Whole Women's Health, Whole Women's Health Alliance, Alamo City Surgery Center PLLC d/b/a Alamo Women's Reproductive Services, Women's Medical Center PA d/b/a Brookside Women's Health Center and Austin Women's Health Center, Houston Women's Clinic, Houston Women's Reproductive Services, and Southwestern Women's Surgery Center's ("Plaintiffs") *Application for Temporary Restraining Order and Temporary Injunctive Relief* ("Application") seeking to restrain Defendants Ken Paxton, Texas Medical Board, Stephen Brint Carlton, Texas Board of Nursing, Katherine A. Thomas, Texas Health and Services Commission, Cecile Erwin Young, Texas Board of Pharmacy, Tim Tucker, Joe Gonzales, José Garza, Kim Ogg, John Creuzot, Sharon Wilson, Ricardo Rodriguez Jr., and Greg Wilson ("Defendants"), their agents, servants, employees, attorneys, and all persons in active concert and participation with Defendants from enforcing 1925 TEX. PENAL CODE ARTS. 1191-1194, 1196 (VERNON'S TEX. CIV. STATES CIVIL STATUTES ARTS. 4512.1-4512.4, 4512.6) (the "Pre-Roe Ban") against Plaintiffs, their physicians, nurses, pharmacists, and other staff. After consideration of the Application and the evidence attached thereto, and pursuant to Texas Rule of Civil Procedure 680, the Court hereby finds:

## FINDINGS

The Court finds that Texas's Pre-Roe Ban is repealed and may not be enforced consistent with the due process guaranteed by the Texas constitution. The Court further finds that the threat of enforcement of Texas's Pre-Roe Ban creates a probable, irreparable, and imminent injury for which Plaintiffs and their physicians, nurses, pharmacists, other staff, and patients throughout Texas have no adequate remedy at law if Plaintiffs, their physicians, nurses, pharmacists, and/or other staff are subjected to criminal liability or disciplinary action under the Pre-Roe Ban in the interim before House Bill 1280, 87th Leg., Reg. Sess. (Tex. 2021) (the "Trigger Ban"), goes into effect. Money damages are insufficient to remedy the injuries that will result if the Defendants are not enjoined from instituting criminal or disciplinary investigations or actions, against Plaintiffs, their physicians, nurses, pharmacists, and other staff under the Pre-Roe Ban. Conversely, the Defendants will not be harmed if the Court restrains them and anyone in active concert and participation with them from enforcing the Pre-Roe Ban against Plaintiffs, their physicians, nurses, and other staff.

The Court further finds that granting this request preserves the status quo preceding this controversy and follows precedent from the Supreme Court of Texas. *See In re Newton*, 146 S.W.3d 648, 651 (Tex. 2004); *In re Greg Abbott*, No. 21-0720, 2021 Tex. LEXIS 1195 (Tex. Aug. 26, 2021) (holding that the primary consideration for temporary emergency relief is preserving the status quo).

The Texas Attorney General's Office and Defendants José Garza, Joe Gonzales, Kim Ogg, John Creuzot, Sharon Wilson, Ricardo Rodriguez, Jr., and Greg Wilson were provided notice of the cause of action, the Application, and the hearing conducted. It clearly appears from the papers filed by Plaintiffs that they are entitled to a temporary restraining order without notice

to the remaining Defendants. Unless Defendants are immediately restrained, Plaintiffs, their physicians, nurses, pharmacists, and other staff face an imminent threat of criminal liability and disciplinary action under the Pre-Roe Ban before notice can be given and a hearing is had on Plaintiffs' Application for a Temporary Injunction and will suffer irreparable harm. Imminent judicial intervention is necessary to preserve Plaintiffs' patients' legal right to obtain, and Plaintiffs' and their physicians' legal right to provide, abortions in Texas until the Trigger Ban is in effect.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

A. A Temporary Restraining Order is entered enjoining Defendants, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, from enforcing the Pre-Roe Ban against Plaintiffs or their physicians, nurses, pharmacists, or other staff.

B. Defendants shall provide notice of this Temporary Restraining Order to their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with them.

C. This matter is scheduled for a temporary injunction hearing on the 12th day of July, 2022, at 3:30PM.

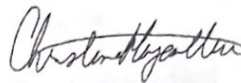
D. Plaintiffs' bond is set at \$100.00. A law firm check is sufficient to post the bond. Upon the filing of the bond required herein, the Clerk of this Court shall issue a Temporary Restraining Order in conformity with the law and the terms of this Order Granting Plaintiffs' Application for Temporary Restraining Order.

E. All parties may be served with notice of this Temporary Restraining Order and of the hearing on the request for Temporary Injunction in any manner provided under Rule 21a of the Texas Rules of Civil Procedure.

F. This temporary restraining order shall expire on July 12, 2022, at 5:00 p.m.

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_ a.m./p.m.

Signed:  
6/28/2022  
10:44 AM



JUDGE PRESIDING

Prepared By:

/s/ Melissa Hayward

Melissa Hayward  
(Texas Bar No. 24044908)  
John P. Lewis, Jr.  
(Texas Bar No. 12294400)  
Hayward PLLC  
10501 North Central Expressway, Suite 106  
Dallas, TX 75231  
jplewis@haywardfirm.com  
mhayward@haywardfirm.com

*Attorney for Plaintiffs*

Marc Hearron  
(Texas Bar No. 24050739)  
Center for Reproductive Rights  
1634 Eye St., NW, Suite 600  
Washington, DC 20006 (202) 524-5539  
mhearron@reprorights.org

Astrid Ackerman\*  
Nicolas Kabat\*  
Center for Reproductive Rights  
199 Water Street, 22<sup>nd</sup> Floor  
New York, NY 10038  
(917) 637-3631  
aackerman@reprorights.org  
nkabat@reprorights.org

Jamie A. Levitt\*  
J. Alexander Lawrence\*  
Claire N. Abrahamson\*  
Carleigh E. Zeman\*  
Morrison & Foerster LLP  
250 W. 55th Street  
New York, NY 10019  
(212) 468-8000  
jlevitt@mofo.com  
alawrence@mofo.com  
cabrahamson@mofo.com  
czeman@mofo.com

*Attorneys for Whole Woman's Health, Whole  
Woman's Health Alliance, Southwestern*

Julia Kaye\*

American Civil Liberties Union Foundation  
125 Broad Street, 18th Floor  
New York, NY 10004  
(212) 549-2633  
jkaye@aclu.org

David Donatti (Texas Bar No. 24097612)  
Adriana Pinon (Texas Bar No. 24089768)  
ACLU Foundation of Texas, Inc.  
5225 Katy Freeway, Suite 350  
Houston, TX 7700  
Tel. (713) 942-8146 Fax: (713) 942-8966  
ddonatti@aclutx.org  
apinon@aclutx.org

*Attorneys for Houston Women's Clinic*

*Women's Surgery Center, Brookside Women's  
Medical Center PA d b a Brookside Women's  
Health Center and Austin Women's Health  
Center, Alamo City Surgery Center PLLC d b a  
Alamo Women's Reproductive Services,  
Houston Women's Reproductive Services*

*\*Pro hac vice applications forthcoming*