

the paragraph accurately quote language in the Amendment. Any allegation asserting any description, summary, or characterization of the Amendment beyond its express language is a legal conclusion to which no response is required at this stage in the litigation.

3. In response to paragraph 3 of the Complaint, the State admits that in this litigation Plaintiffs purport to challenge 2019 Am.Sub.S.B. No. 23 (“S.B. 23”), which is attached to the Complaint. The State also admits that a federal-court injunction blocked enforcement of the law until June 24, 2022. Any allegation asserting any description, summary, or characterization of S.B. 23 beyond its express language is a legal conclusion to which no response is required at this stage in the litigation. The State denies the remaining allegations in paragraph 3.

4. In response to paragraph 4 of the Complaint, the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

5. In response to paragraph 5 of the Complaint, the State admits that Plaintiffs obtained preliminary injunctive relief in this case, and that Plaintiffs seek the relief stated in their Complaint. The remainder of the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

BACKGROUND

6. In response to paragraph 6 of the Complaint, the State admits the Ohio General Assembly passed S.B. 23, which speaks for itself, on April 11, 2019. Any allegation asserting any description, summary, or characterization of S.B. 23 beyond its express language is a legal conclusion to which no response is required at this stage in the litigation. The State further admits that embryonic cardiac activity occurs at approximately six weeks gestation. The article cited in paragraph 6 speaks for itself.

7. In response to paragraph 7 of the Complaint, the State admits that in *Preterm-*

Cleveland v. Yost, No. 1:19-cv-00360 (S.D. Ohio), plaintiffs challenged S.B. 23, and a federal court issued an injunction on July 3, 2019, and vacated the injunction on June 24, 2022, following the U.S. Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*.

8. In response to paragraph 8 of the Complaint, the State responds that Plaintiffs’ filings in this litigation speak for themselves.

9. In response to paragraph 9 of the Complaint, the State admits that the Court issued and extended a temporary restraining order in this litigation on the dates alleged and issued a preliminary injunction following a hearing. The Court’s orders speak for themselves.

10. The State denies the allegations in paragraph 10.

11. The State denies the allegations in paragraph 11.

12. In response to paragraph 12 of the Complaint, the State denies for lack of knowledge the allegations related to the closing of WMGPC’s clinic which require the assumption of events over which neither the court nor the parties have control. The State denies the remaining allegations in paragraph 12.

13. In response to paragraph 13 of the Complaint, the State admits that the preliminary injunction in this litigation is still in effect today. The remainder of the paragraph identifies relief the Plaintiffs seek in this litigation, to which no response is required.

PARTIES

14. In response to paragraph 14 of the Complaint, the State admits that Plaintiff Preterm-Cleveland (“Preterm”) is a nonprofit corporation organized under the laws of the State of Ohio that provides abortions. Any allegation asserting any description, summary, or characterization of S.B. 23 beyond its express language is a legal conclusion to which no response is required at this stage in the litigation. The State denies for lack of knowledge the remainder of the allegations in this paragraph.

15. In response to paragraph 15 of the Complaint, the State admits that Plaintiff Planned Parenthood Southwest Ohio Region (“PPSWO”) is a nonprofit corporation organized under the laws of the State of Ohio and that PPSWO operates an Ambulatory Surgical Facility in Cincinnati. Any allegation asserting any description, summary, or characterization of S.B. 23 beyond its express language is a legal conclusion to which no response is required at this stage in the litigation. The State denies for lack of knowledge the remainder of the allegations in this paragraph.

16. In response to paragraph 16 of the Complaint, the State admits that Plaintiff Sharon Liner, M.D., is a physician licensed to practice medicine in Ohio. Any allegation asserting any description, summary, or characterization of S.B. 23 beyond its express language is a legal conclusion to which no response is required at this stage in the litigation. The State denies for lack of knowledge the remainder of the allegations in this paragraph.

17. In response to paragraph 17 of the Complaint, the State admits that Plaintiff Planned Parenthood of Greater Ohio (“PPGOH”) is a nonprofit corporation organized under the laws of the State of Ohio that operates Ambulatory Surgical Facilities in East Columbus and Bedford Heights. Any allegation asserting any description, summary, or characterization of S.B. 23 beyond its express language is a legal conclusion to which no response is required at this stage in the litigation. The State denies for lack of knowledge the remainder of the allegations in this paragraph.

18. In response to paragraph 18 of the Complaint, the State admits that Plaintiff Women's Med Group Professional Corporation (“WMGPC”) owns and operates Women's Med Center of Dayton (“WMCD”) in Kettering, Ohio. Any allegation asserting any description, summary, or characterization of S.B. 23 beyond its express language is a legal conclusion to which no response is required at this stage in the litigation. The State denies for lack of knowledge the remainder of

the allegations in this paragraph.

19. In response to paragraph 19 of the Complaint, the State admits that Plaintiff Northeast Ohio Women’s Center, LLC (“NEOWC”), a corporation organized under the laws of the State of Ohio, operates Ambulatory Surgical Facilities in Shaker Heights and Cuyahoga Falls, and also owns and operates Toledo Women’s Center (“TWC”) in Toledo, Ohio. Any allegation asserting any description, summary, or characterization of S.B. 23 beyond its express language is a legal conclusion to which no response is required at this stage in the litigation. The State denies for lack of knowledge the remainder of the allegations in this paragraph.

20. In response to paragraph 20 of the Complaint, the State admits that Dave Yost is the Attorney General of Ohio and is sued in his official capacity. The remainder of the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

21. In response to paragraph 21 of the Complaint, the State admits that Bruce T. Vanderhoff, M.D., M.B.A., is the director of the Ohio Department of Health and is sued in his official capacity. The remainder of the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

22. In response to paragraph 22 of the Complaint, the State admits that Kim G. Rothermel, M.D., is the Secretary of the State Medical Board of Ohio and is sued here in her official capacity. The remainder of the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

23. In response to paragraph 23 of the Complaint, the State admits that Harish Kakarala, M.D., is the Supervising Member of the State Medical Board of Ohio and is sued here in his official capacity. The remainder of the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

24. In response to paragraph 25 of the Complaint, the State admits that Michael C. O'Malley is the Cuyahoga County Prosecutor and is sued in his official capacity and that Preterm's clinic, NEOWC's Shaker Heights clinic, and PPGOH's Bedford Heights health center are located in Cuyahoga County. The remainder of the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

25. In response to paragraph 25 of the Complaint, the State admits that Melissa A. Powers is the Hamilton County Prosecutor and is sued in her official capacity and that PPSWO's Cincinnati surgery center is located in Hamilton County. The remainder of the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

26. In response to paragraph 26 of the Complaint, the State admits that G. Gary Tyack is the Franklin County Prosecutor and is sued in his official capacity and that PPGOH's East Columbus health center is located in Franklin County. The remainder of the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

27. In response to paragraph 27 of the Complaint, the State admits that Mathias H. Heck Jr. is the Montgomery County Prosecutor and is sued in his official capacity and that WMGPC's facility is located in Montgomery County. The remainder of the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

28. In response to paragraph 28 of the Complaint, the State admits that Julia R. Bates is the Lucas County Prosecutor and is sued in her official capacity and that TWC is located in Lucas County. The remainder of the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

29. In response to paragraph 29 of the Complaint, the State admits that Sherri Bevan Walsh is the Summit County Prosecutor and is sued in her official capacity and that NEOWC's

Cuyahoga Falls facility is located in Summit County. The remainder of the paragraph asserts legal conclusions to which no response is required at this stage in the litigation.

JURISDICTION AND VENUE

30. Paragraph 30 asserts legal conclusions to which no response is required at this stage in the litigation.

31. In response to paragraph 31 of the Complaint, the State admits that venue is proper in Hamilton County. The remainder of paragraph 31 contains legal conclusions to which no response is required at this stage in the litigation.

FACTUAL ALLEGATIONS

32. In response to paragraph 32 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, which contain vague and undefined assertions related to the nature, quantity, and prevalence of abortion and generalizations, characterizations, or conclusions unsupported by more specific allegations.

33. In response to paragraph 33 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, which contain alleged facts known only to third parties and generalizations, characterizations, or conclusions unsupported by more specific allegations.

34. In response to paragraph 34 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, which contain alleged facts known only to third parties and generalizations, characterizations, or conclusions unsupported by more specific allegations.

35. In response to paragraph 35 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, which contain alleged facts known only to third parties and generalizations, characterizations, or conclusions unsupported by

more specific allegations.

36. In response to paragraph 36 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, which contain alleged facts known only to third parties and generalizations, characterizations, or conclusions unsupported by more specific allegations.

37. In response to paragraph 37 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, which contain vague and undefined assertions related to the nature, quantity, and prevalence of abortion and generalizations, characterizations, or conclusions unsupported by more specific allegations.

38. In response to paragraph 38 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, which contain vague and undefined assertions related to the nature, quantity, and prevalence of abortion and generalizations, characterizations, or conclusions unsupported by more specific allegations.

39. In response to paragraph 39 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, which contain vague and undefined assertions related to the nature, quantity, and prevalence of pregnancy and abortion and contain generalizations, characterizations, or conclusions unsupported by more specific allegations.

40. In response to paragraph 40 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein, which contain vague and undefined assertions related to the nature, quantity, and prevalence of pregnancy and abortion and contain generalizations, characterizations, or conclusions unsupported by more specific allegations.

41. In response to paragraph 42 of the Complaint, the State admits the allegations contained in this paragraph but denies any generalizations or characterizations of same.

42. In response to paragraph 42 of the Complaint, the State admits that a medical condition caused or exacerbated by pregnancy, such as diabetes, hypertension, asthma, heart disease, an autoimmune disorder, or renal disease, increases the risk of medical complications in pregnancy. In response to the remaining allegations in paragraph 41 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein.

43. In response to paragraph 43 of the Complaint, the State admits that the statistics alleged in paragraph 41 of the Complaint are accurately reflected as published in the Ohio Health Department Report referenced in this paragraph, which speaks for itself, but deny any generalizations or characterizations of the same. In response to the remaining allegations in paragraph 41 of the Complaint, the State lacks first-hand knowledge at this stage of the litigation to admit the factual allegations therein.

44. In response to paragraph 44 of the Complaint, the State admits that the statistics alleged in paragraph 42 of the Complaint are accurately reflected as published in the Ohio Health Department Report referenced in this paragraph, which speaks for itself, but deny any generalizations or characterizations of the same.

45. Paragraph 45 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

46. Paragraph 46 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

47. Paragraph 47 states legal conclusions to which no response is required at this stage in the litigation. By way of further response, R.C. 2919.16 speaks for itself.

48. The first sentence in paragraph 48 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. The State denies for lack of knowledge the second sentence in this paragraph.

49. Paragraph 49 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. R.C. 2929.14 and 2929.18 speak for themselves. The State admits that on July 14, 2022, Ohio Attorney General Dave Yost published an explainer relating to S.B. 23, which speaks for itself, and the State denies any summary or characterization of the explainer inconsistent with the language therein. The State denies for lack of knowledge the remainder of paragraph 49.

50. Paragraph 50 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. The statutory provisions cited therein speak for themselves.

51. Paragraph 51 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. The statutory provisions cited therein speak for themselves.

52. Paragraph 52 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. The statutory provisions cited therein speak for themselves.

53. Paragraph 53 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. The statutory provisions cited therein speak for themselves.

54. The State denies for lack of knowledge the allegations in paragraph 54.

55. The State denies for lack of knowledge the allegations in paragraph 55.

56. The State denies for lack of knowledge the first sentence in paragraph 56. The last sentence repeats an allegation in paragraph 4, which the State answered in paragraph 4 of this Answer. The remainder of paragraph 56 states legal conclusions to which no response is required at this stage of the litigation.

57. The State denies for lack of knowledge the allegations in paragraph 57.

58. The State denies for lack of knowledge the allegations in paragraph 58.

59. The State denies for lack of knowledge the allegations in the first sentence of paragraph 59. The remainder of paragraph 59 states legal conclusions to which no response is required at this stage of the litigation. Further, R.C. 2317.56 speaks for itself.

60. Paragraph 60 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. Further, R.C. 9.04, R.C. 3901.87, and R.C. 5101.56 speak for themselves.

61. The State denies for lack of knowledge the allegations in paragraph 61.

62. The State denies for lack of knowledge the allegations in paragraph 62 and denies any allegation regarding generalized consequences of S.B. 23.

63. The State denies for lack of knowledge the allegations in paragraph 63.

64. The State denies for lack of knowledge the allegations in paragraph 64.

65. The State denies for lack of knowledge the allegations in paragraph 65.

66. The State denies for lack of knowledge the allegations in paragraph 66.

67. The State denies for lack of knowledge the factual allegations in paragraph 67. The remainder of paragraph 67 states legal conclusions to which no response is required at this stage of the litigation. By way of further response, Ky. Rev. Stat. § 311.772; W. Va. Code § 16-2R-1 et seq. speak for themselves.

68. The State denies for lack of knowledge the allegations in paragraph 68.

69. The State denies for lack of knowledge the allegations in paragraph 69.

70. The State denies for lack of knowledge the allegations in paragraph 70.

71. The State denies for lack of knowledge the allegations in paragraph 71.

72. The State denies for lack of knowledge the allegations in paragraph 72.

73. The State denies for lack of knowledge the allegations in paragraph 73.

74. The State admits the allegations in paragraph 74.

75. The State admits the allegations in paragraph 75.

76. Paragraph 76 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, the Amendment speaks for itself.

77. Paragraph 77 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, the Amendment speaks for itself.

78. Paragraph 78 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, the Amendment speaks for itself.

79. In response to paragraph 79 of the Complaint, the State admits that on October 5, 2023, Ohio Attorney General Dave Yost published a legal analysis regarding the Amendment, which analysis speaks for itself, and the State denies any summary or characterization inconsistent with the language of the analysis.

80. In response to paragraph 80 of the Complaint, the State admits that on October 5, 2023, Ohio Attorney General Dave Yost published a legal analysis regarding the Amendment, which analysis speaks for itself, and the State denies any summary or characterization inconsistent with the language of the analysis.

CLAIMS FOR RELIEF

COUNT 1—Right to Reproductive Freedom

81. The State realleges and incorporates by reference all answers to preceding paragraphs as if fully written here.

82. Paragraph 82 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, the Amendment speaks for itself.

83. Paragraph 83 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, the Amendment speaks for itself.

84. Paragraph 84 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, the Amendment speaks for itself.

85. Paragraph 85 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

86. Paragraph 86 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

87. Paragraph 87 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

88. Paragraph 88 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

COUNT II—Due Course of Law

89. The State realleges and incorporates by reference all answers to preceding paragraphs as if fully written here.

90. Paragraph 90 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

91. Paragraph 91 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

92. Paragraph 92 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

93. Paragraph 93 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

94. Paragraph 94 of the Complaint states legal conclusions to which no response is

required at this stage of the litigation.

COUNT III—Equal Protection and Benefit

95. The State realleges and incorporates by reference all answers to preceding paragraphs as if fully written here.

96. Paragraph 96 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

97. Paragraph 97 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

98. Paragraph 98 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

99. Paragraph 99 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

100. Paragraph 100 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

COUNT IV—Void for Vagueness

101. The State realleges and incorporates by reference all answers to preceding paragraphs as if fully written here.

102. Paragraph 102 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

103. Paragraph 103 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

COUNT V—Void *Ab Initio*

104. The State realleges and incorporates by reference all answers to preceding paragraphs as if fully written here.

105. Paragraph 105 of the Complaint states legal conclusions to which no response is required at this stage of the litigation. By way of further response, *Casey* speaks for itself.

106. Paragraph 106 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

COUNT VI—Declaratory Judgment

107. The State realleges and incorporates by reference all answers to preceding paragraphs as if fully written here.

108. Paragraph 108 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

109. Paragraph 109 of the Complaint states legal conclusions to which no response is required at this stage of the litigation.

110. In response to paragraph 110 of the Complaint, the State denies that Plaintiffs are entitled to the declaratory relief specified therein.

111. In response to the Prayer for Relief in the Complaint, the State denies that Plaintiffs are entitled to the declaratory relief specified therein.

112. The State denies any allegations in the Complaint not expressly admitted herein.

FIRST DEFENSE

Plaintiffs fail to state any claim upon which relief can be granted, because the various challenged provisions of Ohio statutory law do not violate the Ohio or U.S. Constitutions, and/or because Plaintiffs seek relief broader than any relief to which Plaintiffs would be entitled even if narrower relief were warranted by any of their claims.

SECOND DEFENSE

Plaintiffs do not show a live justiciable controversy, for lack of standing and other reasons, especially as to distinct provisions of the bill that will not affect them, and as to

constitutional provisions that are no longer relevant in light of Ohio's new Amendment.

THIRD DEFENSE

Plaintiffs cannot assert the standing or claims of others.

FOURTH DEFENSE

Plaintiffs have failed to join necessary parties.

FIFTH DEFENSE

Plaintiffs do not allege a cognizable injury.

SIXTH DEFENSE

Plaintiffs are unable to establish the elements required for injunctive relief.

SEVENTH DEFENSE

Plaintiffs are unable to establish the elements required for declaratory relief.

ELEVENTH DEFENSE

To the extent that Plaintiffs' claims for relief could be construed as claims for money damages, those must be dismissed because such claims cannot be asserted against the State of Ohio outside of the Ohio Court of Claims.

RESERVATION OF ADDITIONAL DEFENSES

The State Defendants reserve the right to supplement their Answer with additional defenses, including affirmative defenses, as litigation in this matter proceeds.

Thus, having fully answered Plaintiffs' First Amended Complaint, the State requests that the Court dismiss Plaintiffs' Complaint, with prejudice, and that the State receive reasonable costs and fees in defending this suit, and all other relief the Court deems just and equitable.

Respectfully Submitted,

DAVE YOST (0056290)

ATTORNEY GENERAL OF OHIO

/s/ Amanda L. Narog

AMANDA L. NAROG (093954)*

**Counsel of Record*

ANDREW D. MCCARTNEY (0099853)

Assistant Attorneys General

30 East Broad Street, 17th Floor

Columbus, Ohio 43215

Tel: (614) 995-0326 | Fax: (855) 669-2155

Amanda.Narog@OhioAGO.gov

Andrew.McCartney@OhioAGO.gov

*Counsel for Defendants Attorney General
Dave Yost, Director Bruce Vanderhoff, Kim
Rothermel, and Bruce Saferin*

CERTIFICATE OF SERVICE

I certify the foregoing was served upon the following via electronic mail this 2nd day of

February, 2024:

Alan E. Schoenfeld
Michelle Nicole Diamond
Wilmer Cutler Pickering Hale and Dorr LLP
7 World Trade Center
New York, NY 10007
Telephone: (212) 230-8800
alan.schofeld@wimerhale.com
michelle.dimond@wimerhalcom

Davina Pujari
Christopher A. Rheinheimer
Wilmer Cutler Pickering Hale and Dorr LLP
One Front Street
San Francisco, CA 94111
Telephone: (628) 235-1000
davina.pujari@wilmerhale.com
chris.rheinheimer@wilmerhale.com

Allyson Slater
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109
Telephone: (617) 526-6000
allyson.slater@wilmerhale.com

B. Jessie Hill (0074770)
Freda J. Levenson (0045916)
Rebecca Kendis (0099129)
ACLU of Ohio Foundation
4506 Chester Ave.
Cleveland, OH 44103
Telephone: (216) 368-0553 (Hill)
(614) 586-1972 (Levenson)
Fax: (614) 586-1974
bjhll@cwru.edu
flevenson@acluohio.org
rebecca.kendis@case.edu

Meagan Burrows
American Civil Liberties Union
125 Broad St., 18th Fl.
New York, NY, 10004
Tel: 212-549-2601
mburrows@aclu.org

Melissa Cohen
Sarah MacDougall
Planned Parenthood Federation of
America
123 William Street, Floor 9
New York, NY 10038
Telephone: (212) 541-7800
Fax: (212) 247-6811

/s/Amanda L. Narog
AMANDA L. NAROG (093954)
**Counsel of Record*

