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Attorneys for Plaintiffs

**IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT
IN AND FOR TETON COUNTY, WYOMING**

| | | |
|---------------------------|---|----------------|
| DANIELLE JOHNSON, et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Case No. 18853 |
| |) | |
| STATE OF WYOMING, et al., |) | |
| |) | |
| Defendants. |) | |
| |) | |

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Wyo. R. Civ. P. 56(a), Plaintiffs, by and through their undersigned counsel, hereby submit the present Motion for Summary Judgment. In support of Plaintiffs' present motion, Plaintiffs state as follows.

1. Rule 56 provides, in relevant part:
 - a. **Motion for Summary Judgment or Partial Summary Judgment.** A party may move for summary judgment, identifying each claim or defense – or the part of each claim or defense – on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.
 - b. **Time to File a Motion.** Unless a different time is set by court order otherwise, a party may file a motion for summary judgment at any time.
 - c. **Procedures.**
 - (1) *Supporting Factual Positions.* A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:
 - (A) Citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or
 - (B) Showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

2. Rule 56(a) authorizes summary judgment when “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” *Dellos Farms, Inc., v. Sec. State Bank*, 2022 WY 107, ¶ 7, 516 P.3d 846, 848 (Wyo. 2022) (quoting Rule 56(a)). The movant bears the initial burden of establishing that no genuine issue of material fact exists and that summary judgment should be granted as a matter of law. Rule 56(c); *Throckmartin v. Century 21 Top Realty*, 2010 WY 23, ¶ 12, 226 P.3d 793, 798 (Wyo. 2010). Once a movant meets her burden of showing a prima facie case has been made, the burden shifts to the party opposing the motion to present evidence showing that there are genuine issues of material fact for trial. *Peterson v. Meritain Health, Inc.*, 2022 WY 54, ¶¶ 14-16, 508 P.3d 696,

704 (Wyo.2022); *Boehm v. Cody Cntry. Chamber of Commerce*, 748 P.2d 704, 710 (Wyo. 1987) (citing: *England v. Simmons*, 728 P.2d 1137, 1140-41 (Wyo. 1986)).

3. The party opposing the motion must present specific facts; relying on conclusory statements or mere opinion will not satisfy that burden, nor will relying solely upon allegations and pleadings. *Boehm*, 748 P.2d at 710.

4. Plaintiffs are supporting their Motion for Summary Judgment with their Memorandum in Support of Plaintiffs' Motion for Summary Judgment, filed contemporaneously herewith, and incorporated herein by this reference.

5. Plaintiffs' motion for summary judgment is supported by the following exhibits, attached to their Memorandum in Support of Plaintiffs' Motion for Summary Judgment, which are incorporated herein by this reference:

| Exhibit ID | Title | Page Numbers |
|-------------------|---|------------------------------|
| 1 | Declaration of Giovannina Anthony, MD | Ex. 1, pp Attachments A-H |
| 2 | Declaration of Rene R. Hinkle, MD | Ex. 2, pp |
| 3 | Declaration of Christine Lichtenfels | Ex. 3, pp |
| 4 | Declaration of Julie Burkhart | Ex. 4, pp |
| 5 | Declaration of Danielle Johnson | Ex. 5, pp |
| 6 | Declaration of Kathleen Dow | Ex. 6, pp |
| 7 | Declaration of Ghazaleh Kinney Moayedi, DO, MPH, FACOG | Ex. 7, pp, Ex. A |
| 8 | Declaration of Michael A. Blonigen | Ex. 8, pp |

| | | |
|----|---------------------------------------|-------------------------------|
| 9 | Declaration of Rebecca Todd Peters | Ex. 9, pp |
| 10 | Declaration of Rabbi Danya Ruttenberg | Ex. 10, pp |
| 11 | Declaration of Peter S. Modlin | Ex. 11, pp Attachments A-Q |

6. Plaintiffs seek judgment on their claims for Declaratory Relief and Permanent Injunction; specifically, an Order finding that they have met their burden of establishing that no genuine issue of material facts exists, and that judgment should be granted in their favor as a matter of law, concerning Plaintiffs' claims that Wyoming's Criminal Abortion Ban and Wyoming's Criminal Medication Ban, violate the following provisions of the Wyoming Constitution, or Wyoming's common law, both facially and as applied to the Plaintiffs, as follows:

- a. art. 1 § 38 – Right of Health Care Access;
- b. art. 1 § 6 - Void for Vagueness – *Giles v. State*, 2004 WY 101, ¶ 15, 96 P.3d 1027, 1031-32 (Wyo. 2004); *Griego v. State*, 761 P.2d 975 (Wyo. 1998);
- c. art. 1 § 18, 19; art. 7 § 12; art. 11 § 25 – Establishment of Religion;
- d. art. 1 § 18, art. 21 § 25 – Free Exercise of Religion;
- e. art. 1 § 3 – Equal Protection;
- f. art 1 §§ 2, 7, and 36 – Unenumerated Rights

7. Plaintiffs contemporaneously file their Rule 56.1 Statement of Undisputed Material Facts in Support of Plaintiffs' Motion for Summary Judgment, which is incorporated herein by this reference.

WHEREFORE, Plaintiffs pray for an Order granting them summary judgment, or partial summary judgment, as the Court deems appropriate; and, for any further relief the Court deems just and proper.

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DATED: September 18, 2023.

Respectfully submitted,

By: 

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CERTIFICATE OF SERVICE

This is to certify that this 18th day of September 2023, a true and correct copy of the foregoing was served as follows:

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