

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA**

PLANNED PARENTHOOD SOUTH	)	
ATLANTIC, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	<b>Case No. 1:23-cv-480</b>
	)	
JOSHUA STEIN, <i>et al.</i> ,	)	<b>DEFENDANT-INTERVENORS'</b>
	)	<b>CROSS-MOTION FOR</b>
Defendants,	)	<b>SUMMARY JUDGMENT</b>
	)	
and	)	
	)	
PHILIP E. BERGER and TIMOTHY	)	
K. MOORE,	)	
	)	
Defendant-Intervenors.	)	
	)	
	)	
	)	

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Defendant-Intervenors Phillip E. Berger and Timothy K. Moore respectfully move for summary judgment on all claims under Federal Rule of Civil Procedure 56(a) and Local Rule 56.1. As explained in the attached memorandum in support of this motion, Plaintiffs have failed to meet their burden of showing that the IUP Determination Requirement, N.C. Gen. Stat. § 90-21.83B(a)(7), is vague or that it is not rationally related to a legitimate state interest under the Due Process Clause. Plaintiffs have also failed to meet their burden that the Hospitalization Requirement, N.C. Gen. Stat. §§ 90-21.81A, 90-21.81B(3)–(4), 90-21.82A(c), is vague or that it is not rationally related to a legitimate state interest under the Equal Protection and Due

Process Clauses. Defendant-Intervenors designate the following evidence in support of this motion:

- Exhibit 1: Rebuttal Expert Report of Christy M. Boraas Alsleben, M.D., M.P.H.
- Exhibit 2: Expert Report of Monique Chireau Wubbenhorst, M.D., M.P.H.
- Exhibit 3: Expert Report of Catherine J. Wheeler, M.D.
- Exhibit 4: Expert Report of Susan Bane, M.D., Ph. D.
- Exhibit 5: Rebuttal Expert Report of Timothy R.B. Johnson, M.D.
- Exhibit 6: Rebuttal Expert Disclosure of Katherine Farris, M.D. F.A.A.F.P.
- Exhibit 7: Addendum to December 2023 Report of Dr. Bane
- Exhibit 8: ACOG Bulletin No. 193, Tubal Ectopic Pregnancy

Because there is no genuine issue of material fact, Defendant-Intervenors are entitled to judgment as a matter of law.

RESPECTFULLY SUBMITTED THIS 1st day of April, 2024.

*s/ W. Ellis Boyle*

W. Ellis Boyle  
N.C. State Bar I.D. No. 33826  
email: docket@wardandsmith.com\*  
email: weboyle@wardandsmith.com  
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WARD AND SMITH, P.A.  
Post Office Box 7068  
Wilmington, NC 28406-7068  
Tel.: (910) 794-4800  
Fax: (910) 794-4877

\* This email address must be used in order to effectuate service under the Federal Rules of Civil Procedure

\*\* Email address to be used for all communications other than service

*s/ Erin M. Hawley*

Erin M. Hawley\*\*\*  
DC Bar No. 500782  
ehawley@adflegal.org  
Erik C. Baptist\*\*\*  
DC Bar No. 490159  
ebaptist@adflegal.org  
ALLIANCE DEFENDING FREEDOM  
440 First Street NW, Suite 600  
Washington, DC 20001  
Tel.: (202) 393-8690  
Fax: (202) 347-3622

Julia C. Payne\*\*\*  
AZ Bar No. 038773  
jpayne@adflegal.org  
Kevin H. Theriot\*\*\*  
AZ Bar No. 030446  
ktheriot@adflegal.org  
ALLIANCE DEFENDING FREEDOM  
15100 N. 90th Street  
Scottsdale, AZ 85260  
Tel.: (480) 388-8028  
Fax: (480) 444-0028

*\*\*\* Notice of Special Appearance  
Filed*

*Attorneys for Intervenor-Defendants*

### **CERTIFICATE OF SERVICE**

I hereby certify that on April 1, 2024, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

*s/ Erin M. Hawley*  
Erin M. Hawley