STATE OF MICHIGAN
IN THE SUPREME COURT

SARAH MARIE MARKIEWICZ,

Plaintiff-Appellant,

Supreme Court No. 166782

Court of Appeals No. 363720

v

Macomb County CC: 2019-003236-DM

DAVID RANDAL MARKIEWICZ,

Defendant-Appellee,

AMICI CURIAE BRIEF OF AMERICAN CIVIL LIBERTIES UNION OF MICHIGAN, CENTER FOR REPRODUCTIVE RIGHTS, MICHIGAN FERTILITY ALLIANCE, PLANNED PARENTHOOD OF MICHIGAN, AND THE NATIONAL CENTER FOR LESBIAN RIGHTS

Bonsitu Kitaba-Gaviglio (P78822)
Daniel S. Korobkin (P72842)
American Civil Liberties Union
Fund of Michigan
2966 Woodward Ave.
Detroit, MI 48201
(313) 578-6824
bkitaba@aclumich.org
dkorobkin@aclumich.org

Alex Wilson (5670989)
Center for Reproductive Rights
199 Water Street
New York, NY 10038
(917) 637-3766
awilson@reprorights.org

Mark Brewer (P35661)
Goodman Acker, P.C.
17000 W. Ten Mile Road
Southfield, MI 48075
(248) 483-5000
mbrewer@goodmanacker.com

Shannon Minter (168907)
National Center for Lesbian Rights
870 Market Street, Suite 370
San Francisco, CA 94101
(415) 392-6257
sminter@nclrights.org

Counsel for Amici Curiae

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INTEREST AND IDENTITY OF AMICI CURIAE[1]

The **American Civil Liberties Union of Michigan** ("ACLU of Michigan") is the Michigan affiliate of a nationwide, nonpartisan organization with over one million members dedicated to protecting the rights guaranteed by the United States Constitution and our state constitutions. The ACLU of Michigan or its attorneys have supported or litigated hundreds of cases in Michigan's state and federal courts as a plaintiff, on behalf of plaintiffs, and as amicus curiae. Among those issues litigated are the constitutional right to reproductive freedom, the rights to procreate or not procreate, and procreation through assisted reproductive technology. See, e.g., *YWCA Kalamazoo v State of Michigan*, Court of Claims Docket No. 24-000093; *Planned Parenthood of Michigan v Attorney General*, Court of Claims Docket No. 22-000044; *Bohn v Ann Arbor Reproductive Medicine Associates, PC*, Case No. 213550, 213551, 1999 WL 33327194 (Mich App, 1999). The ACLU of Michigan was also one of three nonprofit organizations that led the citizen-initiated ballot measure, Proposal 22-3, to amend the Michigan Constitution in 2022.

The **Center for Reproductive Rights** ("the Center") is a global non-profit human rights organization working to ensure that reproductive rights are protected in law as fundamental human rights. This includes advocating for laws and policies that support all people's ability to make decisions about their reproductive lives. The Center's work on assisted reproduction—including in vitro fertilization, surrogacy, and gamete regulation—seeks to destigmatize infertility and promote equitable access to fertility care. Since its founding in 1992, the Center has litigated and appeared as amicus curiae in dozens of cases addressing critical reproductive health and constitutional issues before the United States Supreme Court and multiple state supreme courts.

[1] Pursuant to MCR 7.312(H)(5), amici curiae state that no counsel for a party authored this brief in whole or in part, nor did anyone, other than amici and their counsel, make a monetary contribution intended to fund the preparation or submission of the brief.

Michigan Fertility Alliance ("MFA") is a grassroots, citizen-led organization dedicated to advocating for families who rely on assisted reproduction and surrogacy to start or grow their families. MFA champions pro-family building policies that protect access to assisted reproduction, address infertility, support surrogacy, and protect parentage rights for children born through assisted reproduction.

Planned Parenthood of Michigan (PPMI"), which itself or through its predecessors has been in operation for at least the last one hundred years, is a not-for-profit corporation operating 14 health centers in Michigan, with headquarters in Ann Arbor. PPMI's mission is to promote healthy communities and the right of all individuals to manage their sexual health by providing reproductive health care and education, and serving as a strong advocate for reproductive justice. PPMI's health centers provide a wide range of reproductive and sexual health services to patients, including testing and treatment for sexually transmitted infections; contraception counseling and provision; HIV prevention services; pregnancy testing and options counseling; preconception counseling; gynecologic services, including menopause care; well-person exams; cervical and breast cancer screening; treatment of abnormal cervical cells; colposcopy; miscarriage management; and abortion. PPMI supported the adoption of Proposal 22-3, the Reproductive Freedom For All constitutional amendment, and has litigated to protect the right to reproductive freedom. See, e.g., *Planned Parenthood of Mich v Attorney General*, unpublished opinion of the Court of Claims, issued September 7, 2022 (Docket No. 22-000044-MM).

The **National Center for Lesbian Rights** ("NCLR") is a national nonprofit legal organization dedicated to protecting the safety and equality of lesbian, gay, bisexual, and transgender people and their families through litigation, public policy, and public education. Since its founding in 1977, NCLR has played a leading role in securing fair and equal treatment for

LGBT people and their families in cases across the country, including many about families created through assisted reproduction.

SUMMARY OF THE ARGUMENT

Amici curiae welcome this opportunity to address the Court concerning the disposition of cryopreserved (frozen) pre-embryos created through in vitro fertilization ("IVF") when the relationship between the two parties to the IVF process ends or the relationship between married parties to the IVF process terminates through divorce. The lower courts appropriately resolved this case by balancing the parties' interests, and judicial review and interpretation of the newly adopted reproductive freedom constitutional amendment, Article 1, § 28 of Michigan's 1963 Constitution, is not necessary in this case, nor would it change the outcome. Amici recognize and appreciate the emotional significance faced by both parties in this case—these are never easy cases—but the lower court did not err in its determination. This case presents a factually narrow set of circumstances limited to two people and their family-building process via IVF. Interpreting Article 1, § 28 to provide a one-size-fits-all rule to determine the zero-sum dispute in this case would be at odds with the amendment's text and purpose. There are better-suited vehicles in cases before the lower courts currently that present factual and legal questions with broader applicability and will give the Court an opportunity to guide future conduct in a wider set of circumstances. Amici respectfully request that the Court deny leave to appeal.

ARGUMENT

THE COURT SHOULD DENY LEAVE TO APPEAL

I. Applying Article 1, § 28, Would Not Change the Outcome of This Case.

A. Absent a valid, enforceable, and unambiguous contract, the Court of Appeals appropriately balanced the parties' competing interests in pre-embryo disposition.

In determining the disposition of frozen pre-embryos when the relationship between the two parties to the IVF process ends or the relationship between married parties to the IVF process terminates through divorce, state courts generally use one of three approaches: (1) contemporaneous mutual consent, (2) contract, or (3) balancing.

Applying the contemporaneous mutual consent approach leads to a frozen pre-embryo remaining frozen until the disputing parties agree on its disposition. See *Bilbao v Goodwin*, 217 A3d 977, 985 (Conn, 2019); *In re Marriage of Witten*, 672 NW2d 768, 777-778 (Iowa, 2003). Applying the contractual approach requires looking to the agreement the parties entered before receiving fertility care wherein they stipulated to the disposition of any pre-embryo(s) created and which is "presumed valid and enforceable." See, e.g., *Bilbao*, 217 A3d at 984, 992 (determining that the parties had an enforceable agreement); *Kass v Kass*, 91 NY2d 554; 696 NE2d 174 (1998) (holding that the parties' agreement controlled). Applying a balancing approach requires a court to consider and weigh the interests of both parties as they relate to the frozen pre-embryos. *Davis v Davis*, 842 SW2d 588, 603 (Tenn, 1992).

The mutual consent approach is generally disfavored by courts in other states.[2] See, e.g., *Jocelyn P v Joshua P*, 250 Md App 435, 488; 250 A3d 373 (2021); *In re Marriage of Rooks*, 429 P3d 579, 592; 2018 CO 85 (Colo, 2018); *Reber v Reiss*, 42 A3d 1131, 1136; 2012 Pa Super 86 (2012). As the Colorado Supreme Court persuasively explained, "[i]t is . . . unrealistic to think that parties who cannot reach agreement on a topic so emotionally charged will somehow reach resolution after a divorce is finalized." *Rooks*, 429 P3d at 592.

More standard is the application of the contractual approach, which first looks to the agreement the parties entered as valid and controlling unless it violates public policy. See *Jocelyn P*, 250 Md App at 469; *Bilbao*, 217 A3d at 986, 992; *Kass*, 91 NY2d at 565 (court encouraged advance directives before parties undergo fertility care "to think through possible contingencies" and to "minimize misunderstandings and maximize procreative liberty by reserving to the

[2] The lower court in this case opted not to apply the contemporaneous mutual consent approach, remarking that it is "inherently impractical." *Markiewicz v Markiewicz*, unpublished opinion of the Court of Appeals, issued December 7, 2023 (Docket No. 363720) at 9.

progenitors the authority to make what is in the first instance a quintessentially personal, private decision."); *Davis*, 842 SW2d at 598. But see *Witten*, 672 NW2d 768, 781 (rejecting this approach); *AZ v BZ*, 431 Mass 150, 159-160; 725 NE2d 1051 (2000) (noting that it would not uphold an agreement between the parties if it "would compel one donor to become a parent against his or her will"). This is consistent with best practices for informed consent to assisted reproductive technology. See American Society for Reproductive Medicine, *Informed Consent in Assisted Reproduction: An Ethics Committee Opinion* (2023) <https://www.asrm.org/practice-guidance/ethics-opinions/informed-consent-in-assisted-reproduction-an-ethics-committee-opinion-2023/> (accessed December 19, 2024).

In the absence of a controlling agreement, courts most often turn to the balancing approach—as the lower court did in this case—endeavoring to recognize and weigh the unique interests of the disputing parties, see, e.g., *Jocelyn P*, 250 Md App at 446; *Rooks*, 429 P3d at 593-594; *Davis*, 842 SW2d at 603-604. *Markiewicz*, unpub op at 8-9, quoting *Jessee v Jessee*, 74 Va App 40, 53; 866 SE2d 46 (2021). Balancing the disputing parties' interests is a common and equitable approach to determining the disposition of pre-embryos in this scenario. Under the balancing approach, courts use procreational autonomy as the overarching principle by which to assess the parties' interests. This approach contemplates the parties' interests in achieving or avoiding legal, genetic, and gestational parenthood. Balancing the interests of both parties demands that a court consider each party's constitutional rights, which include the right to procreate and the right *not* to procreate. See *Eisenstadt v Baird*, 405 US 438; 92 S Ct 1029; 31 L Ed 2d 349 (1972).

When balancing competing rights, a court should weigh the burdens that the various possible resolutions of the dispute would place on each party. As the Tennessee Supreme Court

pointed out in *Davis v Davis*—the leading case on establishing the balancing framework (and discussed in greater detail below)—this evaluation must begin by focusing on the possible outcomes that would infringe on each of the party's rights to procreational autonomy. *Davis*, 842 SW2d at 603. As set forth below, because allowing the pre-embryo to be transferred to a party's uterus will always infringe upon the objecting party's right to not become a parent if a pregnancy results and a child is born, while disallowing a transfer will not, in most circumstances, nullify the other party's ability to become a parent by other means, the balance should generally weigh in favor of the party wishing to avoid procreation. Here, appellee consented to the pre-embryo's use for the purpose of trying to become pregnant within the marriage, and after dissolution of the marriage, appellee asked this court and the lower courts for the pre-embryo to be discarded or donated to science because the marriage is dissolved. To find otherwise would impose affirmative, irrevocable, and lifelong emotional attachments and moral responsibilities as well as substantial obligations on appellee to become a parent to another child.

No matter which approach a court has applied in the cases discussed herein, no state high court has allowed one party's procreative use over the objection of the other. See e.g., *Davis*, 842 SW2d at 598; *Bilbao*, 217 A3d at 985; *Rooks*, 429 P3d at 592. These decisions clearly demonstrate an averseness to allow one party's interest in becoming a genetic parent to override the other party's right to procreational autonomy, including avoiding becoming a parent.

Appellant argues that granting the remaining frozen pre-embryo to the appellee would discriminatorily create a de facto rule in favor of men wishing to avoid parenthood. Appellant's Br at 40. Finding that the balance tips in favor of the person who does not want to procreate is not sex discrimination, as people of different genders assert the right to not procreate. See, e.g., *JB v MB*, 170 NJ 9; 783 A2d 707 (2001) (former wife seeking to avoid genetic parenthood). Indeed,

people of any gender may have a constitutional interest in not having their genetic material used against their wishes and will in another person's attempted pregnancy.

B. The Court of Appeals finding in favor of the party wishing to avoid genetic parenthood was fair and equitable.

Courts across jurisdictions have examined conflicting procreational autonomy claims, balanced competing parties' interests and factual assertions, and consistently held that the right not to procreate outweighs the right to procreate except in exceptional circumstances. In *Davis v Davis*, the Tennessee Supreme Court found that one individual's constitutional right to avoid genetic parenthood outweighed another individual's right to use or donate the pre-embryos for procreation. *Davis*, 842 SW2d at 604. The *Davis* court faced the exact clash of rights involved here: how to resolve a dispute between two individuals about the disposition of frozen pre-embryos in the absence of a prior directive explicitly settling the question. The Tennessee Supreme Court remarked that while it recognized the hardships the ex-wife had experienced undergoing IVF care, "she would have a reasonable opportunity, through IVF, to try once again to achieve parenthood in all its aspects—genetic, gestational, bearing, and rearing." *Id*. It noted further that, were the ex-wife unable or unwilling to seek IVF care again, "she could still achieve the child-rearing aspects of parenthood through adoption." *Id*. But in general, the court concluded, "the party wishing to avoid procreation should prevail." *Id*. In so finding, the court held that "any disposition which results in the gestation of the pre[-]embryos would impose unwanted parenthood . . . with all of its possible financial and psychological consequences." *Id*. at 603. The court recognized the presumption not as a brightline rule, but one that could involve a possible exception given that multiple competing rights were at stake.

In *AZ v BZ*, two parties had entered multiple agreements over the course of multiple IVF cycles, each of which included a clause giving one individual dispositional authority over any

remaining frozen pre-embryos. 431 Mass 150. But the agreements included additional vague language surrounding the dispositional authority question, and the Massachusetts Supreme Judicial Court expressed skepticism about how the multiple agreements affected the dispute. The court ultimately held that circumstances had changed substantially since the parties entered their initial agreement and that the individual who wished to avoid genetic and legal parenthood should prevail. *Id*. at 160. Notably, the court held that "even had the husband and the wife entered into an unambiguous agreement between themselves" regarding the frozen pre-embryos, the court "would not enforce an agreement that would compel" one of the parties to "become a parent against his or her will." *Id*. The court further held that, "as a matter of public policy, we conclude that forced procreation is not an area amenable to judicial enforcement." *Id*. This public policy "enhances the freedom of personal choice in matters of marriage and family life." *Id*. at 162 (internal quotations omitted). See also *Kotkowski-Paul v Paul*, 2022-Ohio-4567; 204 NE3d 66 (Ohio App, 2022).

In *JB v MB*, a divorced couple disagreed about the disposition of seven frozen pre-embryos they had created through IVF. 170 NJ 9. One party wished for the frozen pre-embryos to be "implanted or donated to other infertile couples." *Id*. at 14. The other party alleged that she had only ever intended for the pre-embryos to be used within the couple's marriage and sought destruction of the pre-embryos. *Id*. Focusing its analysis on New Jersey public policy, recognizing that individuals should not be bound by agreements requiring them to enter into or terminate familial relationships, the New Jersey Supreme Court sided with the party seeking to avoid parenthood, remarking that her "right not to procreate may be lost through attempted use or through donation of the pre-embryos" and, if any of the pre-embryos led to a pregnancy, it could "result in the birth of her biological child and could have life-long emotional and psychological

repercussions." *Id*. at 25. The court thereby firmly rejected the outcome that could result in a party's legal and genetic parenthood "against her will." *Id*. at 26.

Consistent through all of these cases is the recognition that an individual's right to avoid parenthood, regardless of gender or initial intentions upon entering an IVF agreement, should prevail when balancing the parties' interests, absent extenuating circumstances.

C. The Court of Appeals correctly held that Article 1, § 28 does not provide a dispositive rule for adjudicating the competing procreative rights claims at issue in this dispute.

Procreative freedom has a lengthy constitutional pedigree and is firmly grounded in the text of Michigan's 1963 Constitution. Michigan's 1963 Constitution provides this Court with guidance for cases implicating the right to reproductive freedom.

The right to personal autonomy and reproductive freedom is reflected in several sections of Michigan's 1963 Constitution. The Declaration of Rights includes section 1, resting all political power in the people; section 2, granting the people equal protection of the laws and freedom from discrimination; section 3, protecting the right to assembly; section 4, guaranteeing freedom of worship; section 5, guaranteeing freedom of speech and press; section 11, prohibiting unreasonable searches and seizures; section 16 protecting against cruel or unusual punishment; and most salient, section 28, guaranteeing the right to reproductive freedom. The right to bodily autonomy has also been recognized by Michigan courts through the years. See *Mays v Governor*, 506 Mich 157, 192; 954 NW2d 139 (2020) (recognizing the constitutional right to bodily autonomy); *Planned Parenthood of Michigan v Attorney General*, unpublished opinion of the Court of Claims, issued September 7, 2022 (Docket No. 22-000044-MM), pp 27, 33 (finding that Michigan's abortion ban violates abortion patients' fundamental right to bodily integrity and unjustifiably burdens different

classes of pregnant women in violation of the state constitution's Equal Protection Clause) (attached as Ex 1).

Article 1, § 28 of Michigan's 1963 Constitution provides that "[e]very individual has a fundamental right to reproductive freedom." Const 1963, art 1, § 28. That right "entails the right to make and effectuate decisions about *all* matters relating to pregnancy. . . ." *Id*. (emphasis added). Article 1, § 28 guarantees that every person can make and exercise their right to reproductive freedom without government intrusion or discrimination, and only permits such an intrusion if it is for the narrow purpose of protecting patient health, consistent with the standard of practice, and only when it does not infringe on the person's autonomy. *Id*. at § 28(1), (4). The Michigan Constitution thus protects a person's right to make and bring about the decision to procreate, for example, through childbirth or IVF. And the Michigan Constitution equally protects a person's right to effectuate a decision to prevent procreation, for example, through contraception or abortion. The right to procreate, and the right not to procreate, are thus both fundamental constitutional guarantees consisting of several related interests.[3]

This right to reproductive freedom can be understood only as giving both appellant and appellee a fundamental right to make decisions regarding the process of IVF and the resulting pre-embryos. Ultimately, it is a question about whether the parties will become parents. *Davis*, 842 SW2d at 598. Because both parties' rights are equally grounded in the Michigan Constitution, resolving the conflict between the parties in this context requires balancing the burdens imposed on each party by exercise of the other's right.

[3] Whether or not Article 1, § 28 is retroactive is not dispositive because both parties enjoyed the right to reproductive freedom when making IVF decisions under the Michigan Constitution, both as it existed prior to the effective date of Article 1, § 28, and currently.

Based on the law summarized above, the court below appropriately resorted to a balancing test, as have other jurisdictions resolving such disputes—including jurisdictions with broad state constitutional reproductive rights provisions. See *EB v RN*, 2024-Ohio-1455, ¶ 18; 242 NE3d 791 (Ohio App, 2024), *appeal not allowed*, 175 Ohio St 3d 1489; 2024-Ohio-4942; 243 NE3d 1290 (2024). In *EB v RN*, the Ohio Supreme Court denied leave to appeal in a pre-embryo dispute case, leaving in place a court of appeals decision employing a balancing test upon its determination that Ohio's reproductive freedom amendment[4] does not compel a particular outcome in a dispute where two parties contributed genetic material to a pre-embryo.[5] 175 Ohio St 3d 1489 (declining to hear appeal); 2024-Ohio-1455 at ¶¶ 16-20 (employing balancing test after concluding the state's reproductive freedom amendment did not control outcome in the case). The Court of Appeals also correctly concluded that even assuming state action, applying the reproductive freedom amendment to the facts of this case would not necessarily change the outcome.

II. This Case Is Not the Appropriate Vehicle to Interpret and Apply Article 1, § 28 of Michigan's 1963 Constitution for the First Time.

As with most courts of last resort, this Court should refrain from addressing the interpretation and applicability of Article 1, § 28 for the first time because no manifest injustice

[4] Ohio's reproductive rights amendment contains similar language to Michigan's reproductive rights amendment. Compare Ohio Const, art 1, § 22(1) ("Every individual has a right to make and carry out one's own reproductive decisions, including but not limited to decisions on contraception, fertility treatment, continuing one's own pregnancy, miscarriage care, and abortion.") with Mich Const 1963, art 1, § 28(1) ("Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.").

[5] Amici do not take a position as to whether the ultimate conclusion reached by the Ohio Court of Appeals in *EB v RN* is correct. Amici point to the limited conclusion that the reproductive rights amendment did not control the outcome of the dispute, and the Ohio Supreme Court's decision to let that conclusion stand, as an example of a course of action this Court might take.

would result if the court declined review, and because there are cases percolating in the lower courts that involve factual and legal questions that have broader applicability.

In 2022, the United States Supreme Court revoked the federal right to abortion in *Dobbs v Jackson Women's Health Organization*, 597 US 215; 142 S Ct 2228; 213 L Ed 2d 545 (2022), overruling almost fifty years of precedent recognizing and protecting that right since *Roe v Wade*, 410 US 113, 93 S Ct 705, 35 L Ed 2d 147 (1973). In doing so, the Court purported to "return" the authority to regulate abortion to "the people and their elected representatives" in each of the 50 states. *Dobbs*, 597 US at 259. As a result of *Dobbs*, Michiganders faced the prospect that, for the first time in generations, they may have only state law and the Michigan Constitution to protect their reproductive freedom. But state law was restrictive at the time, and an amendment to the state constitution was the only vehicle to protect reproductive freedom long-term. The voters of Michigan responded resoundingly in the streets and at the polls, gathering a record number of signatures to place a proposed constitutional amendment on the ballot in November 2022 that would make clear that, in Michigan, the constitution protects everyone's right to bodily autonomy and to make the reproductive choices that are best for them and their families without government intrusion. Michigan voters overwhelmingly voted to pass the constitutional amendment.[6] Article 1, § 28, effective December 24, 2022, protects the right to make decisions related to the full spectrum of reproductive health care, not just abortion: "Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care,

[6] Wells, *Proposal 3 Passes, Enshrines Abortion Rights in Michigan Constitution*, Michigan Radio (November 9, 2022) <https://www.michiganpublic.org/politics-government/2022-11-09/proposal-3-passes-enshrines-abortions-rights-in-michigan-constitution> (accessed December 19, 2024).

contraception, sterilization, abortion care, miscarriage management, and infertility care." Const 1963, art 1, § 28(1).

Because of its recent adoption, only two cases have been brought under Article 1, § 28 seeking to enforce the right to reproductive freedom. See *The Young Women's Christian Ass'n of Kalamazoo v State of Michigan et al*, Court of Claims Docket No. 24-000093-MM (challenging the state Medicaid program's exceptional denial of coverage for most abortion patients); *Northland Family Planning Center v Nessel*, unpublished opinion of the Court of Claims, issued June 25, 2024 (Docket No. 24-000011-MM) (challenging the state's targeted restrictions of abortion providers, including mandatory waiting period and biased counseling requirements) (attached as Ex 2).

Litigation of these cases will likely—at a minimum—involve considerable party presentation and judicial analysis of the amendment's context, purpose, and scope, which may assist this Court in determining future questions of law related to pre-embryo disputes. This Court should not now, for the first time, decide a novel issue such as the application of Article 1, § 28 because, as explained in Section I above, the lower court appropriately considered each party's constitutional rights to procreate and not procreate, and no manifest injustice would abound if the lower court's decision were left intact. This Court grants review sparingly, and an application for leave to appeal may only be granted if it presents a circumstance listed in MCR 7.305(B). While the interpretation and applicability of Article 1, § 28 for the first time is an issue that involves "a legal principle of major significance to the state's jurisprudence," this case is not the right vehicle to make those determinations. The cases still percolating in the lower courts will give the Court a better opportunity to interpret the amendment's meaning and apply it to a wider range of cases, including future disputes over embryo disposition.

CONCLUSION

Amici recognize and appreciate the stakes of this dispute for both parties to this case: every determination in a pre-embryo dispute implicates possible emotional difficulty based on permanent events. The lower court did not err in its course of action, however, and appropriately balanced the parties' interests in this case. Absent a valid, enforceable, and unambiguous contract, the Court of Appeals appropriately balanced the parties' competing interests in determining the disposition of the pre-embryo and acted within its authority to hold that the appellee's right not to procreate should outweigh the appellant's right to procreate. Further judicial review and interpretation of the newly adopted reproductive freedom amendment, Article 1, § 28 of Michigan's 1963 Constitution, should not alter the outcome. The Court should await better-suited cases to address for the first time the scope and meaning of Article 1, § 28. For these reasons, amici respectfully request the Court deny leave to appeal.

Respectfully submitted,

/s/Bonsitu Kitaba-Gaviglio
Bonsitu Kitaba-Gaviglio (P78822)
Daniel S. Korobkin (P72842)
American Civil Liberties Union
Fund of Michigan
2966 Woodward Ave.
Detroit, MI 48201
(313) 578-6824
bkitaba@aclumich.org
dkorobkin@aclumich.org

Alex Wilson (5670989)
Center for Reproductive Rights
199 Water Street
New York, NY 10038
(917) 637-3766
awilson@reprorights.org

Mark Brewer (P35661)
Goodman Acker, P.C.
17000 W. Ten Mile Road

Southfield, MI 48075
(248) 483-5000
mbrewer@goodmanacker.com

Shannon Minter (168907)
National Center for Lesbian Rights
870 Market Street, Suite 370
San Francisco, CA 94101
(415) 392-6257
sminter@nclrights.org

Counsel for Amici Curiae

December 20, 2024

WORD COUNT STATEMENT

Pursuant to MCR 7.212(B)(3), I hereby certify that this document contains 3,756 countable words, based upon the word count of the word processing system used to prepare the brief.

Respectfully submitted,

/s/ Bonsitu Kitaba-Gaviglio
Bonsitu Kitaba-Gaviglio (P78822)

Dated: December 20, 2024