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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Honorable Daniel Coble, Circuit Court Judge

Appellate Case No. 2024-000997

PLANNED PARENTHOOD SOUTH ATLANTIC, on behalf of itself, its patients,
and its physicians and staff; KATHERINE FARRIS, M.D., on behalf of herself and
her patients; TAYLOR SHELTON,
.....*Appellants,*

v.

SOUTH CAROLINA; ALAN WILSON, in his official capacity as Attorney General
of South Carolina; EDWARD SIMMER, in his official capacity as Interim Director of
the South Carolina Department of Public Health; ANNE G. COOK, in her official
capacity as President of the South Carolina Board of Medical Examiners; GEORGE S.
DILTS, in his official capacity as a Member of the South Carolina Board of Medical
Examiners; MARCELO HOCHMAN, in his official capacity as a Member of the South
Carolina Board of Medical Examiners; RICHARD HOWELL, in his official capacity
as a Member of the South Carolina Board of Medical Examiners; ROBERT
KOSCIUSKO, in his official capacity as a Member of the South Carolina Board of
Medical Examiners; THERESA MILLS-FLOYD, in her official capacity as a Member
of the South Carolina Board of Medical Examiners; MARY J. RICHARDSON, in her
official capacity as a Member of the South Carolina Board of Medical Examiners;
JENNIFER R. ROOT, in her official capacity as a Member of the South Carolina Board
of Medical Examiners; CHRISTOPHER C. WRIGHT, in his official capacity as a
Member of the South Carolina Board of Medical Examiners; SALLIE BETH TODD,
in her official capacity as Chairperson of the South Carolina Board of Nursing;
SAMUEL H. McNUTT, in his official capacity as Vice Chairperson of the South
Carolina Board of Nursing; BRIDGET A. ENOS, in her official capacity as a Member
of the South Carolina Board of Nursing; BRIDGET J. HOLDER, in her official
capacity as a Member of the South Carolina Board of Nursing; LESLIE M. LYERLY,
in her official capacity as a Member of the South Carolina Board of Nursing; MELISSA
MAY-ENGEL, in her official capacity as a Member of the South Carolina Board of
Nursing; LINDSEY K. MITCHAM, in her official capacity as a Member of the South

Carolina Board of Nursing; FRANCES C. PAGETT, in her official capacity as a Member of the South Carolina Board of Nursing; JOHN J. WHITCOMB, in his official capacity as a Member of the South Carolina Board of Nursing; ROBERT J WOLFF, in his official capacity as a Member of the South Carolina Board of Nursing; SCARLETT A. WILSON, in her official capacity as Solicitor for South Carolina’s Ninth Judicial Circuit; and BYRON E. GIPSON, in his official capacity as Solicitor for South Carolina’s Fifth Judicial Circuit,.....*Appellees,*

and

HENRY McMASTER, in his official capacity as Governor of the State of South Carolina, *Intervenor-Appellee.*

MOTION FOR LEAVE TO FILE AS *AMICI CURIAE*

Pursuant to South Carolina Appellate Court Rule 213, Women’s Rights and Empowerment Network (WREN), Able SC, Dr. Deborah Billings, Dr. Bambi W. Gaddist, Columbia Chapter of the National Organization for Women (Columbia NOW), Palmetto State Abortion Fund, Dr. Dawn Bingham, Dr. Tricia Seal, Dr. Jessica Tarleton, and Katee Wyant collectively move for leave to file the attached *amicus curiae* brief in support of *Appellants in Planned Parenthood South Atlantic v. State*.

Amici curiae (“*Amici*”) are a group of reproductive rights, health and justice organizations, advocates, and allies, all collectively rooted in the belief that all individuals have the right to make decisions about their bodies with dignity and self-determination. *Amici* are dedicated to protecting a women’s right to privacy in making medical decisions regarding their own body. Through their brief, *Amici* show how interpreting S.B. 474 as a six-week, rather than a none-week ban, would effectively eliminate South Carolinians’ ability to exercise this right and exacerbate the ongoing crisis in access to obstetrics and gynecological (“OB/GYN”) care in South Carolina. Because the Court’s decision in this matter will have immediate and long-term consequences for the health and economic well-being of South Carolinians, *Amici* have a direct interest in this case.

The Women’s Rights and Empowerment Network (WREN) is a nonpartisan, non-profit, gender justice advocacy organization dedicated to advancing the human rights and economic well-being of women and girls throughout South Carolina. WREN is committed to fostering a society where everyone can thrive and make informed choices about their lives.

Able SC is a disability-led organization seeking transformational changes in systems, communities, and individuals. Able SC supports each person’s ability to choose what’s best for them. People with disabilities already have barriers to rights and healthcare. Healthcare rights, like abortions, are important to people with disabilities. These rights give us the freedom and privacy to make decisions about ourselves. Ending the right to an abortion will make more barriers for us. We deserve the right to access the medical treatment we need. Able SC believes that abortion care is a treatment we should have access to. Access to healthcare is a part of what we need to live free and well.

Deborah Billings, Ph.D. conducts research, evaluation, and programmatic work globally on sexual and reproductive health, rights, and justice, including access to safe abortion, post-abortion and contraceptive care, prevention of intimate partner and sexual violence, and prenatal-birthing-postpartum group-based care for the past 35 years. She served as a Research Associate with Ipas for 15 years, working to document the impact of restrictive abortion legislation on the health and lives of women around the world and collaborating with health systems to create rights-based services. Currently, she is an Adjunct Associate professor at the Arnold School of Public Health and Faculty Affiliate in Women's and Gender Studies as well as the Institute for Families in Society, University of South Carolina (“USC”), Adjunct Associate Professor, Gillings School of Global Public Health, The University of North Carolina at Chapel Hill, Senior Advisor to Group Care Global, and independent researcher. She regularly consults with agencies and organizations, including the World Health Organization (“WHO”), Pan American Health Organization (“PAHO”), World Bank, UN Trust Fund to End Violence against Women (“UNTF”), and The Fund for Global Human Rights.

Her current work focuses on the impact of (de)criminalizing abortion in Mexico and the U.S. (with Dr. Natalia Deeb-Sossa, UC Davis).

Bambi W Gaddist, DrPH is co-founder and former CEO of the South Carolina HIV Council (SCHC), a 501 (c) 3, non-profit HIV prevention organization, including the Wright Wellness Center for 28 years. Bambi W. Gaddist committed the past 40-plus years of her professional life working in the area of human sexuality with a specific focus on HIV/AIDS/STI prevention, community mobilization and advocacy, behavioral intervention, research, and program development. She served as an Education Associate with the SC Department of Education (SDE-FY1988-1995) to provide technical assistance and capacity building to superintendents, principals, and public-school teachers in comprehensive health policy, reproductive health, pregnancy, and STD prevention. Dr. Gaddist serves as Principle of Structural Health Dynamics, LLC where provides public health strategies and programs that build advocacy and strengthen healthcare access. She serves as Co-PI for two healthcare access initiatives in collaboration with the seven Historically Black Colleges and Universities (“HBCUs”) in South Carolina. Dr. Gaddist was selected as one of seven national Faith Ambassadors (Fred Hutchinson Cancer Research Center) and recruited to advance COVID/HIV education conversations and create awareness of clinical trial research among faith and community/lay leaders, rural, and under-served communities that struggle with healthcare access.

The Columbia Chapter of the National Organization for Women (Columbia NOW) is dedicated to advocating for the rights and equality of women in Columbia, South Carolina, and beyond. As part of the largest grassroots feminist organization in the United States, Columbia NOW focuses on issues such as reproductive rights, gender-based violence, economic justice, and equal representation. Through advocacy, education, and coalition-building, Columbia NOW strives to dismantle systemic barriers to equality and create a more inclusive and just society for all women.

Palmetto State Abortion Fund seeks to remove all barriers that prevent access to abortion care. PSAF was formed in December 2021 and in its’ first year funded over 200 abortion procedures

as well as assisted with emotional and logistical needs, which include traveling for care. The Court's decision will impact our patients here in the state of South Carolina, and will also impact neighboring states as our region turns into a reproductive healthcare desert. These impacts will be immediate, and they will damage the mental, financial, emotional, and physical well-being of our patients.

Dr. Dawn Bingham, MD, FACOG, is a board-certified obstetrician-gynecologist and a prominent advocate for women's health in South Carolina. With over two decades of clinical experience, Dr. Bingham specializes in maternal health and has been a vocal proponent of improving access to comprehensive reproductive healthcare. She serves on various boards and committees dedicated to public health and equity, including her role as a leader in the South Carolina chapter of the American College of Obstetricians and Gynecologists (ACOG). Dr. Bingham's advocacy extends beyond her clinical practice as she works to shape policy that supports women's reproductive autonomy and health equity.

Dr. Katee L. Wyant, MD, is a board-certified obstetrician-gynecologist with a focus on comprehensive women's healthcare and reproductive rights advocacy. With extensive experience in providing patient-centered care, Dr. Wyant is committed to addressing healthcare disparities and improving access to quality reproductive health services. She has been an advocate for equitable healthcare policies in South Carolina, working closely with patients, community organizations, and policymakers to promote reproductive justice and ensure that all women have the autonomy and resources needed to make informed decisions about their health.

Dr. Jessica Tarleton, MD, MPH, is a board-certified obstetrician-gynecologist with specialized expertise in maternal-fetal medicine. As both a clinician and public health advocate, Dr. Tarleton is committed to improving maternal health outcomes and advancing reproductive rights. She is deeply involved in research and initiatives aimed at reducing maternal mortality and addressing healthcare disparities, particularly in underserved populations. Dr. Tarleton's work in South Carolina has positioned her as a leader in advocating for comprehensive reproductive

healthcare, and she is passionate about promoting policies that ensure equitable access to maternal and reproductive health services.

Dr. Tricia Seal, MD, is a board-certified obstetrician-gynecologist with a strong commitment to providing comprehensive and compassionate reproductive healthcare. With years of clinical experience, Dr. Seal has dedicated her career to improving access to maternal and reproductive health services, particularly for marginalized and underserved communities in South Carolina. In addition to her clinical work, she is an advocate for reproductive rights and health equity, working to promote policies that safeguard women's health and autonomy. Dr. Seal is a passionate leader in advancing healthcare systems that prioritize patient-centered, equitable care for all.

HOW MOVANTS CAN ASSIST THE COURT

Justice Stephen Breyer has written that amicus briefs “play an important role in educating judges on potentially relevant technical matters, helping make us not experts, but moderately educated lay persons, and that education helps to improve the quality of our decisions.” *The Interdependence of Science and Law*, 82 JUDICATURE 24, 26 (1998). While a member of the Third Circuit, Justice Samuel A. Alito, Jr. also emphasized that Amici are a resource that may be of assistance to the courts. *Neonatology Assocs., P.A. v. Comm’r*, 293 F.3d 128, 132–33 (3d Cir. 2002). As a commentator observed, “[a]micus involvement may also enhance court transparency, judicial accountability, and the legitimacy and public acceptability of appellate substantive determinations regarding controversial questions.” Carl Tobias, *Resolving Amicus Curiae Motions in the Third Circuit and Beyond*, 1 DREXEL L. REV. 125, 142 (2009).

Amici offer the Court substantial expertise, policy-based arguments, and specific illustrations detailing the devastating impact of interpreting S.B. 474 (the “2023 Law”) as a six-week, rather than a nine-week ban, not addressed by the parties. Movants’ *Amici* brief demonstrates the irreparable harms that such an interpretation of the 2023 Law visits on South Carolina women and, in particular, women of color.

First, the brief supplements the appellant’s main arguments by pointing out that requirement of meeting the six-week timeframe is impractical, unrealistic, and in many cases, impossible. In support of this, the brief provides specific illustrations and statistics outlining the difficulties for women to even know that they are pregnant within six weeks. Indeed, given the obstacles in seeking OB/GYN care, it may be nine to ten weeks before a pregnancy can be confirmed, long after a six-week ban would limit access to abortion.

Second, the *Amici* detail the ongoing crisis in access to OB/GYN care in South Carolina. South Carolina ranks among the worst states for women and children’s health, including high rates of infant and maternal mortality. Only 12 of South Carolina’s 46 counties have more than five OB/GYNs per 10,000 women aged 15 to 44, and 14 counties have no OB/GYNs at all.¹ The brief also points out the complicated and varied reasons underlying the decision to seek an abortion, including what may be fatal fetal conditions and diagnoses that are only detectable well after six weeks into a woman’s pregnancy. *Amici* include personal accounts from both patients and providers, which illustrate providers’ fear over the ambiguity of the 2023 Law, which often leads to patients with life-threatening conditions being turned away. By outlining illustrative data, studies, and articles, the *Amici* brief demonstrates the high barriers women in South Carolina face when seeking access to basic healthcare, and the compounding effects of S.B. 474.

Third, the *Amici* brief describes for the Court how the legislation impacts specific communities. The brief points out that abortion bans have been shown to uniquely harm women of color, survivors of intimate partner violence, survivors of sexual assault, and people with disabilities. It details the ways in which systemic disparities impact women of color, including that women of color are less likely to have access to meaningful healthcare and reproductive health information. As a result, early pregnancy detection may be delayed, making it virtually impossible for women of color to seek an abortion within 5-6 weeks. *Amici* also detail the harmful, multi-generational effects that

¹ Brandon Lockett, *Graphic: South Carolina’s shortage of OB-GYNs*, THE POST AND COURIER, Aug. 21, 2022, https://www.postandcourier.com/graphic-south-carolinas-shortage-of-ob-gyns/html_5395306c-0d06-11ed-891d-8f2d1db6d0e9.html; <https://www.scahec.net/scohw/data/reports/136-SCOHW-Data-Book-2021.pdf> at 101.

result from denying or banning abortion. The brief will show that this unequal access to healthcare for women of color is part of a long history of oppression, particularly in the South. As the brief points out, “[r]estricting access to reproductive healthcare in the form of a 6-week abortion ban is not just a repeat of history, it is a codification of a policy of disenfranchisement and injustice.”

Finally, the *Amici* brief serves to “apprise the court of broad-based legal, social, and economic implications of a decision or point out its unintended consequences.” Paul M. Sandler & Andrew D. Levy, *APPELLATE PRACTICE FOR THE MARYLAND LAWYER: STATE AND FEDERAL: AMICUS BRIEFS* 331 (1994). As Judge Alito observed, in significant cases, *Amici* may “explain the impact a potential holding might have on an industry or other group.” *Neonatology Assocs.*, 293 F.3d at 132 (citing Luther T. Munford, *When Does the Curiae Need An Amicus?*, 1 J. APP. PRAC. & PROCESS 279). Here, *Amici* provide important insights on the practical impacts of interpreting S.B. 474 as a six-week, rather than a none-week ban, and examples of the concrete ways in which it would violate an individual’s right to privacy under the South Carolina Constitution. As the brief demonstrates, the ambiguity over S.B. 474 has already had profound and far-reaching effects on South Carolinians. The brief will help inform this Court of the impact a holding might have on South Carolinians and, in particular, women of color. Indeed, the voices and experiences of women of color in South Carolina are often left unheard. This *Amici* brief is thus particularly unique and critical for the Court’s decision. Wherefore, Movants respectfully seek leave to file an *Amici curiae* brief in support of Appellants.

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/s/ Harmon L. Cooper

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