

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

DANIELLE JOHNSON; KATHLEEN)
DOW; GIOVANNINA ANTHONY, M.D.;)
RENE R. HINKLE, M.D.; CHELSEA’S)
FUND; and CIRCLE OF HOPE)
HEALTHCARE d/b/a Wellspring Health)
Access;)

Plaintiffs,)

v.)

STATE OF WYOMING; MARK)
GORDON, Governor of Wyoming;)
BRIDGET HILL, Attorney General for the)
State of Wyoming; MATTHEW CARR,)
Sheriff Teton County, Wyoming; and)
MICHELLE WEBER, Chief of Police,)
Town of Jackson, Wyoming,)
Defendants.)

Civil Action No. 18853

FILED
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AUG 18 2023
Dev B. Nelson
DISTRICT COURT
8TH JUDICIAL DISTRICT
TETON COUNTY WYOMING

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFFS’
MOTION TO COMPEL**

This matter came before the Court for a hearing on Plaintiffs’ Motion to Compel Discovery Responses from State Defendants held on July 31, 2023. John Robinson, Marci Bramlet, and Peter Modlin appeared on behalf of the Plaintiffs. Jay Jerde appeared on behalf of the State Defendants. Erin Weisman appeared on behalf of Defendant Teton County Sheriff Matthew Carr. Lea Colasuonno appeared on behalf of Defendant Chief of Police Michelle Weber for the Town of Jackson.

Procedural Background

1. In this action, Plaintiffs’ Amended Complaint asserts that HB 152 and SF 109 violate Wyoming’s Constitution. Plaintiffs contend that the statutes are unconstitutionally vague and violate

enumerated and unenumerated rights granted to Wyoming citizens under Wyoming's Constitution.

Plaintiffs also assert that the statutes violate the following:

- a. equal protection provisions and uniform operation of law provisions found under Wyo. Const. art. 1 §§ 2-3, 34.
 - b. due process protections found under Wyo. Const. art. 1, §§ 6-7;
 - c. religious freedom protections found under Wyo. Const. art. 1 §§ 18-19, art. 7 § 12, and art. 21 § 25;
 - d. just compensation protections found under Wyo. Const. art. 1 § 33;
 - e. protection of unenumerated rights provision found under Wyo. Const. art. 1 § 36; and
 - f. right to health care access protections found under Wyo. Const. art. 1 § 38.
2. On April 3, 2023, the Plaintiffs served Plaintiffs' First Set of Interrogatories to Defendants State of Wyoming, [Governor] Mark Gordon, and [Attorney General] Bridget Hill (additions). The written discovery included twenty-two (22) interrogatories. Plaintiffs also served Plaintiffs' First Set of Requests to Admit to Defendants State of Wyoming, [Governor] Mark Gordon, and [Attorney General] Bridget Hill which included seven (7) requests for admission (additions).
 3. The interrogatories seek information regarding the governmental interests furthered by the challenged statutes. They also seek information regarding the meaning of certain technical words in the statutes; the conditions that may create exceptions under the statutes; distinctions between conditions that give rise to exceptions and those that do not; the identification of relevant medical publications; and the process by which physicians should apply the statutes.
 4. The requests for admission seek information related to individual members of the 2023 Wyoming Legislature and the legislative history of HB 152 and SF 109. The requests also seek information regarding the distinctions between embryos and fetuses that result from incest or sexual assault and embryos and fetuses that do not result from incest or sexual assault.

5. The State Defendants served the State Defendants' Objections to Plaintiffs' First Set of Interrogatories and the State Defendants' Objections to Plaintiffs' First Set of Requests to Admit on May 31, 2023. The State Defendants provided detailed objections to all of Plaintiffs' discovery requests and provided no substantive responses.
6. On June 13, 2023, counsel for the parties conferred in an effort to resolve the State Defendants' objections without court intervention. On June 20, 2023, the Plaintiffs filed Plaintiffs' Motion to Compel Discovery Responses from State Defendants. On July 6, 2023, the State Defendants filed State Defendants' Response to Plaintiffs' Motion to Compel. Plaintiffs filed a reply on July 20, 2023.
7. A Scheduling and Case Management Order was entered in this matter on June 9, 2023. That Order controls the pretrial schedule for this case. Expert witness designations are due in August, 2023 and September, 2023. Discovery concludes on October 2, 2023. The discovery period in this matter is nearing the end of its term.

Legal Standards

8. The district court is afforded broad discretion in controlling discovery. *Black Diamond Energy, Inc. v. Encana Oil and Gas (USA) Inc.*, 2014 WY 64, ¶ 43, 326 P.3d 904, 915 (Wyo. 2014). The general rule governing the scope and procedures for discovery are set out in W.R.C.P. 26(b)(1) which states in pertinent part:

Unless otherwise limited by court order, the scope of discovery is as follows:

Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or

expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

9. The rule governing interrogatories states in pertinent part:

An interrogatory may relate to any matter that may be inquired into under Rule 26(b). An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact, but the court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.

W.R.C.P. 33(a)(2).

7. Finally, requests for admission are governed by W.R.C.P. 36 which states in pertinent part:

(a) *Scope and Procedure.* –

(1) *Scope.* – A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(a)(1) relating to:

- (A) Facts, the application of law to fact, or opinions about either; and
(B) The genuineness of any described documents.

8. The Wyoming Supreme Court has repeatedly noted, “[b]ecause the Wyoming Rules of Civil Procedure are patterned after the Federal Rules of Civil Procedure, federal court interpretations of their rules are highly persuasive in our interpretation of the corresponding Wyoming rules.” *Windham v. Windham*, 2015 WY 61, ¶ 20, 348 P.3d 836, 842 (Wyo. 2015) (citing *Lamar Outdoor Adver. v. Farmers Co-Op Oil Co.*, 2009 WY 112, ¶ 12, 215 P.3d 296, 301 (Wyo. 2009); See also *Bratton v. Blenkinsop (In re Guardianship of Bratton)*, 2014 WY 87, ¶ 24 n.6, 330 P.3d 248, 253 n. 6 (Wyo. 2014) (“Because of the similarities between federal and Wyoming rules of civil procedure, we look to federal authority interpreting a particular rule as an aid in applying the comparable Wyoming rule”).
9. Relevance. The State Defendants’ relevance objection rests on a theory that the Plaintiffs have only advanced challenges to the facial constitutionality of the statutes at issue. The State Defendants

contend that facial challenges only involve questions of law and no discovery is warranted because there are no factual issues at stake.

10. Plaintiffs assert that they have alleged both facial and as applied challenges. The Court finds that Plaintiffs' Amended Complaint for Declaratory Judgment and Injunctive Relief asserts facial and as applied challenges. The Amended Complaint seeks declaratory relief supported by factual allegations that allege the statutes are unconstitutional because they prohibit the individual Plaintiffs from engaging in conduct that is protected by the Wyoming Constitution and are too vague for the Plaintiffs to properly interpret. As applied challenges require a factual record. For example, before employing an as applied analysis, courts in the Fourth Circuit have found that a court is obligated to first provide the parties an opportunity to conduct discovery. *Greater Baltimore Center for Pregnancy Concerns, Inc. v. Mayer and City Council of Baltimore*, 721 F.3d 264, 282 (4th Cir. 2013) (citing *Richmond Med. Ctr. For Women v. Herring*, 570 F.3d 165, 172 (4th Cir. 2009)).

11. Further, even if this matter only involved facial claims, an evidentiary record is also necessary for courts to assess facial challenges in many instances. The Court finds that the cases cited by the State Defendants are distinguishable from the present case. *See City of Alexandria v. Cleco Corp.*, 735 F.Supp.2d 465, 471 n.8 (W.D. La. 2010) (involved breach of fiduciary duty and tortious interference claims with the court holding that discovery was not necessary in light of all of the key documents having already been exchanged); *Planned Parenthood Great Nw. v. State*, 522 P.3d 1132, 1201 (Idaho 2023) (the court considered State abortion reports to analyze a physician's ability to analyze statutory definitions); *Gen. Elec. Co. v. Johnson*, 362 F.Supp.2d 327, 337 (D.D.C. 2005) (finding that "a facial challenge to the text of a statute does not **typically** require discovery for resolution because the challenge focuses on the language of the statute itself" and holding that

discovery on a pattern and practice claim was not relevant to the textual challenge) (emphasis added); *Shelby Cnty., Ala. v. Holder*, 270 F.R.D. 16, 21 (D.D.C. 2010) (holding discovery unwarranted in a case involving facial challenge to a federal statute because the challenge “must rise or fall on the record that Congress created . . .”); *Bill Salter Advert., Inc. v. City of Brewton, Ala.*, 486 F.Supp.2d 1314, 1319-20 n.8 (S.D. Ala. 2007) (holding that extensive preliminary discovery was unwarranted for government to respond to motion for preliminary injunction but also noting that some of the discovery would be fair game during discovery). None of the cases cited by the State Defendants stand for the proposition that discovery is precluded when a court is only addressing a facial challenge.

12. Additionally, the Plaintiffs assert that the statutes violate Wyoming’s anti-establishment clause. Establishment clause violations raise fact issues and necessitate consideration of not only the statutory text but also legislative history and the historical context of the statute. *Bd. of Educ. of Kiryas Joel Vill. Sch. Dist. v. Grumet*, 512 U.S. 687, 699 (1994); *Edwards v. Aguillard*, 482 U.S. 578, 595-96 (1987). Based on the foregoing reasons, the Court finds that the State Defendants’ relevance objections are without merit.
13. Contention Interrogatories. The State Defendants assert that none of the discovery propounded are proper contention interrogatories because they seek pure legal conclusions. The Plaintiffs assert that seeking discovery regarding the State interests and how the statutes further those stated interests is proper.
14. Contention interrogatories “clarify the basis for or the scope of the adversary’s claims.” *D.R.A. Services, LLC v. Hallmark Insurance Co.*, No. 13-CV-172-J, 2014 WL 11498163, at *4 (D. Wyo. Feb. 25, 2014). They also narrow and define the issues in dispute which is a “major purpose of discovery.” *Id.* See also, Fed. R. Civ. P. 33, advisory committee’s note to the 1970 amendment

“efforts to draw sharp lines between facts and opinions have invariably been unsuccessful, and the clear trend of the cases is to permit factual opinions”). Pursuant to W.R.C.P. 33(a)(2) “[a]n interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact, but the court may order that the interrogatory need not be answered until designated discovery is complete” Courts have explained that contention interrogatories may “ask another party to indicate what it contends, to state all the facts on which it bases its contentions, to state all the evidence on which it bases its contentions, or to explain how the law applies to the fact.” *D.R.A. Services, LLC V. Hallmark Insurance Co.*, 2014 WL at *4.

15. The Court notes that the discovery phase of this case is nearing completion and the discovery seeks an evidentiary basis for the State Defendants’ contentions that the statutes are constitutional. The discovery is not asking the State Defendants to undertake a constitutional analysis on the ultimate questions of law but is asking the State Defendants to identify the governmental interests and how they contend the statutes further those interests. Responses would clarify the basis for the State Defendants’ defenses. Therefore, the Court finds that the State Defendants’ objections based on improper contention interrogatories is without merit.

16. Work Product Protection. The State Defendants object to the Plaintiffs’ discovery contending that it seeks the mental impressions or legal theories of the case. The Plaintiffs assert that the discovery merely seeks the identification of the governmental interests, how the statutes further those interests, as well as information regarding the technical terms used in the statutes. The Court finds that the Plaintiffs’ discovery is analogous to seeking a factual basis for asserted affirmative defenses raised by a defendant. *See Barrett v. Progressive Cas. Ins. Co.*, No. 08-CV-213-WCB, 2009 WL 10700272, at * 6 (D. Wyo. Mar. 25, 2009). The Plaintiffs’ discovery seeks the factual basis for the State Defendants’ assertion that the statutes are constitutional and the Court finds that

the discovery is not afforded work product protection as it does not seek mental impressions or legal theories of the case.

17. Proportionality. Discovery must be proportional to the needs of a case. W.R.C.P. 26(b)(1). The rule addressing proportionality originally appeared in the Federal Rules of Civil Procedure in 1983.

The Advisory Committee's notes to the 1983 amendments explain:

Rule 26(b)(1) has been amended to add a sentence to deal with the problems of over-discovery. The objective is to guard against redundant or disproportionate discovery by giving the court authority to reduce the amount of discovery that may be directed to matters that are otherwise proper subjects of inquiry. The new sentence was added to encourage judges to be more aggressive in identifying and discouraging discovery overuse.

18. Proportionality is assessed based on six factors that include: (1) the importance of the issues at stake in the action; (2) the amount in controversy; (3) the parties' relative access to relevant information; (4) the parties' resources; (5) the importance of the discovery in resolving the issues; and (6) whether the burden or expense of the proposed discovery outweighs its likely benefit. *Sinclar Wyo. Refin. Co. v. Infrasure Ltd.*, 2016 WL 11588072, at * 3 (D. Wyo. 2016).

19. The Court finds that factor (2) does not weigh in favor of either party. This case involves constitutional claims and does not involve an amount in controversy to consider. However, factor (3) weighs in Defendants' favor because the Defendants assert that no factual discovery is necessary in this matter and the information is not currently in the State Defendants' possession.

20. The Court finds that the remaining factors weigh in favor of the discovery given the important constitutional issues at stake in this action that are all issues of first impression. The Court finds that the Attorney General of Wyoming is in the position to defend the constitutionality of the statutes and has the resources for responding to the discovery. The discovery directly relates to the factual basis necessary to support the claims and defenses asserted in this matter and the burden of

the discovery does not outweigh the benefit of the discovery. When balancing the factors, the Court finds that the factors weigh in favor of the discovery and the Court finds that the discovery is proportional to the needs of the case.

21. Having resolved some of the blanket objections asserted by the State Defendants, the Court will next address each of the discovery requests as well as the remaining objections asserted by the State Defendants.
22. Plaintiffs' Interrogatories Nos. 1, 2, 11, 12, 13, 14, 19, 20, 21, and 22. These interrogatories seek discovery related to the governmental interests that are furthered by the statutes in question. The State Defendants object to these interrogatories on the basis that they are not relevant, call for "pure legal conclusion," and seek information that is afforded work product protection.
23. The State Defendants contend that the identification of state interests is a question of law and these interrogatories are improper because they call for pure legal conclusions. The State Defendants cite *Wadsworth v. State* 911 P.2d 1165, 1170-71 (Mont. 1996) and *Power v. City of Providence*, 582 A.2d 895, 902 (R.I. 1990) in support of their objection. In *Wadsworth*, the Supreme Court of Montana found that the "compelling state interest **analysis**" is a question of law for the Court, not a jury. 911 P.2d at 1170-71 (emphasis added). However, the Court noted that state interests must be established by competent evidence. *Id.* at 1174. In *Power*, the Supreme Court of Rhode Island found that there were no material issues of fact that precluded a district court from ruling on the constitutionality of a mandatory retirement age. 582 A.2d 895, 903 (RI 1990).
24. In this action, Plaintiffs assert that the statutes violate both unenumerated and enumerated rights set out in the Wyoming Constitution. Governmental interests and objectives in enacting a statute must be identified in cases involving constitutional challenges to statutes. *Hardison v. State*, 2022 WY 45, ¶ 10, 507 P.3d 36, 40 (Wyo. 2022); *Ailport v. Ailport*, 2022 WY 43, ¶ 8, 507 P.3d 427, 433

(Wyo. 2022). The interests and objections are a necessary component for conducting an analysis of whether the statutes are constitutional. Further, parties may differ on the interests and objectives behind a statute. The responses will identify and narrow the issues in dispute in this matter. The Court finds that the interrogatories are relevant, are not improper contention interrogatories, and do not violate work product protections.

25. The State Defendants also objected to Plaintiffs' Interrogatory No. 12 asserting that the interrogatory was unintelligible. At the hearing, Plaintiffs asserted that Plaintiffs' Interrogatory No. 12 contained a typographical error. As tendered the Interrogatory requests:

If your answer to Interrogatory No. 14 is affirmative, identify and describe in detail the state's interests that is furthered by

The Plaintiffs assert that Interrogatory No. 12 should have referred to "Interrogatory No. 11" instead of "Interrogatory No. 14." The parties stipulated to its correction for purposes of responding to Interrogatory No. 12.

IT IS THEREFORE ORDERED that the State Defendants shall provide responses to Interrogatories Nos. 1, 2, 11, 12, 13, 14, 19, 20, and 21. It is further ordered that the State Defendants shall provide a response to Interrogatory No. 22 only with regard to the requests for admissions that the State Defendants are required to respond to pursuant to this Order.

26. Plaintiffs' Interrogatories Nos. 3, 7, 15 and 16. These interrogatories seek discovery related to certain terms included in the statutes. The State Defendants object on the basis that these interrogatories are not relevant, call for "pure legal conclusion," and seek information that is afforded work product protection.

27. “Technical terms or ‘terms of art’ are given their technical meaning unless the legislature expresses a different intent. *Powder River Coal Co. v. Wyoming Dept. of Revenue*, 2006 WY 137, ¶ 16, 145 P.3d 442, 448 (Wyo. 2006) (citations omitted). “Whether a term has such technical meaning is a question of fact to be proved.” *Id.* The Court finds that the interrogatories are relevant to the Plaintiffs’ vagueness challenge and do not violate work product protections.

IT IS THEREFORE ORDERED that the State Defendants shall provide responses to Interrogatories 3, 7, 15, and 16.

28. Plaintiffs’ Interrogatories 4 and 8. These interrogatories request that the State Defendants identify and describe in detail each and every condition, illness, injury or circumstance that constitutes a “substantial risk of death” and a “serious and permanent impairment of a life-sustaining organ of a pregnant woman” as those terms are used in the statutes at issue. The State Defendants object to these interrogatories based on a number of objections. For the purposes of this Order, the Court focuses on the overly broad objection.

29. At the hearing of this matter, the Court ruled that these interrogatories required an answer as originally propounded. In review of Plaintiffs’ Interrogatories No. 4 and 8, the Court finds its oral ruling on these interrogatories requires a correction pursuant to W.R.C.P. 60(a). The Court finds the interrogatories seek the identification and a detailed description of “each and every” condition that may fall under the two technical terms found in the statutes. Requiring the State Defendants to identify “each and every” medical condition that could qualify as a “substantial risk of death” or a “serious and permanent impairment of a life-sustaining organ of a pregnant woman” is overly broad and unduly burdensome.

30. When an interrogatory is overly broad on its face, a court can limit the scope of the interrogatory and require the objecting party to respond. *Hammond v. Lowe's Home Centers, Inc.* 216 F.R.D. 666, 671 (D. Kan. 2003). The Court finds that the interrogatories require modification and can be properly limited in scope as follows:

Modified Interrogatory No. 4

Identify and describe conditions, illnesses, injuries or circumstances that constitute a "substantial risk of death" as that term is used in Wyoming's Criminal Abortion Ban.

Modified Interrogatory No. 8

Identify and describe conditions, illnesses, injuries or circumstances that constitute a "serious and permanent impairment of a life-sustaining order of a pregnant woman," as those terms are used in Wyoming's Criminal Abortion Ban.

IT IS THEREFORE ORDERED that the State Defendants shall provide a response to Plaintiffs' Interrogatories Nos. 4 and 8 as modified herein.

31. Plaintiffs' Interrogatories 5, 9 and 17. These interrogatories seek discovery related to all medical manuals, publications, guidance, literature or educational materials that provided medical definitions of certain terms as they are used in the applicable statutes. The State Defendants object to these interrogatories based on a number of objections. For the purposes of this Order, the Court focuses on the State Defendants' objection that the interrogatories are overly broad on their face and unduly burdensome. Seeking "all" medical publications, guidance, and materials that provide definitions of particular terms used in the statute is overly broad on its face.

32. When an interrogatory is overly broad on its face, a court can limit the scope of the interrogatory and require the objecting party to respond. *Hammond v. Lowe's Home Centers, Inc.* 216 F.R.D. 666, 671 (D. Kan. 2003). The Court finds that the interrogatories can be properly limited in scope as follows:

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Modified Interrogatory No. 5

Identify medical manuals, publications, literature or educational materials, if any, that provided a medical definition for “substantial risk of death” as that term is used in Wyoming’s Criminal Abortion Ban.

Modified Interrogatory No. 9

Identify medical manuals, publications, literature or educational materials, if any, that provided a medical definition for “serious and permanent impairment of a life-sustaining organ of a pregnant woman,” as those terms are used in Wyoming’s Criminal Abortion Ban.

Modified Interrogatory No. 17

Identify medical manuals, publications, guidance, literature or educational materials, if any, that provided a medical definition for “imminent peril that substantially endangers [the woman’s] life or health,” as those terms are used in Wyoming’s Criminal Medication Ban.

IT IS THEREFORE ORDERED that the State Defendants shall provide a response to Plaintiffs’ Interrogatories Nos. 5, 9, and 17 as modified herein.

33. Plaintiffs’ Interrogatories 6, 10, and 18. These interrogatories seek a detailed description regarding the process, method and manner by which a physician should utilize their medical judgment to determine if an exception to the statutes applies and they also seek “every source of information, professional guideline, technique, or practice upon which the physician should or should not rely in making such a determination.” The State Defendants object to these interrogatories on a number of grounds. For the purposes of this Order, the Court focuses on the State Defendants’ overly broad objections. The Court agrees with the State Defendants and finds that each of these interrogatories are overly broad on their face and unduly burdensome.
34. When an interrogatory is overly broad on its face, a court can limit the scope of the interrogatory and require the objecting party to respond. *Hammond v. Lowe’s Home Centers, Inc.* 216 F.R.D. 666, 671 (D. Kan. 2003). The Court finds that the interrogatories can be properly limited in scope as follows:

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Modified Interrogatory No. 6:

Describe the process, method or manner by which a physician should determine whether an abortion is “necessary in the physician’s reasonable medical judgment to prevent . . . a substantial risk of death for the pregnant woman” as set forth in Wyoming’s Criminal Abortion Ban.

Modified Interrogatory No. 10:

Describe the process, method or manner by which a physician should determine whether an abortion is “necessary in the physician’s reasonable medical judgment to prevent . . . a serious and permanent impairment of a life-sustaining organ of a pregnant woman,” as set forth in Wyoming’s Criminal Abortion Ban.

Modified Interrogatory No. 18:

Describe the process, method or manner by which a physician should determine whether a particular condition, illness, injury or circumstance constitutes an “imminent peril that substantially endangers [the woman’s] life or health, according to appropriate medical judgment,” as those terms are used in Wyoming’s Criminal Medication Ban.

IT IS THEREFORE ORDERED that the State Defendants shall provide a response to Plaintiffs’ Interrogatories Nos. 6, 10, and 18 as modified herein.

35. Plaintiffs’ Request for Admission No. 1. This request for admission seeks confirmation that Representatives Chip Neiman and Rachel Rodriguez-Williams were the co-sponsors of HB 152. The State Defendants object to this request on the basis that the request is not relevant and seeks information regarding the subjective intent of the individual legislators. At the hearing of this matter, the Court ruled that this interrogatory did not require an answer as it is seeking information regarding individual legislators’ viewpoints and campaign material that is not relevant to the case at hand.
36. In review of Plaintiffs’ Request for Admission No. 1, the Court finds its oral ruling on this discovery request requires a correction pursuant to W.R.C.P. 60(a). This request for admission seeks information that can be found in the legislative history of the statutes which is relevant to the

Plaintiffs' claims. Contrary to the assertion of the State Defendants, the request for admission is wholly unrelated to the "subjective intent" of Representatives Chip Neiman and Rachel Rodriguez-Williams

IT IS THEREFORE ORDERED that the State Defendants shall provide a response to Plaintiffs' Request for Admission No. 1.

37. Plaintiffs' Requests for Admission Nos. 2, 3, 4, and 5. These requests for admission seek information regarding Representatives Chip Neiman and Rachel Rodriguez-Williams legislative websites, Representative Rachel Rodriguez-Williams personal involvement with Serenity Pregnancy Resource Center, as well as website information related to Serenity Pregnancy Resource Center. The Representatives' websites each provide information regarding their personal positions on when life begins.

38. The State Defendants object to these requests for admission based on relevance and contend that the requests seek information related to the subjective intent of individual legislators. Plaintiffs assert that this information is relevant to their establishment clause claims and provide evidence of the legislature's alleged religious motivation in enacting the statutes.

39. The Court does not find these requests relevant to any of the claims or defenses in this matter. The information on the website for Serenity Pregnancy Resource Center identifies the organization as a Christ-centered ministry that empowers parents to choose life in all circumstances. The mission of Serenity Pregnancy Resource Center has no bearing on the claims or defenses in this matter regardless of whether a co-sponsor of the statutes served as an Executive Director of Serenity Pregnancy Resource Center. Serenity Pregnancy Resource Center does not stand in the shoes of the Wyoming Legislature as a whole.

40. This Court also finds that general information available on the Representatives' websites is irrelevant. The Wyoming Supreme Court has repeatedly noted that the intent of an individual legislator does not reflect the intent of the legislature as a whole. *Barlow Ranch, Ltd. P'ship v. Greencore Pipeline Co. LLC*, 2013 WY 34, ¶ 45, 301 P.2d 75, 90 (Wyo. 2013) (citations omitted). The Representatives' websites provide an overview of their respective stance on abortion and the basis for that stance. Those general statements cannot be conflated to the status of relevant legislative history or context. The websites do not contain any reference to the statutes at issue or their passage. The Court finds that the Representatives' general views on abortion that are not specifically linked to the passage of the statutes in question are irrelevant.

IT IS THEREFORE ORDERED that the Plaintiffs' Motion to Compel is denied with respect to Requests for Admission Nos. 2, 3, 4, and 5. The State Defendants are not required to respond to the Requests for Admission Nos. 2, 3, 4, and 5.

41. Plaintiffs' Request for Admission No. 6. This request for admission seeks an admission regarding the difference between embryos conceived through a consensual relationship versus embryos conceived through rape or incest. The Court finds that this request directly relates to the government's stated interests and objectives regarding preservation of life at all stages. Governmental interests and objectives in enacting a statute are relevant in cases involving constitutional challenges to statutes. *Hardison v. State*, 2022 WY 45, ¶ 10, 507 P.3d 36, 40 (Wyo. 2022); *Ailport v. Ailport*, 2022 WY 43, ¶ 8, 507 P.3d 427, 433 (Wyo. 2022).

42. The Court finds that the request relates to the facts, the application of law to fact, or opinions about either pursuant to W.R.C.P. 36 and is proper.

IT IS THEREFORE ORDERED that the Plaintiffs' Motion to Compel is granted with respect to Request for Admission No. 6. The State Defendants shall respond to Request for Admission No. 6.

43. Plaintiffs Request for Admission No. 7. This request for admission seeks information regarding a video recording of a public "Roe v. Wade Trigger Bill Round Table" hosted by the Wyoming House Freedom Caucus on May 4, 2022. The video was publicly available on You Tube at the time of writing this Order and originally aired on Facebook Live. The Round Table discussed the passage of HB 92 during Wyoming's 2022 Legislative Session. HB 92 was the precursor to HB 152 and SF 109.
44. Representatives of Wyoming's 2022 Legislature John Bear, Ocean Andrew, Rachel Rodriguez-Williams, Chip Neiman, John Winter, Jeremy Haroldson, Clarence Styvar, and Chuck Gray attended the Round Table. The Representatives discussed the historical context of the passage of HB 92, the drafting of the bill, the details of the bill, the motivation for bringing the bill forward, the origins of the bill, and the sponsorship of the bill.
45. Unlike the general statements available on individual Representatives' websites, the Round Table discussion directly relates to the historical context of HB 92, HB 152, and SF 109. In establishment claims, courts may look to a "measure's sponsor and chief proponents" to ascertain legislative purpose which can include individual legislators' public statements. *Kitzmilller v. Dover Area Sch. Dist.*, 400 F.2d 707, 747 n.20 (M.D. Pa. 2005) (citations omitted). Accordingly, the Court finds that Plaintiffs' Request for Admission No. 7 is relevant to the claims and defenses asserted in this case.

IT IS THEREFORE ORDERED that the Plaintiffs' Motion to Compel with respect to Request for Admission No. 7 is granted. Defendants shall provide a response to Request for Admission No. 7.

IT IS FURTHER ORDERED that the State Defendants' discovery responses shall be served on the Plaintiffs on or before September 6, 2023.

DATED this 16th day of August, 2023.

1810-
Melissa M. Owens
District Judge

CERTIFICATE OF SERVICE
This is to certify that a copy of the foregoing was served by mail/fax upon the following persons at their last known address this 16 day of Aug 2023
J. Johnson / M. Barber via fax P. Madala / J. Cossey / B. Brantley via fax
G. Gerdle via fax & C. La. Anonno via fax & W. Gorman via fax
S. Williams via fax P. Hank / M. Garrison / J. Harrison via fax
By Deputy Justice Nelson