

John H. Robinson, WSB #6 – 2828
Marci C. Bramlet, WSB #7 – 5164
ROBINSON BRAMLET LLC
400 E. 1st Street, Suite 202
Casper, WY 82601
Telephone: 307.733.7703
Facsimile: 307.201.5546
john@jrmcb.com
marci@jrmcb.com

Peter S. Modlin (Cal. Bar # 151453)
Admitted pro hac vice
GIBSON DUNN & CRUTCHER, LLP
555 Mission Street, Suite 3000
San Francisco, California 94105
Telephone: 415.393.8392
pmodlin@gibsondunn.com

Megan Cooney (Cal. Bar # 295174)
Admitted pro hac vice
GIBSON DUNN & CRUTCHER, LLP
3161 Michelson Drive
Irvine, California 92612-4412
Telephone: 949.451.4087
mcooney@gibsondunn.com

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.)	
)	

**RULE 56.1 STATEMENT OF DISPUTED MATERIAL FACTS IN OPPOSITION TO
STATE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

COME NOW Plaintiffs, by and through undersigned counsel, in support of this Rule 56.1 Statement of Disputed Material Facts in Opposition to State Defendant's Motion for Summary Judgment, and in accordance with Wyo. R. Civ. P. 56.1(b), hereby state as follows:

There are no disputed material facts relevant to Plaintiffs’ claims and this Court may enter judgment in Plaintiffs’ favor as a matter of law. In contrast, as set forth below, all of the facts listed in the State Defendant’s Rule 56.1 Statement of Undisputed Material Facts are one or more of the following: 1) not facts, but statements or conclusions of law; 2) not material; 3) not supported by the cited reference; and/or 4) facts that support Plaintiffs’ claims. For the Court’s convenience, Plaintiffs repeat below each of the allegedly undisputed facts included in Defendants’ Rule 56.1 statement and provide Plaintiffs’ response.

State Defendants’ Alleged Undisputed Material Fact	Plaintiffs’ Response
<p>1. From 1869 to 1884, a Wyoming statute prohibited and criminalized abortion. Gen. Laws Terr. of Wyo., ch. 3, Title 1, § 25 (1869)); Wyo. Rev. Stat. § 879 (1887).</p>	<p>This is not a fact but an incomplete statement of the law. These statutes are not relevant to any claim asserted by Plaintiffs. Gen. Laws Terr. of Wyo., ch. 3, Title 1, § 25 (1869)); Wyo. Rev. Stat. § 879 (1887).</p>
<p>2. From 1884 to 1973, a Wyoming statute prohibited and criminalized abortion subject to one exception that permitted abortion to preserve the life of the pregnant woman. Wyo. Rev. Stat. § 879 (1887); Wyo. Rev. Stat. § 4969 (1899); Wyo. Stat. § 6-77 (1957).</p>	<p>This is not a fact but an incomplete statement of the law. These statutes are not relevant to any claim asserted by Plaintiffs. Wyo. Rev. Stat. § 879 (1887); Wyo. Rev. Stat. § 4969 (1899); Wyo. Stat. § 6-77 (1957).</p>
<p>3. From 1977 to 2022, a Wyoming statute did not prohibit abortion before viability, but prohibited and criminalized abortion after viability “except when necessary to preserve the woman from an imminent peril that substantially endangers her life or health, according to appropriate medical judgment.” Wyo. Stat. Ann. § 35-6-102 (1977).</p>	<p>This is not a fact but a statement of the law. The statute is not relevant for the purposes for which the State Defendants cite it, but it is relevant to show that when Wyoming voters adopted Article I, Section 38 of the constitution, abortion was legal and available in all circumstances until viability and therefore the term health care in Section 38 would have been understood by the electorate to include abortion. Wyo. Stat. § 35-6-102 (1977).</p>

State Defendants' Alleged Undisputed Material Fact	Plaintiffs' Response
<p>4. From 2022 to 2023, one Wyoming statute prohibited abortion “except when necessary to preserve the woman from a serious risk of death or of substantial and irreversible physical impairment of a major bodily function, not including any psychological or emotional conditions, or the pregnancy is the result of incest as defined by W.S. 6-4-402 or sexual assault as defined by W.S. 6-2-301,” while another Wyoming statute made it a crime to violate the abortion prohibition statute. Wyo. Stat. Ann. § 35-6-102(b) (2022); Wyo. Stat. Ann. § 35-6-110 (1977).</p>	<p>This is not a fact but a statement of the law. The referenced statute contains the quoted language but it is incomplete. Wyo. Stat. § 35-6-102(b) (2022).</p>
<p>5. In 2023, House Enrolled Act Number 88 repealed Wyo. Stat. Ann. §§ 35-6-102(b) and 35-6-110. (Ex. A, § 5).</p>	<p>This is not a fact but a statement of the law. State MSJ, Ex. A.</p>
<p>6. In 2023, the Wyoming Legislature enacted the Life is Human Right Act, which generally prohibits abortion but allows for a pregnancy to be ended in specified circumstances. (Ex. A, § 1); Wyo. Stat. Ann. § 35-6-120 through -138.</p>	<p>This is not a fact but an incomplete statement of the law and uses terms different from the statute itself which refers to a “separation procedure” instead of ending a pregnancy. State MSJ, Ex. A.</p>
<p>7. In 2023, the Wyoming Legislature enacted the chemical abortion statute (Wyo. Stat. Ann. § 35-6-139), which prohibits the prescribing, dispensing, distributing, selling, or using of “any drug for the purpose of procuring or performing an abortion on any person,” subject to specific exceptions. (Ex. B, § 1); Wyo. Stat. Ann. § 35-6-139.</p>	<p>This is not a fact but an incomplete statement of the law. State MSJ, Ex. B.</p>
<p>8. Abortion is not deeply rooted in the history and tradition of this country and is not implicit in ordered liberty. <i>Dobbs v. Jackson Women’s Health Organization</i>, — U.S. —, —, 142 S. Ct. 2228, 2242 (2022).</p>	<p>The second half of this statement is not a fact but a legal conclusion. The first half is immaterial and is not supported by the <i>Dobbs</i> decision. As noted in the <i>Dobbs</i> majority and dissenting opinions, historically, abortion was generally not criminalized until quickening. <i>Dobbs v. Jackson Women’s Health Org.</i>, 142 S. Ct.</p>

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	2228, 2249 (2022); <i>id.</i> at 2324 (Breyer, Sotomayor, Kagan, J., dissenting). As further noted in the <i>Dobbs</i> dissent, quickening occurs at roughly the time of viability and therefore the deeply rooted history and tradition of the country is to only treat abortion as criminal after viability. <i>See id.</i> at 2324. Moreover, this statement is not relevant to the question of whether natural rights guaranteed by the Wyoming Constitution include the rights to control family composition and bodily integrity. <i>See</i> Plaintiffs’ MSJ Opp./Reply Br. at 6, 46.
9. The Wyoming Constitution does not explicitly confer a right to abortion. <i>See generally</i> Wyoming Constitution.	This is not a fact but a misleading and immaterial statement of law. This case does not involve a claim of an explicit constitutional right to abortion, but instead whether the Criminal Abortion Ban and Criminal Medication Ban violate various constitutional rights. <i>See</i> Plaintiffs’ MSJ Br. at 23–85.
10. Plaintiffs ask this Court to declare that the Life Act and the chemical abortion statute are unconstitutional and “are therefore invalid and unenforceable[.]” (Am. Compl. at ¶ xliii) (alteration added).	This is not a fact but an incomplete characterization of Plaintiffs’ claims. Plaintiffs seek relief both facially and as applied. Am. Compl. at 19–32 & 35; August 16, 2023 Order Granting in Part and Denying in Part Plaintiffs’ Motion to Compel (“Motion to Compel Order”), at ¶ 10.
11. Plaintiffs ask this Court to issue a permanent injunction preventing the State Defendants from enforcing the Life Act and the chemical abortion statute “with respect to any abortion[.]” (Am. Compl. at ¶ xliv) (alteration added).	This is not a fact but an incomplete characterization of Plaintiffs’ claims. Plaintiffs seek relief both facially and as applied. Am. Compl. at 19–32 & 35; Motion to Compel Order at ¶ 10.
12. Plaintiffs ask this Court to enjoin enforcement of the Life Act and the chemical abortion statute as against everyone who may	This is not a fact but an incomplete characterization of Plaintiffs’ claims. Plaintiffs seek relief both facially and as

State Defendants' Alleged Undisputed Material Fact	Plaintiffs' Response
be subject to it. (See Pls' Summ. J. Mem. at 2-3, 85, 86).	applied. Am. Compl. at 19–32 & 35; Motion to Compel Order at ¶ 10.
13. In the Senate, several senators had concerns that the introduced version of SJ0002, with the amendments suggested by the Senate Judiciary Committee, was too long, had too many words, or was too complicated. (https://wyoleg.gov/2011/Audio/senate/s0128am1.mp3 (at 25:00 to 1:19:31)).	This alleged fact is not relevant to any claim asserted by Plaintiffs. <i>Health Care Freedom Const. Amendment, S.J. Res. No. 2, Amendment No. 1 Before Sen. Comm. of the Whole</i> , 61st Leg., Gen. Sess., at 25:00 to 1:19:31, https://wyoleg.gov/2011/Audio/senate/s0128am1.mp3 .
14. In response to those concerns, the Senate adopted an amendment proposed by Senator Schiffer (SJ0002SW001) that replaced the seven subsections in the introduced version of SJ0002 with one sentence. (Ex. C - Journal of the Senate of the Sixty-First Legislature of Wyo. 295-296 (Gen. Sess. Jan. 11, 2011, through March 3, 2011)).	This alleged fact is not relevant to any claim asserted by Plaintiffs. State MSJ, Ex. C.
15. The proposed language that became section 38 (with minor changes) was introduced by Senator Perkins as an amendment during second reading. (Ex. C - 2011 Senate Journal 297-98).	This alleged fact is not relevant to any claim asserted by Plaintiffs. State MSJ, Ex. C.
16. The debate during second reading suggests that the Perkins amendment was intended to give each competent adult in Wyoming the freedom to choose whether to receive (or to not receive) health care services and the freedom to choose how to pay for such services. (https://wyoleg.gov/2011/Audio/senate/s0131am1.mp3 (at 33:31 to 1:03:33)).	The cited record does not support this statement. It is also irrelevant to any claim asserted by Plaintiffs. The language of Section 38 is unambiguous and therefore no extrinsic evidence is necessary to interpret Section 38. In addition, the cited reference does not provide any evidence of what the voters who adopted Section 38 understood. <i>Health Care Freedom Const. Amendment, S.J. Res. No. 2, Second Reading, Amendment No. 1 Before Sen. Comm. of the Whole</i> , 61st Leg., Gen. Sess., at 33:31 to 1:03:33 (Wyo. 2011),

State Defendants' Alleged Undisputed Material Fact	Plaintiffs' Response
	https://wyoleg.gov/2011/Audio/senate/s0131am1.mp3 .
<p>17. The debate during second reading shows that the Perkins amendment was not intended to give adults in Wyoming an unrestricted right to make health care decisions. (https://wyoleg.gov/2011/Audio/senate/s0131am1.mp3 (at 33:31 to 1:03:33)).</p>	<p>The cited record does not support this statement. It is also irrelevant to any claim asserted by Plaintiffs. The language of Section 38 is unambiguous and therefore no extrinsic evidence is necessary to interpret Section 38. In addition, the cited reference does not provide any evidence of what the voters who adopted Section 38 understood. <i>Health Care Freedom Const. Amendment, S.J. Res. No. 2, Second Reading, Amendment No. 1 Before Sen. Comm. of the Whole</i>, 61st Leg., Gen. Sess., at 33:31 to 1:03:33 (Wyo. 2011), https://wyoleg.gov/2011/Audio/senate/s0131am1.mp3.</p>
<p>18. The debate during second reading shows that the proposed section 38(c) was intended to maintain the Legislature's authority to regulate the practice of medicine in Wyoming to protect Wyoming citizens. (https://wyoleg.gov/2011/Audio/senate/s0131am1.mp3 (at 33:31 to 1:03:33)).</p>	<p>The cited record does not support this statement. It is also irrelevant to any claim asserted by Plaintiffs. The language of Section 38 is unambiguous and therefore no extrinsic evidence is necessary to interpret Section 38. In addition, the cited reference does not provide any evidence of what the voters who adopted Section 38 understood. <i>Health Care Freedom Const. Amendment, S.J. Res. No. 2, Second Reading, Amendment No. 1 Before Sen. Comm. of the Whole</i>, 61st Leg., Gen. Sess., at 33:31 to 1:03:33 (Wyo. 2011), https://wyoleg.gov/2011/Audio/senate/s0131am1.mp3.</p>
<p>19. The Perkins amendment replaced the Schiffer amendment that would have allowed the Wyoming Legislature to define the extent of the right conferred by section 38. (Ex. C - 2011 Senate Journal 296).</p>	<p>The cited record does not support this statement. It is also irrelevant to any claim asserted by Plaintiffs. The language of Section 38 is unambiguous and therefore no extrinsic evidence is necessary to interpret Section 38. In</p>

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	<p>addition, the cited reference does not provide any evidence of what the voters who adopted Section 38 understood. To the extent this evidence shows anything, it shows that the final language in the legislature's proposal that resulted in Section 38 was not intended to allow the legislature to define what health care was available to the citizens of Wyoming. State MSJ, Ex. C.</p>
<p>20. Some senators believed that the Schiffer amendment deprived the proposed constitutional right of any real meaning. (https://wyoleg.gov/2011/Audio/senate/s0131am1.mp3 (at 33:31 to 1:03:33)).</p>	<p>The cited record does not support this statement. It is also irrelevant to any claim asserted by Plaintiffs. The language of Section 38 is unambiguous and therefore no extrinsic evidence is necessary to interpret Section 38. In addition, the cited reference does not provide any evidence of what the voters who adopted Section 38 understood. <i>Health Care Freedom Const. Amendment, S.J. Res. No. 2, Second Reading, Amendment No. 1 Before Sen. Comm. of the Whole</i>, 61st Leg., Gen. Sess., at 33:31 to 1:03:33 (Wyo. 2011), https://wyoleg.gov/2011/Audio/senate/s0131am1.mp3.</p>
<p>21. The debate on second reading shows that the Perkins amendment was intended to balance the individual adult's right to make health care decisions with the Legislature's traditional role in regulating the practice of medicine in this state. (https://wyoleg.gov/2011/Audio/senate/s0131am1.mp3 (at 33:31 to 1:03:33)).</p>	<p>The cited record does not support this statement. It is also irrelevant to any claim asserted by Plaintiffs. The language of Section 38 is unambiguous and therefore no extrinsic evidence is necessary to interpret Section 38. In addition, the cited reference does not provide any evidence of what the voters who adopted Section 38 understood. <i>Health Care Freedom Const. Amendment, S.J. Res. No. 2, Second Reading, Amendment No. 1 Before Sen. Comm. of the Whole</i>, 61st Leg., Gen. Sess., at 33:31 to 1:03:33 (Wyo. 2011),</p>

State Defendants' Alleged Undisputed Material Fact	Plaintiffs' Response
	https://wyoleg.gov/2011/Audio/senate/s0131am1.mp3
<p>22. In 2012, the Wyoming Secretary of State distributed a “voter’s guide.” (https://sos.wyo.gov/Elections/Docs/2012/2012BallotIssues.pdf).</p>	<p>Undisputed, but immaterial. Wyoming Secretary of the State, <i>General Election Ballot Issues</i> (2012), https://sos.wyo.gov/Elections/Docs/2012/2012BallotIssues.pdf.</p>
<p>23. The Secretary of State voter’s guide described the proposed section 38 by repeating verbatim the endorsement language from the general election ballot. (https://sos.wyo.gov/Elections/Docs/2012/2012BallotIssues.pdf).</p>	<p>Undisputed, but immaterial. Wyoming Secretary of the State, <i>General Election Ballot Issues</i> (2012), https://sos.wyo.gov/Elections/Docs/2012/2012BallotIssues.pdf.</p>
<p>24. The Secretary of State voter’s guide said nothing about abortion and did not say that voting for the proposed section 38 would confer a right to abortion under the Wyoming Constitution. (https://sos.wyo.gov/Elections/Docs/2012/2012BallotIssues.pdf).</p>	<p>This mischaracterizes the voter’s guide. The voter’s guide says nothing one way or the other about abortion. Because abortion was legal through viability at the time Section 38 was adopted, the voters who adopted Section 38 would have understood that it included a right to make health care decisions concerning abortion. Wyoming Secretary of the State, <i>General Election Ballot Issues</i> (2012), https://sos.wyo.gov/Elections/Docs/2012/2012BallotIssues.pdf.</p>
<p>25. On the Sunday before the election, a voter guide published in the only statewide newspaper in Wyoming reported that proposed section 38 “would ensure that there will be no requirements concerning health care insurance for Wyoming residents.” (Ex. D).</p>	<p>This has no relevance whatsoever to the claims asserted by Plaintiffs. This was not the official voter guide distributed to voters but instead was a newspaper article. There is no evidence that this article was reviewed by any voters who adopted Section 38, much less a substantial number of such voters. Nor does a newspaper article reflect the understanding of any individual voters, much less the electorate as a whole. Finally, because the language of Section 38 is unambiguous, such extrinsic</p>

State Defendants' Alleged Undisputed Material Fact	Plaintiffs' Response
	evidence is neither relevant nor admissible. State MSJ, Ex. D.
<p>26. The newspaper voter guide also described proposed section 38 as “an attempt to remove Wyoming from the effects of the Patient Protection Affordable Care Act passed by Congress.” (Ex. D).</p>	<p>This has no relevance whatsoever to the claims asserted by Plaintiffs. This was not the official voter guide distributed to voters but instead was a newspaper article. There is no evidence that this article was reviewed by any voters who adopted Section 38, much less a substantial number of such voters. Nor does a newspaper article reflect the understanding of any individual voters, much less the electorate as a whole. Finally, because the language of Section 38 is unambiguous, such extrinsic evidence is neither relevant nor admissible. State MSJ, Ex. D.</p>
<p>27. Each ballot for the 2012 general election in Wyoming included the following endorsement language regarding the proposed amendment: The adoption of this amendment will provide that the right to make health care decisions is reserved to the citizens of the state of Wyoming. It permits any person to pay and any health care provider to receive direct payment for services. The amendment permits the legislature to place reasonable and necessary restrictions on health care consistent with the purposes of the Wyoming Constitution and provides that this state shall act to preserve these rights from undue governmental infringement. (https://sos.wyo.gov/Elections/Docs/2012/2012BallotIssues.pdf, at 2).</p>	<p>Undisputed but immaterial. The language of Section 38 is unambiguous and this endorsement language is neither inconsistent with, nor varies, the unambiguous terms of Section 38. Wyoming Secretary of the State, <i>General Election Ballot Issues</i> (2012), https://sos.wyo.gov/Elections/Docs/2012/2012BallotIssues.pdf.</p>
<p>28. During the 2011 legislative session, at least two bills were introduced with the intent of preventing the enforcement of the Affordable Care Act in Wyoming – House Bill No. 00035 (2011) (to create a state health care choice and protection act as an</p>	<p>This is irrelevant to any claim asserted by Plaintiffs. These bills provide no evidence of what the voters who adopted Section 38 understood. The language of Section 38 is unambiguous and therefore extrinsic evidence is not necessary to</p>

State Defendants' Alleged Undisputed Material Fact	Plaintiffs' Response
<p>alternative to the Affordable Care Act) and House Bill No. 00039 (2011) (to create a fund to pay for litigation against federal health care enactments, primarily the Affordable Care Act). https://www.wyoleg.gov/Legislation/2011/HB0035 https://www.wyoleg.gov/Legislation/2011/HB0039</p>	<p>interpret it. H.R. 35, 61st Leg., Gen. Sess. (Wyo. 2011), https://www.wyoleg.gov/Legislation/2011/HB0035; H.R. 39, 61st Leg., Gen. Sess. (Wyo. 2011), https://www.wyoleg.gov/Legislation/2011/HB0039.</p>
<p>29. During the 2011 legislative session, two other joint resolutions to amend the Wyoming Constitution to address health care freedom were introduced. https://www.wyoleg.gov/Legislation/2011/SJ0003 https://www.wyoleg.gov/Legislation/2011/HJ0009</p>	<p>This is irrelevant to any claim asserted by Plaintiffs. These bills provide no evidence of what the voters who adopted Section 38 understood. The language of Section 38 is unambiguous and therefore extrinsic evidence is not necessary to interpret it. S.J. Res. 3, 61st Leg., Gen. Sess. (Wyo. 2011), https://www.wyoleg.gov/Legislation/2011/SJ0003; S.J. Res. 9, 61st Leg., Gen. Sess. (Wyo. 2011), https://www.wyoleg.gov/Legislation/2011/HJ0009.</p>
<p>30. During the 2012 legislative session, the Wyoming Legislature enacted a law to prohibit state agencies and any person representing the State of Wyoming from taking any steps to implement the Affordable Care Act at the state level until the U.S. Supreme Court decided a challenge to the constitutionality of the Affordable Care Act in <i>Florida v. U.S. Department of Health and Human Services</i> (Docket Number 11-400). 2012 Wyo. Sess. Laws 241-42.</p>	<p>This is irrelevant to any claim asserted by Plaintiffs. This statute provides no evidence of what the voters who adopted Section 38 understood. The language of Section 38 is unambiguous and therefore extrinsic evidence is not necessary to interpret it. Health Insurance Exchange Study, Ch. 61, 2012 Wyo. Sess. Laws 240-42.</p>
<p>31. A November 2012 poll conducted by the University of Wyoming showed that 66% of the individuals surveyed disapproved of the Affordable Care Act. https://www.uwyo.edu/uw/news/2012/11/wy</p>	<p>This poll is irrelevant to any claim asserted by Plaintiffs. It provides no evidence of what the voters who adopted Section 38 understood. The language of Section 38 is unambiguous and therefore extrinsic evidence is not necessary to interpret it. University of Wyoming</p>

State Defendants' Alleged Undisputed Material Fact	Plaintiffs' Response
<p>oming-residents-have-mixed-views-on-health-care-changes.html).</p>	<p>News, <i>Wyoming Residents Have Mixed Views on Heath Care Changes</i> (Nov. 16 2012), https://www.uwyo.edu/news/2012/11/wyoming-residents-have-mixed-views-on-health-care-changes.html.</p>
<p>32. The pollster attributed the high rate of disapproval to “general attitudes concerning the federal government[.]” https://www.uwyo.edu/uw/news/2012/11/wyoming-residents-have-mixed-views-on-health-care-changes.html).</p>	<p>This is irrelevant to any claim asserted by Plaintiffs. This quote provides no evidence of what the voters who adopted Section 38 understood. The language of Section 38 is unambiguous and therefore extrinsic evidence is not necessary to interpret it. University of Wyoming News, <i>Wyoming Residents Have Mixed Views on Heath Care Changes</i> (Nov. 16 2012), https://www.uwyo.edu/news/2012/11/wyoming-residents-have-mixed-views-on-health-care-changes.html.</p>
<p>33. In the weeks before the 2012 general election, one national news magazine characterized the proposed section 38 as an attempt “to let individuals sidestep” the Affordable Care Act. https://swampland.time.com/2012/10/31/ballot-initiative-of-the-day-will-wyoming-resist-obamacare/)</p>	<p>This is irrelevant to any claim asserted by Plaintiffs. This newspaper article provides no evidence of what the voters who adopted Section 38 understood. The language of Section 38 is unambiguous and therefore extrinsic evidence is not necessary to interpret it. Swampland Time, <i>Ballot Initiative of the Day: Will Wyoming Resist Obamacare?</i> (Oct. 31, 2012), https://swampland.time.com/2012/10/31/ballot-initiative-of-the-day-will-wyoming-resist-obamacare/.</p>
<p>34. In the weeks before the 2012 general election, under a headline reading “Wyoming voters will get a say on Obamacare mandate,” the newspaper in Cheyenne reported that proposed section 38 was “designed to block” the insurance mandate in the Affordable Care Act. (Ex. E).</p>	<p>This has no relevance whatsoever to the claims asserted by Plaintiffs. There is no evidence that this article was reviewed by any voters who adopted Section 38, much less a substantial number of such voters. Nor does a newspaper article reflect the understanding of any individual voters, much less the electorate as a whole.</p>

State Defendants’ Alleged Undisputed Material Fact	Plaintiffs’ Response
	Finally, because the language of Section 38 is unambiguous, such extrinsic evidence is neither relevant nor admissible. State MSJ, Ex. E.
<p>35. Religion was discussed during the debates on the Life Act, primarily during Committee of the Whole in the House of Representatives and Committee of the Whole in the Senate. https://www.youtube.com/watch?v=ynn-N0JNa48 (House of Representatives)) (at 1:53:02 to 3:26:26) https://www.youtube.com/watch?v=8O2bRdO_F5U (Senate)) (at 57:41 to 2:30:52)</p>	<p>Undisputed that religion was discussed during debates on the Criminal Abortion Ban and that this provides evidence of the religious motivation behind the statute. These statements are described in Plaintiffs’ Opposition/Reply on the parties Cross-Motions for Summary Judgment at pages 35–36. Committee of the Whole in the House of Representatives, <i>House Floor Session—Day 19</i>, YouTube, at 1:53:02 to 3:26:36 (Feb. 6, 2023), https://www.youtube.com/watch?v=ynn-N0JNa48; Committee of the Whole in the Senate, <i>Senate Floor Session—Day 33</i>, YouTube (Feb. 27, 2023), https://www.youtube.com/watch?v=8O2bRdO_F5U.</p>
<p>36. During the debate, a few legislators expressed a concern that the Life Act violated the religion provisions in the Wyoming Constitution, while many others stated that the bill was not based on any religious view. https://www.youtube.com/watch?v=ynn-N0JNa48 (House of Representatives)) (at 1:53:02 to 3:26:26) https://www.youtube.com/watch?v=8O2bRdO_F5U (Senate)) (at 57:41 to 2:30:52)</p>	<p>This is not an accurate description of the referenced debates. Most legislators who discussed religion acknowledged and/or endorsed the religious underpinnings of the law, providing evidence of the religious motivation of the statute. Committee of the Whole in the House of Representatives, <i>House Floor Session—Day 19</i>, YouTube, at 1:53:02 to 3:26:26 (Feb. 6, 2023), https://www.youtube.com/watch?v=ynn-N0JNa48; Committee of the Whole in the Senate, <i>Senate Floor Session—Day 33</i>, YouTube, at 57:41 to 2:30:52 (Feb. 27, 2023), https://www.youtube.com/watch?v=8O2bRdO_F5U.</p>
<p>37. Since 1979 the Wyoming statutes governing intestate succession have provided</p>	<p>Undisputed but immaterial. The quoted passage itself says nothing about whether</p>

State Defendants' Alleged Undisputed Material Fact	Plaintiffs' Response
as follows: "Persons conceived before the decedent's death but born thereafter inherit as if they had been born in the lifetime of the decedent." Wyo. Stat. Ann. § 2-4-104.	a fetus is an independent, fully-formed human being and explicitly requires that a fetus be born before it can inherit. Wyo. Stat. § 2-4-104.
38. During the constitutional convention, the framers of the Wyoming Constitution followed the Senate proposed enabling act (S. 2445) as they drafted and debated the ordinances to be included in the Wyoming Constitution. See, e.g., Debates of the Constitutional Convention, at 154, 156, 198, 212, 249, 587, 751.	Undisputed but immaterial.
39. S. 2445 dictated that the Wyoming Constitution must include five ordinances that are "irrevocable without the consent of the United States and the people of the State [of Wyoming.]" (Ex. F at 15).	Undisputed but immaterial.
40. The first ordinance provided "[t]hat perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship." (Ex. F, at 15).	Undisputed but immaterial.
41. The framers of the Wyoming Constitution believed that the five ordinances in S. 2445 had to be included in the Wyoming Constitution before Congress would admit Wyoming as a state. Journal and Debates of the Constitutional Convention of Wyoming 154, 156, 198, 212, 249, 587, 751 (1893).	Undisputed but immaterial. Whether a provision was required for admission as a state has no bearing on the effect or meaning of that provision.
42. The first ordinance in S. 2445 provided "[t]hat perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship." (Ex. F at 15).	Undisputed but immaterial.

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43. The framers included the religious tolerance ordinance in the Wyoming Constitution because they believed S. 2445 required it to be in the Constitution. Debates of the Constitutional Convention 587.	Undisputed but immaterial. Whether a provision was required for admission as a state has no bearing on the effect or meaning of that provision.

RESPECTFULLY SUBMITTED this 3rd day of November 2023.

By: 

John H. Robinson, WSB #6 – 2828
 Marci C. Bramlet, WSB #7 – 5164
 ROBINSON BRAMLET LLC
 400 E. 1st Street, Suite 202
 Casper, WY 82601
 Telephone: 307.733.7703
 Facsimile: 307.201.5546
john@jrmcb.com
marci@jrmcb.com

Peter S. Modlin (Cal. Bar # 151453)
Admitted pro hac vice
 GIBSON DUNN & CRUTCHER, LLP
 555 Mission Street, Suite 3000
 San Francisco, California 94105
 Telephone: 415.393.8392
pmodlin@gibsondunn.com

Megan Cooney (Cal. Bar # 295174)
Admitted pro hac vice
 GIBSON DUNN & CRUTCHER, LLP
 3161 Michelson Drive,
 Irvine, CA 92612-4412
 Telephone: 949.451.4087
mcooney@gibsondunn.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that this 3rd day of November 2023, a true and correct copy of the foregoing was served as follows:

Jay Arthur Jerde
Wyoming Attorney General’s Office
109 State Capitol
Cheyenne, WY 82001
Jay.jerde@wyo.gov
*Attorney for Defendants Mark Gordon,
Bridget Hill*

[] U.S. MAIL
[] FED EX
[] FAX
[] ECF
[✓] E-MAIL

Erin E. Weisman
Teton County Attorney’s Office
P.O Box 4068
Jackson, WY 83002
eweisman@tetoncountywy.gov
Attorney for Defendant Matthew Carr

[] U.S. MAIL
[] FED EX
[] FAX
[] ECF
[✓] E-MAIL

Lea M. Colasuonno
Town of Jackson
P.O Box 1687
Jackson, WY 83001
lcolasuonno@jacksonwy.gov
Attorney for Defendant Michelle Weber

[] U.S. MAIL
[] FED EX
[] FAX
[] ECF
[✓] E-MAIL



John H. Robinson
Marci Crank Bramlet