



Jeremy Dys is Senior Counsel for First Liberty Institute.

Dys earned his law degree from West Virginia University College of Law in 2005. After law school, Dys clerked for the Hon. Russell M. Clawges, Jr., chief judge of the Circuit Court of Monongalia County in Morgantown, West Virginia. For six years prior to joining First Liberty Institute, Dys led a public policy organization where he led research and advocacy efforts on matters of life, marriage, and religious freedom.

Dys graduated from Taylor University in 2001 with a Bachelor of Arts, *cum laude*, degree in Communication Studies, with minors in U.S. History and Philosophy. During his undergraduate career, Dys studied at the American Studies Program in Washington, D.C., where he interned with the late David Orgon Coolidge as part of the Marriage Law Project of the Ethics and Public Policy Center.

In support of his clients, Dys has made numerous appearances in local, state, and national television, print, and radio outlets. His written commentaries have been featured at the Wall Street Journal, FoxNews.com, New York Daily News, TheHill.com, Des Moines Register, Dallas Morning News, DailySignal.com, Washington Examiner, Indianapolis Star, Charleston Gazette-Mail, Outcomes Magazine, TheFederalist.com, and others.

Dys is admitted to the bar of the Supreme Court of the United States, West Virginia, Texas, the District of Columbia, and numerous federal circuit courts of appeal.



Written Testimony of
Jeremy Dys, Senior Counsel
First Liberty Institute
Before the Subcommittee on the Constitution and
Limited Government of the Committee on the Judiciary

May 16, 2023

Chairman Johnson, Ranking Member Scanlon, and members of the Subcommittee on the Constitution and Limited Government of the Committee on the Judiciary, I am Jeremy Dys, Senior Counsel with First Liberty Institute, a nationwide legal organization dedicated to defending religious liberty for all Americans. Thank you for the invitation to provide testimony on this important topic.

The Freedom to Access Clinic Entrances Act (“FACE”) promises to ensure access to the nation’s reproductive health facilities and accountability to those who would intimidate, injure, or interfere with access to those facilities. The FACE Act makes no distinction as to which facilities are deserving of that protection, nor should it. Yet, in recent years, state attorneys general and the United States Department of Justice have deployed the FACE Act inequitably.

Pro-life reproductive health facilities have, in the past year, been defaced, vandalized, paint bombed, had windows broken, staff and volunteers doxxed, and repeatedly threatened in person, in the mail, and online. Far too often, these threats have been explicitly motivated by animosity toward the religious beliefs that inspire many pro-life reproductive health facilities. Formed and operated by like-minded religious citizens seeking to exercise the central tenets of their faith by caring for women and their families facing unplanned pregnancies, these reproductive health facilities are deserving of the equal protection of the laws, including the FACE Act.

In response to more than 100 acts of intimidation, injury, and interference towards those who would seek reproductive health services from a pro-life perspective in just the past year,¹ the United States Department of Justice (“DOJ”) has returned just a single indictment against those who allegedly attacked a string of pregnancy care centers.² In

¹ Emma Colton, *Data show there have been 22 times more attacks on pro-lifers than pro-choice groups since Supreme Court leak*, Fox News (Nov. 1, 2022), <https://www.foxnews.com/us/data-show-there-have-been-22-times-more-attacks-on-pro-lifers-pro-choice-groups-since-supreme-court-leak>.

² Exhibit 1 (Indictment, *United States v. Freestone et al.*, Case No. 8:23-cr-00025-VMC-AEP; Superseding Indictment, *United States v. Freestone et al.*, Case No. 8:23-cr-00025-VMC-AEP).

the same time period, DOJ has moved to indict numerous pro-life advocates who allegedly blocked access to abortion centers.³

Lack of action toward those deploying violence to express their political opposition to pro-life reproductive health centers is not limited to DOJ. State attorneys general have largely turned a blind eye or, if they have engaged, have acted in such a way as to *increase* the vulnerability of pro-life reproductive health facilities. Indeed, in recent memory, only one state attorney general has utilized the FACE Act to bring a cause of action in the name of the citizens of an individual state against alleged vandals of pro-life reproductive health facilities.

Further, only one pro-life reproductive health facility, Heartbeat of Miami, has been able to seek relief under the FACE Act's private right of action, suing those who allegedly vandalized their facilities, intimidated their staff and volunteers, and bullied their supporters.

While the FACE Act is rightly used by Heartbeat of Miami, few pro-life reproductive health facilities are even aware that the FACE Act protects their interests. Sadly, I have spoken to several pro-life reproductive facilities who, even when informed of the protections offered to them by the FACE Act, so greatly fear retribution for the exercise of that protection that they simply refuse to take advantage of the relief Congress authorized for their benefit.

The selective deployment of the FACE Act raises significant concerns. Those who target life-affirming reproductive health facilities should face the legal penalties Congress established for their crimes. No one should suffer violence for simply providing faith-based counseling and baby supplies to women and their babies. Violence is never a lawful response to disagreement.

Congress Intended the FACE Act to Protect All Americans

Enacted May 26, 1994, the FACE Act, 18 U.S.C. § 248, prohibits intentional physical obstruction, injury, intimidation, or interference with clients or providers of “reproductive health services,” as well as intentional damage to or destruction of a facility providing reproductive health services. *Id.* § 248(a). One of Congress's stated goals in passing the FACE Act was to:

protect and promote the public safety and health and activities affecting interstate commerce by establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive, and destructive conduct that is intended to injure, intimidate or interfere with persons seeking to obtain or provide reproductive health services.

Section 2 of Pub. L. 103–259.

³ Exhibit 2 (Indictment, *United States v. Houck*, Case No. 2:22-cr-00323-GJP; Complaint, *United States v. Moscinski*, Case No. 2:22-cr-00485-ST; Indictment, *United States v. Gallagher et al.*, Case No. 3:22-cr-00327; Superseding Indictment, *United States v. Handy et al.*, Case No. 1:22-cr-00096-CKK).

The FACE Act Protects Access to All Reproductive Healthcare Services

Both the text of the FACE Act and judicial interpretations of the law expressly reject selective, one-sided application of the FACE Act.

The statute intentionally defines the term “reproductive health services” broadly to include “reproductive health services provided in a hospital, clinic, physician’s office, or other facility” and lists examples of such services to include “medical, surgical, counseling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.” 18 U.S.C. § 248(e)(5).

The inclusion of non-medical procedures within the definition of reproductive health services could not be clearer: Congress recognized that those providing life-affirming reproductive healthcare are just as entitled to protection as those providing surgical abortion, proscribing chemical abortion, counseling about abortion, or referring for abortion services.

Courts consistently hold that the FACE Act applies to “facilities offering pregnant women counseling about alternatives to abortion.” *American Life League, Inc. v. Reno*, 47 F.3d 642, 649 (4th Cir. 1995); *see also Terry v. Reno*, 101 F.3d 1412, 1419 (D.C. Cir. 1996) (stating the FACE Act protects “facilities providing pre-pregnancy and pregnancy counseling services, as well as facilities counseling alternatives to abortion”); *Riely v. Reno*, 860 F. Supp. 693, 702 (D. Ariz. 1994) (stating the FACE Act applies equally “to an individual who spray paints the words ‘KEEP ABORTION LEGAL’ on a facility providing counseling regarding abortion alternatives as well as to the individual who spray paints the words ‘DEATH CAMP’ on a facility providing abortion services”).

In short, the FACE Act is indifferent to ideology. It seeks to protect all Americans seeking or providing reproductive health services, regardless of ideology, political opinion, or religious belief.

The FACE Act Offers Meaningful Religious Liberty Protections

The FACE Act’s protections go beyond reproductive healthcare. By its plain terms, the statute also prohibits intentional physical obstruction, injury, intimidation, or interference with “any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship” along with any intentional damage to or destruction of a of religious worship. 18 U.S.C. § 248(a)(2)–(3).

Combining the protections given to life-affirming reproductive healthcare and houses of worship, it is clear that Congress intended for the FACE Act to protect all people of faith, along with the religious institutions and houses of worship they form, from violence and intimidation by those who disagree with their religious beliefs.

The FACE Act creates both criminal and civil penalties, with four enforcement methods: 1) federal criminal prosecution, *id.* § 248(b); 2) civil action by “any person aggrieved” by

the prohibited conduct who was involved in providing, obtaining, or seeking “services in a facility that provides reproductive health services,” or by “a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship or by the entity that owns or operates such place of religious worship.” *id.* § 248(c)(1)(A); 3) civil enforcement action by the U.S. attorney general, *id.* § 248(c)(2); 4) civil enforcement action by state attorneys general (including those of D.C. and territories), *id.* § 248(c)(3), (e)(6).

Criminal penalties include both fines and imprisonment that vary based on repeat offense and level of violence involved, but generally a second FACE Act conviction is a felony. *See id.* 248(b). Organizations, including unincorporated associations like Jane’s Revenge, are viable FACE Act defendants.⁴

Civil remedies under the FACE Act include injunctive relief, compensatory and punitive damages, court costs, and “reasonable fees for attorneys and expert witnesses.” *Id.* § 248(c)(1)(B). Prior to a final judgment, the plaintiff may elect an award of \$5,000 per violation in lieu of actual damages. *Id.*

Federal and state attorneys general may also seek additional civil penalties: up to \$10,000 for a first nonviolent physical obstruction violation and up to \$15,000 for other first violations; up to \$15,000 for subsequent nonviolent physical obstruction violations and up to \$25,000 for subsequent violations. *Id.* § 248(c)(2)(B), (c)(3)(B).

Despite the clear protections that the FACE Act offers to pro-life reproductive health facilities, its subsequent use since its enactment in 1994 demonstrates that governments at the state and federal levels have applied the law in a manner that disproportionately favors abortion providers. While state attorneys general in states such as New York have a history of using the FACE Act to bring civil claims against pro-life individuals and organizations,⁵ no corresponding claims have been brought by any state attorney general against abortion extremists who have attacked, or who have allegedly attacked, pregnancy care centers. The lone exception appears to be Florida Attorney General Ashley Moody.

Likewise, despite the nationwide wave of violence against pro-life reproductive health facilities in the last year carried out by extremist groups like Jane’s Revenge, DOJ has indicted only a handful of individuals for these crimes.⁶ Accordingly, despite the powerful protections offered by federal law to protect people of faith operating pregnancy care centers, the FACE Act remains a sorely underutilized law for protecting pro-life individuals from violence and intimidation, even while it being routinely used against the pro-life community.

⁴ *See, e.g., New York State Nat. Org. for Women v. Terry*, 159 F.3d 86 (2d Cir. 1998); *People of State of New York ex rel. Spitzer v. Operation Rescue Nat.*, 69 F. Supp. 2d 408, 413–414 (W.D.N.Y. 1999), *aff’d* 273 F.3d 184 (2d Cir. 2001) (collecting cases).

⁵ *See, e.g., New York by James v. Griep*, 11 F.4th 174 (2d Cir. 2021); *New York ex rel. Spitzer v. Operation Rescue Nat’l*, 273 F.3d 184 (2d Cir. 2001); *New York ex rel. Spitzer v. Cain*, 418 F. Supp. 2d 457 (S.D.N.Y. 2006) *People of State of New York ex rel. Spitzer v. Kraeger*, 160 F. Supp. 2d 360 (N.D.N.Y. 2001).

⁶ *See* Exhibit 1.

The FACE Act in the States: Contrasting Deployments of the FACE Act

Soon after the leak of *Dobbs*, vandals lashed out at pro-life reproductive health facilities from Massachusetts to Florida. The response by state officials has been stark. Massachusetts and Florida offer helpful examples. Where Florida has taken advantage of the attorney general-specific cause of action provided by Congress in the FACE Act, Massachusetts appears to have not only declined to use the FACE Act in defense of pro-life reproductive health facilities, but the Massachusetts Attorney General also targeted already-vandalized pro-life centers for public opprobrium and legal jeopardy.

Massachusetts Targets Pro-Life Reproductive Health Facilities.

Bethlehem House, a pregnancy care center—a reproductive health facility, as defined by the FACE Act—housed in the former rectory of a Catholic Church, provides hand-knitted baby blankets, sweaters, and caps to the babies of mothers facing an unplanned pregnancy. In addition to clothing, baby formula, car seats, and pack-and-plays, Bethlehem also provides counseling and pregnancy testing.

Bethlehem’s director is never far from the ministry she leads. Indeed, she resides in a humble apartment on the top floor. In the middle of the night, not long after the leak of *Dobbs*, vandals trespassed onto Bethlehem House’s property, lobbed light bulbs filled with red paint, shattering the paint bombs against the walls of the center to mimic blood. They then spray-painted threats including, “If abortions aren’t safe, neither are you!” on the sidewalk surrounding a statue of the Virgin Mary mere feet from their front door. Understandably, the director of Bethlehem House fears for her safety, and would-be clients have grown nervous to seek services.

This is a repetitive pattern. Not far away at Clearway Clinic, vandals threw bricks through the glass doors of that pro-life reproductive health facility and scrawled threats in spray paint. Abundant Hope Pregnancy Resource Center and Your Options Medical, also Massachusetts organizations qualified for protection from the FACE Act, likewise faced broken windows and spray-painted threats—all signed by anarchist symbols and “Jane’s Revenge.”

The Commonwealth of Massachusetts has neither identified the vandals, nor even implied it would use the FACE Act to hold these attackers accountable to the rule of law. Rather, Massachusetts threatened sanctions against those pro-life reproductive healthcare facilities that were attacked and vandalized. Further, then-Attorney General Maura Healey issued a “consumer advisory” against pro-life reproductive health facilities.⁷

First Liberty Institute represented each of these religiously-motivated reproductive healthcare facilities. In our response to then-Attorney General Healey’s threats of

⁷ See Exhibit 3 (Letter from Jeremy Dys, Senior Counsel, First Liberty Institute, and Andrew Beckwith, President, Massachusetts Family Institute, to Attorney General Maura Healey (Sept. 13, 2022)).

sanctions and her “consumer advisory,” we queried why she would turn the power of the Commonwealth upon those who humbly serve women and their children as a sincere part of their religious exercise?⁸

The Commonwealth encouraged citizens to report instances of potential “deceptive and coercive trade practices”—like offering pregnancy counseling and free ultrasounds and pregnancy tests—by the largely religious population of those who operate and volunteer with pro-life reproductive health facilities. But for those reproductive health facilities still sweeping up broken glass from their sidewalks and scraping paint from their buildings, then-Attorney General Healey did not so much as create a tip line for citizens to help identify those who committed violence and vandalism against our clients.

It should likewise be obvious that the Commonwealth’s Attorney General took no action pursuant to the FACE Act’s provision in 18 U.S.C. § 248(c)(3) on behalf of the dozens of pro-life reproductive health facilities of Massachusetts. Its actions were, instead, one-sided in defense of the Commonwealth’s abortion centers. But not merely impassively one-sided; the Commonwealth actively and purposefully singled out pro-life reproductive health facilities, targeting them for speech its leaders disliked.

The U.S. Supreme Court warned in *McCullen v. Coakley*, 573 U.S. 464, 477 (2014), that “the government may not selectively shield the public from some kinds of speech on the ground that they are more offensive than others.”

Indeed, just last year the Supreme Court reaffirmed the important principle that the First Amendment protects not only “the right to harbor religious beliefs inwardly and secretly” but also “does perhaps its most important work by protecting the ability of those who hold religious beliefs of all kinds to live out their faiths in daily life through the performance of (or abstention from) physical acts.” *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2421 (2022).

State Attorneys General should enforce the law for all of its citizens, not merely the ones expressing views it politically favors. One doubts the Massachusetts Attorney General would have any reluctance using the FACE Act if the vandalism were directed at the Commonwealth’s abortion centers—nor should it. Congress should expect the states to fairly leverage federal law against those who would express ideological opposition toward any reproductive health facility, regardless of its political, ideological, or religious motivations.

Florida Protects Pro-Life Reproductive Health Facilities.

In the State of Florida, at least three pro-life reproductive health facilities faced injury, intimidation, and interference with access to their facilities. In contrast to the actions of the Massachusetts Attorney General, the response of Attorney General Ashley Moody has been to fully utilize the FACE Act for all of the state’s citizens.

⁸ See Exhibit 3.

In January of 2023, a federal indictment issued against two individuals.⁹ According to the indictment, vandals struck at least three facilities in Winter Haven, Hollywood, and Hialeah, Florida. A superseding indictment issued in March 2023 naming two more individuals in the conspiracy to attack pro-life reproductive healthcare facilities in Florida.¹⁰

As soon as the names of the alleged vandals became public, Florida Attorney General Ashley Moody filed a civil suit¹¹ against them on behalf of the citizens of Florida. Her lawsuit, expressly authorized by the FACE Act, seeks hundreds of thousands of dollars to be assessed against the alleged vandals pursuant to the civil penalties authorized by 18 U.S.C. §248 (c)(3)(B) and (2)(B)(i)-(ii).

There was no equivocation by Attorney General Moody. Rather, she upheld the rule of law, seeking to hold accountable those “attempting to intimidate and threaten law abiding citizens in our state.”¹²

Following Attorney General Moody’s lead, First Liberty filed a FACE Act lawsuit¹³ against alleged vandals who struck Heartbeat of Miami, our client, in Hialeah, Florida. Our legal action was made possible, in part, because law enforcement in Florida, as well as the Florida Attorney General, identified the alleged perpetrators of violence against our client. Had similar actions been undertaken by the Commonwealth of Massachusetts to identify potential FACE Act defendants, Bethlehem House, Clearway Clinic, Abundant Hope Pregnancy Resource Center, Your Options Medical, and perhaps others may have had recourse under the FACE Act.

Like many pro-life reproductive health facilities, Heartbeat of Miami provides pregnancy testing, counseling, and free ultrasounds, while also providing spiritual care, resources, and services to expectant mothers and their families.

On the evening of July 3, 2022, vandals came on to their property, disabled their security systems, and scrawled threats in spray paint across the walls of their facility. Once again, “Jane’s Revenge” claimed credit for the attack. Months later, on September 17, 2022, protestors interrupted Heartbeat of Miami’s annual gala. While protestors gathered outside the gala, two individuals deceptively gained access to the event inside and seated themselves with attendees—donors to Heartbeat of Miami of all age groups. The protestors then interrupted the event, shouting obscenities and threats while tossing propaganda in a clear effort to intimidate those gathered in support of the work of our client.

⁹ See Exhibit 1.

¹⁰ See Exhibit 1.

¹¹ See Exhibit 4 (Amended Complaint, *People of the State of Florida ex rel. Moody v. Freestone et al.*, Case No. 8:23-cv-00701-SDM-MRM).

¹² Press Release, “Action Against Antifa and Jane’s Revenge,” (March 30, 2023), available at <https://www.myfloridalegal.com/newsrelease/action-against-antifa-and-janes-revenge>.

¹³ See Exhibit 5 (Amended Complaint, *Heartbeat of Miami, Inc. v. Jane’s Revenge et al.*, Case No. 8:23-cv-00705-KKM-AAS).

The fear instilled by these alleged criminals forced Heartbeat of Miami to pay for heightened security at all their clinics and events, replace security equipment, and manage the fear inflicted upon its staff and volunteers. We hope to recover the maximum in statutory damages authorized by the FACE Act.

U.S. Senators Undermine FACE’s Equal Application

While the vandalism of pro-life reproductive health facilities spread across the country, rather than insist that the DOJ enforce the FACE Act, and haul its leadership into hearings for why it had not yet done so, several United States Senators targeted entire networks of reproductive health facilities they disliked.

Seven pro-abortion Senators attempted to interrogate our client¹⁴ Heartbeat International—the nation’s largest network of pro-life reproductive health facilities. As First Liberty pointed out in our response on behalf of our client, investigations launched for the personal aggrandizements of Senators are simply indefensible.

Worse, rather than insist that the FACE Act be applied evenly, these pro-abortion Senators forcefully made known that they wished to “shut down” pro-life reproductive health facilities “all around the country.”¹⁵ This is hardly the protection of reproductive health facilities at one time contemplated by Congress in passing the FACE Act.

Moreover, though we asked,¹⁶ none of these Senators identified a single public statement by which they had repudiated the heinous acts of intimidation against pro-life reproductive health facilities.

It is to be expected for United States Senators to act according to their political agenda. However, when Congress passes a law that equally holds accountable those who attempt to injure, intimidate, or interfere with access to reproductive health facilities—whether pro-life or an abortion center—the American people expect their elected officials to support the laws Congress has passed. Furthermore, Americans should expect its leaders to at least inquire into why laws it has duly passed have either not been fully utilized or selectively enforced.

Yet, none of these Senators have called either Attorney General Merrick Garland or FBI Director Christopher Wray to Congress to answer why some receive the FACE Act protections and others do not. At a minimum, the American people have a right to expect that its leaders will not actively undermine the laws Congress passed in an effort to score cheap political points.

¹⁴ See Exhibit 6 (Letter from Senator Elizabeth Warren et al. to Jor-El Godsey, President, Heartbeat International (Sept. 19, 2022)).

¹⁵ See Exhibit 7 (Letter from Jeremy Dys, Senior Counsel, First Liberty Institute, to Senator Elizabeth Warren et al. (Oct. 31, 2022)).

¹⁶ See Exhibit 8 (Letter from Jeremy Dys, Senior Counsel, First Liberty Institute, to Senator Elizabeth Warren et al. (Oct. 1, 2022)).

Conclusion

Abortion is undoubtedly an issue dividing across political preferences and religious beliefs. Yet, the American tradition has been to submit our disagreements to the best of arguments. Violence has never been sanctioned, nor should it be, to express opposition to the practice of abortion or those who seek to preserve unborn life.

President Calvin Coolidge once remarked that “if all the folks in the United States would do the few simple things they know they ought to do, most of our big problems would take care of themselves.” Likewise, if all the leaders of the United States would deploy laws like the FACE Act without regard to the political, ideological, or religious motivations of a reproductive health facility, perhaps some of our “big problems” would likewise take care of themselves.

The selective deployment of the FACE Act should end. Those who target life-affirming reproductive health facilities should face the legal penalties Congress established for their actions. No one should suffer violence for simply providing faith-based or pro-life reproductive health services to women and their babies.

Thank you again for the opportunity to testify on this important topic. I am pleased to answer your questions.

Exhibit 1

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FILED
JAN 18 2023
CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 8:23-cr-25-VMC-AEP

CALEB HUNTER FREESTONE
AMBER MARIE SMITH-STEWART

18 U.S.C. § 241
18 U.S.C. § 248(a)(1)
18 U.S.C. § 248(a)(3)

INDICTMENT

The Grand Jury charges:

~~SEALED~~

COUNT ONE
(Conspiracy Against Rights)

A. The Conspiracy

From a date unknown, but at least from in or around May 2022 and continuing through on or about July 3, 2022, in the Middle District of Florida, and elsewhere, the defendants,

CALEB HUNTER FREESTONE, and
AMBER MARIE SMITH-STEWART,

did willfully combine, conspire, and agree with one another, and with other persons known and unknown to the Grand Jury, to injure, oppress, threaten, and intimidate employees of facilities providing reproductive health services in the free exercise and enjoyment of the rights and privileges secured to them by the laws of the United States, namely, the right to provide reproductive health services as provided by Title 18, United States Code, Section 248(c)(1), in violation of Title 18, United States

~~SEALED~~

Code, Section 241.

B. Plan and Purpose of the Conspiracy

The plan and purpose of the conspiracy was to attack reproductive health services facilities that provide abortion alternatives by spray painting threats of force and other intimidating messages on the property of the facilities, in order to injure, oppress, threaten, and intimidate the employees of those facilities in their ability to provide reproductive health services.

C. The Manner and Means of the Conspiracy

The manner and means by which the conspirators sought to accomplish the objects of the conspiracy included, among other things, the following:

a. It was part of the conspiracy that FREESTONE, SMITH-STEWART, and the conspirators would and did target reproductive health facilities that provide abortion alternatives including counselling, pregnancy testing, ultrasound examinations, and referral services relating to the human reproductive system.

b. It was further part of the conspiracy that FREESTONE, SMITH-STEWART, and the conspirators would and did wear disguises such as masks, hats, and gloves while attacking the targeted reproductive health facilities.

c. It was further part of the conspiracy that on or about May 28, 2022, FREESTONE, SMITH-STEWART, and conspirators travelled to Hollywood, Florida, and damaged and destroyed the property of Facility A by spray painting threats including “If abortions aren’t SAFE then niether [sic] are you.” Facility A is

an affiliate of the Archdiocese of Miami Ministry. Facility A offers free counselling, pregnancy testing, and ultrasound examinations.

d. It was further part of the conspiracy that on or about June 26, 2022, FREESTONE, SMITH-STEWART, and conspirators travelled to Winter Haven, Florida, and damaged and destroyed the property of Facility B by spray painting threats including “YOUR TIME IS UP!!” WE’RE COMING for U” and “We are everywhere.” Facility B offers free counselling, pregnancy testing, and ultrasound examinations.

e. It was further part of the conspiracy that on or about July 3, 2022, FREESTONE and conspirators travelled to Hialeah, Florida, and damaged and destroyed the property of Facility C by spray painting threats including “If abortions aren’t safe the [sic] neither are you.” Facility C offers free counselling, pregnancy testing, and ultrasound examinations.

All in violation of 18 U.S.C. § 241.

COUNT TWO
(Freedom of Access to Clinic Entrances)

On or about June 26, 2022, in the Middle District of Florida, and elsewhere,
the defendants,

CALEB HUNTER FREESTONE, and
AMBER MARIE SMITH-STEWART,

aiding and abetting one another and other persons known and unknown to the
Grand Jury, did by threat of force intentionally injure, intimidate, and interfere with,
and attempt to injure, intimidate, and interfere with employees of Facility B, because
the employees were providing and seeking to provide reproductive health services.
Specifically, FREESTONE and SMITH-STEWART spray painted threats of force
on the Facility B building.

In violation of 18 U.S.C. §§ 248(a)(1) and 2.

COUNT THREE
(Freedom of Access to Clinic Entrances)

On or about June 26, 2022, in the Middle District of Florida, and elsewhere,
the defendants,

CALEB HUNTER FREESTONE, and
AMBER MARIE SMITH-STEWART,

aiding and abetting one another and other persons known and unknown to the
Grand Jury, did intentionally damage and destroy the property of the Facility B, a
facility that provides reproductive health services because the facility provides
reproductive health services. Specifically, FREESTONE and SMITH-STEWART,

aided and abetted by one another and other persons known and unknown to the Grand Jury, defaced Facility B by spray painting the facility.

In violation of 18 U.S.C. § 248(a)(3) and 2.


A TRUE BILL,



Foreperson

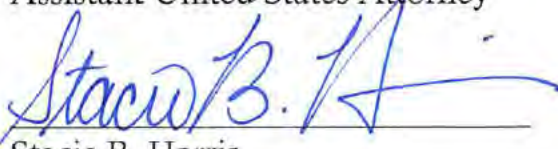
ROGER B. HANDBERG
United States Attorney

By:




Lisa M. Thelwell
Assistant United States Attorney

By:



Stacie B. Harris
Assistant United States Attorney
Chief, Special Victims Section

By:



Laura-Kate Bernstein
Trial Attorney
Civil Rights Division

No.

UNITED STATES DISTRICT COURT
Middle District of Florida
Tampa Division

THE UNITED STATES OF AMERICA

vs.

CALEB HUNTER FREESTONE
AMBER MARIE SMITH-STEWART

INDICTMENT

Violations: 18 U.S.C. § 241
18 U.S.C. §§ 248(a)(1) and 2
18 U.S.C. § 248(a)(3) and 2

A true bill



Foreperson

Filed in open court this 18th day
of January, 2023.

Clerk

Bail \$ _____

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. ~~8:23-cr-100 T&S-T&W~~ ^{8:23-cr-25-VMC-AEP} _{gmb}

CALEB HUNTER FREESTONE
a/k/a "Kya"
AMBER MARIE SMITH-STEWART
a/k/a "Ae"
a/k/a "16inches"
ANNARELLA RIVERA
a/k/a "Rivers"
GABRIELLA VICTORIA OROPESA
a/k/a "Gabs"
a/k/a "Gaby"
a/k/a "Gummy"

18 U.S.C. § 241
18 U.S.C. § 248(a)(1)
18 U.S.C. § 248(a)(3)

SEALED

^{gmb} Superseding INDICTMENT

The Grand Jury charges:

COUNT ONE
(Conspiracy Against Rights)

A. The Conspiracy

From a date unknown, but at least from in or around May 2022 and continuing through on or about July 3, 2022, in the Middle District of Florida, and elsewhere, the defendants,

CALEB HUNTER FREESTONE,
AMBER MARIE SMITH-STEWART,
ANNARELLA RIVERA, and
GABRIELLA VICTORIA OROPESA,

did willfully combine, conspire, and agree with one another, and with other persons

SEALED

^{gmb}

known and unknown to the Grand Jury, to injure, oppress, threaten, and intimidate employees of facilities providing reproductive health services in the free exercise and enjoyment of the rights and privileges secured to them by the laws of the United States, namely, the right to provide and seek to provide reproductive health services as provided by Title 18, United States Code, Section 248(c)(1), in violation of Title 18, United States Code, Section 241.

B. Plan and Purpose of the Conspiracy

The plan and purpose of the conspiracy was to attack reproductive health services facilities that provide abortion alternatives by spray painting threats of force and other intimidating messages on the property of the facilities, in order to injure, oppress, threaten, and intimidate the employees of those facilities from providing and seeking to provide reproductive health services.

C. The Manner and Means of the Conspiracy

The manner and means by which the conspirators sought to accomplish the objects of the conspiracy included, among other things, the following:

a. It was part of the conspiracy that FREESTONE, SMITH-STEWART, RIVERA, OROPESA, and the conspirators would and did target reproductive health facilities that provide abortion alternatives including counselling, pregnancy testing, ultrasound examinations, and referral services relating to the human reproductive system.

b. It was further part of the conspiracy that FREESTONE, SMITH-STEWART, RIVERA, OROPESA, and the conspirators would and did wear disguises such as masks, hats, and gloves while attacking the targeted reproductive health facilities.

c. It was further part of the conspiracy that on or about May 28, 2022, FREESTONE, SMITH-STEWART, RIVERA, OROPESA, and conspirators travelled to Hollywood, Florida, and damaged and destroyed the property of Facility A, a facility known to the Grand Jury, by spray painting threats including “If abortions aren’t SAFE then niether [sic] are you.” Facility A is an affiliate of the Archdiocese of Miami Ministry. Facility A offers free pregnancy counselling, pregnancy testing, and ultrasound examinations.

d. It was further part of the conspiracy that on or about June 26, 2022, FREESTONE, SMITH-STEWART, RIVERA, and conspirators travelled to Winter Haven, Florida, and damaged and destroyed the property of Facility B, a facility known to the Grand Jury, by spray painting threats including “YOUR TIME IS UP!!” WE’RE COMING for U” and “We are everywhere.” Facility B offers free pregnancy counselling, pregnancy testing, and ultrasound examinations.

e. It was further part of the conspiracy that on or about July 3, 2022, FREESTONE, OROPESA, and conspirators travelled to Hialeah, Florida, and damaged and destroyed the property of Facility C, a facility known to the Grand Jury, by spray painting threats including “If abortions aren’t safe the [sic] neither are

you.” Facility C offers free pregnancy counselling, pregnancy testing, and ultrasound examinations.

All in violation of 18 U.S.C. § 241 and 2.

COUNT TWO
(Freedom of Access to Clinic Entrances)

On or about June 26, 2022, in the Middle District of Florida, and elsewhere,
the defendants,

CALEB HUNTER FREESTONE,
AMBER MARIE SMITH-STEWART, and
ANNARELLA RIVERA,

aiding and abetting one another and other persons known and unknown to the Grand Jury, did by threat of force intentionally injure, intimidate, and interfere with, and attempt to injure, intimidate, and interfere with employees of Facility B, a facility known to the Grand Jury, because the employees were providing and seeking to provide reproductive health services. Specifically, FREESTONE, SMITH-STEWART, RIVERA, and other persons known and unknown to the Grand Jury, spray painted threats of force on the Facility B building.

In violation of 18 U.S.C. §§ 248(a)(1) and 2.

COUNT THREE
(Freedom of Access to Clinic Entrances)

On or about June 26, 2022, in the Middle District of Florida, and elsewhere,
the defendants,


CALEB HUNTER FREESTONE,

AMBER MARIE SMITH-STEWART, and
ANNARELLA RIVERA,

aiding and abetting one another and other persons known and unknown to the Grand Jury, did intentionally damage and destroy the property of the Facility B, a facility known to the Grand Jury because the facility provides reproductive health services. Specifically, FREESTONE, SMITH-STEWART, RIVERA and other persons known and unknown to the Grand Jury, defaced Facility B by spray painting the facility.


In violation of 18 U.S.C. § 248(a)(3) and 2.

A TRUE BILL,


Foreperson

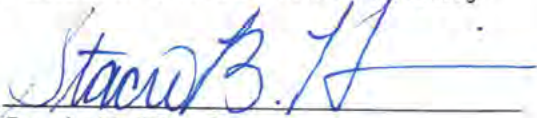
ROGER B. HANDBERG
United States Attorney

By:



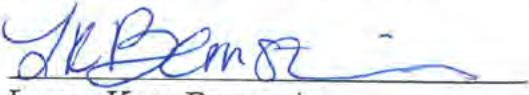
Lisa M. Thelwell
Assistant United States Attorney

By:



Stacie B. Harris
Assistant United States Attorney
Chief, Special Victims Section

By:



Laura-Kate Bernstein
Trial Attorney
Civil Rights Division

FORM OBD-34

March 23

No. 8:23-cr-25-VMC-AEP

UNITED STATES DISTRICT COURT
 Middle District of Florida
 Tampa Division

THE UNITED STATES OF AMERICA

vs.

CALEB HUNTER FREESTONE a/k/a "Kya"
 AMBER MARIE SMITH-STEWART a/k/a "Ae", a/k/a "16inches"
 ANNARELLA RIVERA a/k/a "Rivers"
 GABRIELLA VICTORIA OROPESA a/k/a "Gabs", a/k/a "Gaby", a/k/a "Gummy"

SUPERSEDING INDICTMENT

Violations: 18 U.S.C. § 241 and 2
 18 U.S.C. §§ 248(a)(1) and 2
 18 U.S.C. § 248(a)(3) and 2

A true bill,



Foreperson

Filed in open court this 22nd day of March, 2023.

Clerk

Bail \$ _____

Exhibit 2

Criminal No.

UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

Criminal Division

THE UNITED STATES OF AMERICA

vs.

MARK HOUCK

INDICTMENT

Counts

18 U.S.C. § 248(a)(1)(Freedom of Access to Clinic Entrances Act –
Attack of Patient Escort - 2 counts)



Foreman

Filed in open court this 20th day,
Of September A.D. 20 22

Clerk

Bail, \$ _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED:
MARK HOUCK	:	VIOLATIONS:
	:	18 U.S.C. § 248(a)(1) (Freedom of Access to Clinic Entrances Act – Attack of Patient Escort – 2 counts)

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

1. The Planned Parenthood – Elizabeth Blackwell Health Center (“the PPC” or “PPC”) was a provider of women’s reproductive health services located on Locust Street in Philadelphia, Pennsylvania. The PPC offered medical services that included birth control, annual gynecological examinations, cervical cancer screenings, sexually transmitted disease testing, termination of pregnancies, and other reproductive health services.
2. PPC staff included volunteer patient escorts, who assisted PPC patients with, among other things, safely entering and exiting the PPC facility.
3. On October 13, 2021, 72-year-old B.L. was a volunteer patient escort at PPC and had served in that capacity for approximately 30 years. B.L. routinely wore a bright colored vest that clearly identified him as a PPC volunteer patient escort.
4. On October 13, 2021, 47-year-old defendant MARK HOUCK was a protestor at PPC and familiar with the PPC volunteer patient escorts, including B.L.
5. On October 13, 2021, defendant MARK HOUCK shoved B.L. to the

ground as B.L. attempted to escort two PPC patients.

6. On or about October 13, 2021, in Philadelphia, in the Eastern District of Pennsylvania, defendant

MARK HOUCK,

by force, intentionally injured, intimidated and interfered with B.L., and attempted to injure, intimidate, and interfere with, B.L., because B.L. was and had been providing reproductive health services, and in order to injure, intimidate, and interfere with B.L. from providing reproductive health services.

In violation of Title 18, United States Code, Section 248(a)(1) and (b)(2).

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. The allegations contained in Paragraphs 1 through 4 of Count One of this Indictment are realleged and incorporated herein by reference.

2. On October 13, 2021, defendant MARK HOUCK verbally confronted B.L. and forcefully shoved B.L. to the ground in front of the PPC, causing injuries to B.L. that required medical attention.

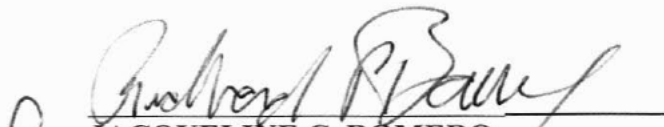
3. On or about October 13, 2021, in Philadelphia, in the Eastern District of Pennsylvania, defendant

MARK HOUCK,

by force, intentionally injured, intimidated and interfered with B.L., and attempted to injure, intimidate, and interfere with, B.L., because B.L. was and had been providing reproductive health services, and in order to injure, intimidate, and interfere with B.L. from providing reproductive health services. This offense resulted in bodily injury to B.L.

In violation of Title 18, United States Code, Section 248(a)(1) and (b)(1).

[REDACTED]


JACQUELINE C. ROMERO
UNITED STATES ATTORNEY

KTF:SMS/LAB
F. #2022R00659

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----- X

FILED UNDER SEAL

UNITED STATES OF AMERICA

AFFIDAVIT AND
COMPLAINT IN SUPPORT
OF AN APPLICATION FOR
AN ARREST WARRANT

- against -

CHRISTOPHER MOSCINSKI,

(18 U.S.C. § 248(a)(1))

Defendant.

22-MJ-1052(SIL)

----- X

EASTERN DISTRICT OF NEW YORK, SS:

DANIEL SCHMIDT, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

On or about July 7, 2022, within the Eastern District of New York and elsewhere, the defendant CHRISTOPHER MOSCINSKI, by physical obstruction, did intentionally intimidate and interfere with, and attempt to intimidate and interfere with, the employees and patients of Planned Parenthood in Hempstead, New York (the “Health Center”), because they were providing and obtaining reproductive health services.

(Title 18, United States Code, Section 248(a)(1))

The source of your deponent’s information and the grounds for his belief are as follows:¹

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

1. I am a Special Agent with the Federal Bureau of Investigation and have been since 2021. I am assigned to the New York Field Office. I am experienced in investigating a variety of federal criminal matters, including civil rights offenses. My employment has vested me with the authority to investigate violations of federal laws, including violations of Title 18, United States Code, Section 248, commonly referred to as the Freedom of Access to Clinic Entrances Act or “FACE Act.” I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including the defendant’s criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. The defendant CHRISTOPHER MOSCINSKI is a 52 year-old man who publicly represents himself to be a Franciscan Friar known as “Fr. Fidelis Moscinski.” He is currently serving a 3-month state jail sentence following conviction at trial for trespassing at an abortion clinic in White Plains, New York.

3. The Planned Parenthood Health Center in Hempstead, New York (the “Health Center”) offers services relating to abortion, birth control, emergency contraception, pregnancy testing, and general women’s healthcare, among other services. The Health Center is open Monday through Friday 8:00 a.m. to 7:00 p.m. The Health Center has a gate around it, which must be open for cars to park in the parking lot adjacent to the Health Center and for people to gain access to the Health Center.

4. On July 7, 2022, at approximately 6:22 a.m., video surveillance shows that a man in plain clothes, later identified by law enforcement as the defendant CHRISTOPHER MOSCINSKI, approached the front gates of the Health Center (the “Health Center Gates”). He had a black bag and appeared to install something on the Health Center Gates until

approximately 6:38 a.m., at which point he walked away from the Health Center Gates. At approximately 6:47 a.m., he returned to the Health Center Gates dressed in what appeared to be a grey religious robe. As described herein, MOSCINSKI was arrested later that day by local law enforcement for lying in front of the Health Center Gates and preventing vehicles from entering the Health Center parking lot. At that time of his arrest, MOSCINSKI was identified by the Hempstead police as Christopher Moscinski. Based on my review of surveillance video and known photographs of MOSCINSKI, as well as MOSCINSKI's own admissions (described below), MOSCINSKI was the individual who initially approached the Health Center Gates with the black bag and returned for a photograph in a grey robe.

5. The defendant CHRISTOPHER MOSCINSKI's actions on July 7, 2022, restricted access to the Health Center. At approximately 7:24 a.m. that day, an employee of the Health Center ("Employee-1") attempted to drive into the parking lot and observed locks on the Health Center Gates. Photographic evidence provided by Health Center employees shows that approximately five locks had been fastened to the Health Center Gates, including two chains with padlocks and three bicycle locks. Witnesses reported that some of the locks appeared to have glue poured into them. Upon observing that access to the Health Center was obstructed, Employee-1 called other Health Center employees to arrange for the locks and chains to be removed. One Health Center employee contacted the police. The police responded and called the fire department for assistance.

6. At approximately 8:01 a.m., firefighters arrived at the Health Center and, together with assistance from law enforcement and civilians, removed the locks and chains from the Health Center Gates shortly before approximately 8:11 a.m.

7. At approximately 8:08 a.m., prior to the Health Center Gates being unlocked, the defendant CHRISTOPHER MOSCINSKI stood in front of the Health Center Gates. He remained there following removal of the locks and prevented vehicles from entering the Health Center parking lot. When approached, at approximately 8:11 a.m., by a Hempstead Police Officer, MOSCINSKI laid his body down in front of the Health Center Gates, physically blocking the Health Center entrance. He was arrested by the Hempstead Police Department for disorderly conduct based on his attempt to obstruct traffic to the Health Center, and his identity was confirmed.

8. Since his arrest, the defendant CHRISTOPHER MOSCINSKI has publicly spoken about his attempts to obstruct access to the Health Center on July 7, 2022. For example, during a July 14, 2022, media interview, MOSCINSKI admitted that he placed “six locks and chains” on the Health Center Gates and then laid in front of the Health Center Gates once the locks and chains were removed. When asked about his motivation, MOSCINSKI admitted in sum and substance that, among other things, “the main motivation was to try to keep that Planned Parenthood closed for as long as possible [...]”

9. Based on the foregoing facts, I submit that there is probable cause to believe that MOSCINSKI committed violations of 18 U.S.C § 248.

10. Your deponent respectfully requests that the Court issue an order sealing, until further order of the Court, all papers submitted in support of this application, including the affidavit and arrest warrant. Based upon my training and experience, I have learned that criminals actively search for criminal affidavits and arrest warrants via the Internet. Premature disclosure of the contents of this affidavit and related documents will seriously jeopardize the investigation, including by giving targets, including the accomplices of the defendant both

known and unknown, notice of the existence and scope of the investigation, an opportunity to flee from prosecution, destroy or tamper with evidence, and/or change patterns of behavior.

WHEREFORE, your deponent respectfully requests that the defendant CHRISTOPHER MOSCINSKI be dealt with according to law.

Daniel Schmidt

DANIEL SCHMIDT
Special Agent, Federal Bureau of Investigation

Sworn to before me this
28 day of September, 2022

/s/ STEVEN I. LOCKE

THE HONORABLE STEVEN I. LOCKE
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

OCT 03 2022

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION


DEPUTY CLERK

UNITED STATES OF AMERICA)
)
 v.)
)
 [1] CHESTER GALLAGHER)
 [2] HEATHER IDONI)
 [3] CALVIN ZASTROW)
 [4] COLEMAN BOYD)
 [5] CAROLINE DAVIS)
 [6] PAUL VAUGHN)
 [7] DENNIS GREEN)
 [8] EVA EDL)
 [9] EVA ZASTROW)
 [10] JAMES ZASTROW)
 [11] PAUL PLACE)

NO. 3:22-00327

18 U.S.C. § 2
18 U.S.C. § 241
18 U.S.C. § 248(a)(1)

INDICTMENT

THE GRAND JURY CHARGES:

The Grand Jury for the Middle District of Tennessee charges that, at times material to this Indictment, on or about the dates stated below:

Introduction

1. The carafem Health Center (“Clinic”) was a provider of reproductive health services, including abortions, located in Mt. Juliet, in the Middle District of Tennessee.

2. The following individuals were present at the Clinic on March 5, 2021, together and with others known and unknown to the Grand Jury:

- a. [1] **CHESTER GALLAGHER**, an individual who resides in Tennessee;
- b. [2] **HEATHER IDONI**, an individual who resides in Michigan;
- c. [3] **CALVIN ZASTROW**, an individual who resides in Michigan;
- d. [4] **COLEMAN BOYD**, an individual who resides in Mississippi;

- e. [5] **CAROLINE DAVIS**, an individual who resides in Michigan;
- f. [6] **PAUL VAUGHN**, an individual who resides in Tennessee;
- g. [7] **DENNIS GREEN**, an individual who resides in Virginia;
- h. [8] **EVA EDL**, an individual who resides in South Carolina;
- i. [9] **EVA ZASTROW**, an individual who resides in Arkansas;
- j. [10] **JAMES ZASTROW**, an individual who resides in Missouri; and
- k. [11] **PAUL PLACE**, an individual who resides in Tennessee.

3. Employee A was employed by the Clinic and was at work on March 5, 2021.

4. Patient A was a Clinic patient who was seeking to obtain reproductive health services at the Clinic on March 5, 2021.

COUNT ONE

5. The allegations contained in paragraphs 1 through 4 of this Indictment are realleged and incorporated herein by reference.

6. From on or about February 10, 2021, to on or about March 5, 2021, in the Middle District of Tennessee and elsewhere, defendants [1] **CHESTER GALLAGHER**, [2] **HEATHER IDONI**, [3] **CALVIN ZASTROW**, [4] **COLEMAN BOYD**, [5] **CAROLINE DAVIS**, [6] **PAUL VAUGHN**, and [7] **DENNIS GREEN** did willfully combine, conspire, and agree with one another, and with other persons known and unknown to the Grand Jury, to injure, oppress, threaten, and intimidate patients and employees of the Clinic in the free exercise and enjoyment of the rights and privileges secured to them by the laws of the United States, namely, the right to obtain and seek to obtain, and to provide and seek to provide, reproductive health services, as provided by Title 18, United States Code, Section 248(c), in violation of Title 18, United States Code, Section 241.

Purpose of the Conspiracy

7. It was the plan and purpose of the conspiracy that defendants [1] **CHESTER GALLAGHER**, [2] **HEATHER IDONI**, [3] **CALVIN ZASTROW**, [4] **COLEMAN BOYD**, [5] **CAROLINE DAVIS**, [6] **PAUL VAUGHN**, and [7] **DENNIS GREEN**, aided and abetted by each other and by other co-conspirators known and unknown to the Grand Jury, would create a blockade to stop the Clinic from providing, and patients from obtaining, reproductive health services.

Overt Acts

8. In furtherance of the conspiracy, and to accomplish the objects of the conspiracy, the conspirators committed various overt acts, including, but not limited to, the following:

9. In or about February 2021, [1] **CHESTER GALLAGHER** utilized social media and promoted a series of anti-abortion events scheduled for March 4 through 7, 2021, in the Nashville area. [1] **GALLAGHER** used the term “rescue” to describe the physical blockade of a reproductive health care facility.

10. In or about mid-February 2021, [1] **CHESTER GALLAGHER** and [2] **HEATHER IDONI** used Facebook, a social media platform, to coordinate travel and logistics for [2] **IDONI**, [3] **CALVIN ZASTROW**, [5] **CAROLINE DAVIS**, [7] **DENNIS GREEN**, and other blockade participants known and unknown to the Grand Jury to travel to Nashville. [1] **GALLAGHER** and [2] **IDONI** also used Facebook to identify blockade participants who would be willing to risk arrest to further the objects of the conspiracy.

11. In or about mid-February 2021, [5] **CAROLINE DAVIS** used Facebook to communicate to [4] **COLEMAN BOYD** that she would meet him for a “rescue” in Tennessee in

March 2021. [5] **DAVIS** then did meet [4] **BOYD** and others in Mt. Juliet, Tennessee, on or about March 4, 2021, to participate in a blockade at the Clinic.

12. In or about March 2021, [2] **HEATHER IDONI**, [3] **CALVIN ZASTROW**, [4] **COLEMAN BOYD**, [5] **CAROLINE DAVIS**, [7] **DENNIS GREEN**, and others known and unknown to the Grand Jury, traveled to the Middle District of Tennessee from other states.

13. In or about March 4, 2021, [4] **COLEMAN BOYD** advertised the clinic blockade on his Facebook social media account. [4] **BOYD** posted, “Lord willing, our family will be doing a Facebook live of some ministry activities tomorrow morning around 7:45 AM central time. Please be in prayer towards this. Please plan to join us and share it if possible.”

14. On or about 7:45 a.m. on March 5, 2021, [4] **COLEMAN BOYD** stood in the hallway outside of the Clinic suite and used his Facebook account to create a livestream titled, in part, “Mt. Juliet, TN Rescue March 5, 2021.”

15. [1] **CHESTER GALLAGHER**, [2] **HEATHER IDONI**, [3] **CALVIN ZASTROW**, [6] **PAUL VAUGHN**, and others known and unknown to the Grand Jury gathered in the hallway outside of the Clinic suite, directly outside the Clinic’s two entry doors, at 7:45 a.m.

16. [1] **CHESTER GALLAGHER** and [3] **CALVIN ZASTROW** stood directly in front of the Clinic’s main entry door, blocking access to the Clinic when [4] **COLEMAN BOYD** commenced his Facebook livestream at approximately 7:45 a.m. [4] **BOYD** announced on his Facebook livestream that the individuals depicted on his livestream, which included himself, [1] **GALLAGHER**, [2] **HEATHER IDONI**, [3] **CALVIN ZASTROW**, [6] **PAUL VAUGHN**, and others known and unknown to the Grand Jury, were present at 7:45 a.m. because the Clinic was scheduled to open at 8:00 a.m.

17. At approximately 7:51 a.m., [7] **DENNIS GREEN** used his Facebook account to create a livestream of the blockade of the Clinic. [7] **GREEN** recorded himself entering the Clinic building, and then riding up the elevator to the Clinic floor with [5] **CAROLINE DAVIS** and others known and unknown to the Grand Jury.

18. [5] **CAROLINE DAVIS**, [7] **DENNIS GREEN**, and others known and unknown to the Grand Jury arrived approximately six minutes into [4] **COLEMAN BOYD'S** livestream video, at approximately 7:51 a.m. [5] **DAVIS**, [7] **GREEN**, and others known and unknown to the Grand Jury walked through the clinic hallway and assumed positions blocking the main door to the Clinic.

19. When Patient A and her companion arrived outside the Clinic for a scheduled reproductive health service, they encountered [4] **COLEMAN BOYD**, who was standing next to the only hallway leading to the Clinic's entry doors. [4] **BOYD** attempted to engage Patient A by asking her numerous questions. For example, [4] **BOYD** asked Patient A if she was, "Trying to come to the abortion mill?" Patient A responded and walked away, but [4] **BOYD** persisted and asked Patient A, "Can we talk to you for a minute?" [4] **BOYD** then encouraged one of his children to approach Patient A and her companion. [4] **BOYD'S** child then walked up to Patient A and asked her and her companion if they're "looking for the abortion clinic?" Patient A and her companion walked into the crowded hallway but stopped short of the Clinic entrance. [4] **BOYD** then directed his livestream camera into the hallway and captured Patient A speaking with Employee A. [4] **BOYD** told his livestream audience that Patient A was a "mom coming to kill her baby."

20. When Employee A returned to the Clinic staff door, [3] **CALVIN ZASTROW** physically blocked the door for Clinic staff. [3] **ZASTROW** refused to move from the door, and

acknowledged to Employee A that he was trespassing. Employee A was unable to enter the Clinic, and exited the building.

21. Shortly after 8:00 a.m., [1] **CHESTER GALLAGHER** used his Facebook account to post a livestream video titled, “RESCUE.” [1] **GALLAGHER** announced that he, [3] **CALVIN ZASTROW**, and another individual known to the Grand Jury are “leading a rescue.” [1] **GALLAGHER** further stated that the “rescuers” present were “willing to be incarcerated” to “rescue families from this place of destruction.” During the course of the recording, [1] **GALLAGHER** explained that a successful “rescue” involved delay tactics that kept patients from obtaining, and the Clinic from performing, abortions.

22. [1] **CHESTER GALLAGHER** announced to [2] **HEATHER IDONI**, [3] **CALVIN ZASTROW**, [5] **CAROLINE DAVIS**, [6] **PAUL VAUGHN**, [7] **DENNIS GREEN**, and others known and unknown to the Grand Jury that, “It’s very important that if you’re not planning on being arrested, do not sit in front of the door, do not get pictured blocking the door. I just don’t want anybody having their picture taken sitting in front of the door unless you’re being arrested. Otherwise, just stand up and be in the hallway.” Following [1] **GALLAGHER’S** announcement, [2] **IDONI**, [3] **ZASTROW**, [5] **DAVIS**, and [7] **GREEN** and others known and unknown to the Grand Jury used their bodies to block the Clinic’s doors. [4] **COLEMAN BOYD** remained at the opposite end of the Clinic hallway livestreaming the events with a cell phone.

23. [2] **HEATHER IDONI**, [3] **CALVIN ZASTROW**, [5] **CAROLINE DAVIS**, [7] **DENNIS GREEN** and others known and unknown to the Grand Jury continued to physically block the Clinic’s doors.

24. After officers with the Mt. Juliet Police Department arrived and directed the individuals in the hallway outside the Clinic to leave, [1] **CHESTER GALLAGHER** told

[2] HEATHER IDONI, [3] CALVIN ZASTROW, [5] CAROLINE DAVIS, [6] PAUL VAUGHN, [7] DENNIS GREEN and others known and unknown to the Grand Jury that, “We’re at the point now where we need to know who is going to jail and who is not.” Following [1] GALLAGHER’S announcement, [2] IDONI, [3] CALVIN ZASTROW, [5] DAVIS, [7] GREEN, and others known and unknown to the Grand Jury blocked the Clinic’s doors.

25. As [6] PAUL VAUGHN stood in the hallway, [1] CHESTER GALLAGHER announced to [2] HEATHER IDONI, [3] CALVIN ZASTROW, [5] CAROLINE DAVIS, [6] VAUGHN, [7] DENNIS GREEN and others known and unknown to the Grand Jury that, “We have two doors to block.”

26. During [1] CHESTER GALLAGHER’S Facebook livestream, [6] PAUL VAUGHN alerted [1] GALLAGHER and others that the police were soon going to arrest individuals after giving a final warning. After [6] VAUGHN spoke with the police officers he stood next to [1] GALLAGHER, who explained to his Facebook livestream audience that [6] VAUGHN was engaging the police and “trying to buy us as much time as we can.”

27. [1] CHESTER GALLAGHER stood next to [2] HEATHER IDONI, [5] CAROLINE DAVIS, [7] DENNIS GREEN and others known and unknown to the Grand Jury in front of the Clinic’s main entry door and explained to his Facebook livestream audience that he and the blockade participants “already turned away one couple” and hoped to “stop as many murderous appointments as we can.”

All in violation of Title 18, United States Code, Section 241.

COUNT TWO

28. The allegations contained in Paragraphs 1 through 27 of this Indictment are realleged and incorporated herein by reference.

29. On or about March 5, 2021, in the Middle District of Tennessee and elsewhere, the defendants, [1] CHESTER GALLAGHER, [2] HEATHER IDONI, [3] CALVIN ZASTROW, [4] COLEMAN BOYD, [5] CAROLINE DAVIS, [6] PAUL VAUGHN, [7] DENNIS GREEN, [8] EVA EDL, [9] EVA ZASTROW, [10] JAMES ZASTROW, and [11] PAUL PLACE, aiding and abetting one another, did by force, threat of force, and physical obstruction, intentionally injure, intimidate, and interfere with, and attempt to injure, intimidate, and interfere with Patient A, Employee A, and the other employees of the Clinic, because Patient A was obtaining, and the Clinic was providing, reproductive health services.

All in violation of Title 18, United States Code, Sections 248(a)(1) and 2.

A TRUE BILL

FOREPERSON

MARK H. WILDASIN
UNITED STATES ATTORNEY



AMANDA J. KLOPF
ASSISTANT UNITED STATES ATTORNEY

KRISTEN M. CLARKE
ASSISTANT ATTORNEY GENERAL
CIVIL RIGHTS DIVISION



SANJAY PATEL
NIKHIL RAMNANEY
TRIAL ATTORNEYS

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**Holding a Criminal Term
Grand Jury Sworn in on May 18, 2022**

UNITED STATES OF AMERICA	:	CRIMINAL NO. 22-cr-96 (CKK)
	:	
v.	:	VIOLATIONS:
	:	
LAUREN HANDY,	:	COUNT 1: 18 U.S.C. § 241
	:	(Conspiracy Against Rights)
JONATHAN DARNEL,	:	
	:	COUNT 2: 18 U.S.C. §§ 248(a)(1), 2
JAY SMITH (aka JUANITO PICHARDO),	:	(Clinic Access Obstruction)
	:	
PAULA “PAULETTE” HARLOW,	:	
	:	
JEAN MARSHALL,	:	
	:	
JOHN HINSHAW,	:	
	:	
HEATHER IDONI,	:	
	:	
WILLIAM GOODMAN,	:	
	:	
JOAN BELL, and	:	
	:	
HERB GERAGHTY	:	
	:	
Defendants.	:	

SUPERSEDING INDICTMENT

The Grand Jury for the District of Columbia charges that at times material to this superseding indictment, on or about the dates and at the approximate times stated below:

Introduction

1. The Clinic was a provider of women’s reproductive health services, including abortions, in the District of Columbia. The Clinic provided services on an appointment-only basis.

2. The following individuals conspired with one another and with others known and unknown to obstruct access to the Clinic on October 22, 2020:

- a. LAUREN HANDY, an individual from Virginia;
- b. JONATHAN DARNEL, an individual from Virginia
- c. JAY SMITH (also known as JUANITO PICHARDO), an individual from New York;
- d. PAULETTE HARLOW, an individual from Massachusetts;
- e. JEAN MARSHALL, an individual from Massachusetts;
- f. JOHN HINSHAW, an individual from New York;
- g. HEATHER IDONI, an individual from Michigan;
- h. WILLIAM GOODMAN, an individual whose last known address was in Wisconsin;
- i. JOAN BELL, an individual from New Jersey; and
- j. HERB GERAGHTY, an individual with a last known address in Pennsylvania.

3. Nurse K was a nurse employed by the Clinic and was at work on the morning of October 22, 2020.

4. Medical Specialist H was a medical specialist employed by the Clinic and was at work on the morning of October 22, 2020.

5. Clinic Administrator B was the Clinic administrator and was at work on the morning of October 22, 2020.

6. Patient A was a Clinic patient who was seeking to obtain reproductive health services at the Clinic on October 22, 2020.

COUNT ONE
18 U.S.C. § 241
(Conspiracy Against Rights)

7. The allegations contained in Paragraphs 1 through 6 of this indictment are realleged and incorporated herein by reference.

8. From October 7, 2020, to October 22, 2020, in the District of Columbia and elsewhere, the defendants,

**LAUREN HANDY,
JONATHAN DARNEL,
JAY SMITH,
PAULETTE HARLOW,
JEAN MARSHALL,
JOHN HINSHAW,
HEATHER IDONI,
WILLIAM GOODMAN,
JOAN BELL, and
HERB GERAGHTY**

did willfully combine, conspire, and agree with one another, and with other persons known and unknown, to injure, oppress, threaten, and intimidate patients and employees of the Clinic in the District of Columbia in the free exercise and enjoyment of the rights and privileges secured to them by the laws of the United States—namely, the right to obtain and seek to obtain, and to provide and seek to provide, reproductive health services, as provided by 18 U.S.C. § 248(c)(1).

Purpose of the Conspiracy

9. It was the purpose of the conspiracy to create a blockade to stop the Clinic from providing, and patients from obtaining, reproductive health services.

Manner and Means

10. The conspiracy was carried out through the following manner and means, among others:

- a. The conspirators communicated with one another in advance;
- b. The conspirators traveled to the District of Columbia from other states;

- c. The conspirators used deception to gather information about and gain access to the Clinic;
- d. The conspirators used force to enter the Clinic and to obstruct access to and the functioning of the Clinic; and,
- e. The conspirators brought tools to barricade themselves inside the Clinic, including ropes and chains.

Overt Acts

11. In furtherance of the conspiracy, and to accomplish the objects of the conspiracy, the conspirators committed various overt acts, including, but not limited to, the following:

12. HANDY used her mobile phone to call and text several co-conspirators between October 7, 2020, and October 22, 2020, to organize and plan a blockade at the Clinic.

13. DARNEL used his mobile phone to call and text several co-conspirators between October 15, 2020, and October 22, 2020.

14. On October 13, 2020, HANDY procured a monetary donation to pay for a lodging reservation in the District of Columbia that HANDY made for herself and GERAGHTY.

15. HANDY made that lodging reservation through Airbnb, Inc., at 133 Quincy Place NE, Washington, D.C., for October 21-22, 2020.

16. HANDY also made other lodging arrangements elsewhere in the District of Columbia for several co-conspirators from Michigan, New York, and Massachusetts.

17. Days before October 22, 2020, HANDY called the Clinic, falsely represented that she was a female named “Hazel Jenkins” who needed reproductive health services, and made an appointment for 9:00 a.m. on the morning of October 22, 2020.

18. SMITH, HARLOW, MARSHALL, HINSHAW, IDONI, GOODMAN, BELL, and GERAGHTY traveled to the District of Columbia from other states.

19. On October 22, 2020, before the Clinic was open for services, HANDY approached Medical Specialist H in the hallway outside the Clinic and falsely represented herself as “Hazel Jenkins” and stated that she had a medical appointment.

20. At 8:56 a.m. on October 22, 2020—shortly after HANDY was claiming to be a Clinic patient—DARNEL, who was outside of the building in which the Clinic was located, used his Facebook account to create an event that he titled, “No one dies today.” DARNEL captioned it, “Starting soon! Tune in!”

21. As DARNEL announced an imminent Facebook event, HANDY, SMITH, HARLOW, MARSHALL, HINSHAW, IDONI, GOODMAN, BELL, and GERAGHTY gathered in the hallway and stairwell outside of the Clinic’s front door.

22. When the Clinic opened for services on October 22, 2020, and Medical Specialist H unlocked the Clinic’s door to admit patients with scheduled appointments, HANDY, SMITH, HARLOW, MARSHALL, HINSHAW, IDONI, GOODMAN, BELL, and GERAGHTY forcefully pushed through the Clinic door into the Clinic’s waiting room.

23. When SMITH forcefully backed into the clinic, he caused Nurse K to stumble and sprain her ankle.

24. Once inside the Clinic’s waiting room, HANDY, SMITH, HARLOW, MARSHALL, HINSHAW, IDONI, GOODMAN, BELL, and GERAGHTY set about blockading two Clinic doors.

25. HANDY directed conspirators on what to do.

26. HINSHAW and MARSHALL moved chairs in the Clinic's waiting room to block a door to the Clinic's treatment area.

27. HARLOW brought with her a duffle bag that contained a chain and rope.

28. SMITH, HARLOW, MARSHALL, HINSHAW, and BELL sat in the chairs they had placed to obstruct passage into the Clinic's treatment area and chained and roped themselves together.

29. GOODMAN and IDONI went into the hallway outside of the Clinic and stood in front the doorway of the employee entrance to the Clinic.

30. When Patient A arrived at the Clinic lobby for a scheduled reproductive health service, MARSHALL and other conspirators blocked her from entering the Clinic's treatment area.

31. When Patient A attempted to use the employee entrance in the hall to gain access to the Clinic's treatment area, GOODMAN and IDONI blocked Patient A from entering the Clinic.

32. HANDY stood at the doorway of the Clinic's main entrance, and blocked individuals trying to enter the waiting room.

33. GERAGHTY, at times, stood with HANDY at the doorway of the Clinic's main entrance blocking access.

34. GERAGHTY, at times, stood with GOODMAN and IDONI in front of the Clinic's employee entrance blocking access.

35. At the same time that the conspirators began blockading the Clinic, DARNEL, who was standing outside of the Clinic's building, used Facebook to live-stream a video of the conspirators' activities. He started the live-stream by saying, in part, that at that moment, "we have people intervening physically with their bodies to prevent women from entering the clinic to murder their children."

36. While streaming live on Facebook, DARNEL entered the building and went to the Clinic's entrance. As he broadcast the conspirators blockading the entrances to the Clinic, DARNEL stated, in part, "[T]he rescuers are doing their job. They're not allowing women to enter the abortion clinic. As long as they're in there, no women can go in to kill their children."

(In Violation of Title 18, United States Code, Section 241)

COUNT TWO
18 U.S.C. §§ 248(a)(1), 2
(Freedom of Access to Clinic Entrances Act)

37. The allegations contained in Paragraphs 1 through 6 and 11 through 36 of this indictment are realleged and incorporated herein by reference.

38. On October 22, 2020, in the District of Columbia and elsewhere, the defendants,

**LAUREN HANDY,
JONATHAN DARNEL,
JAY SMITH,
PAULETTE HARLOW,
JEAN MARSHALL,
JOHN HINSHAW,
HEATHER IDONI,
WILLIAM GOODMAN,
JOAN BELL, and
HERB GERAGHTY**

aiding and abetting one another, did by force and physical obstruction, intentionally injure, intimidate, and interfere with, and attempt to injure, intimidate, and interfere with, Patient A and the employees of the Clinic, because Patient A was obtaining, and the Clinic was providing, reproductive health services.

(In Violation of Title 18, United States Code, Sections 248(a)(1) and 2)

A TRUE BILL:

FOREPERSON

A handwritten signature in blue ink that reads "Matthew M. Graves" followed by a stylized flourish.

MATTHEW M. GRAVES
ATTORNEY FOR THE UNITED STATES
IN AND FOR THE DISTRICT OF COLUMBIA

KRISTEN M. CLARKE
ASSISTANT ATTORNEY GENERAL
CIVIL RIGHTS DIVISION

Exhibit 3

September 13, 2022

Attorney General Maura Healey
1 Ashburton Place
Boston, MA 02108
Maura.Healey@mass.gov

Sent via U.S. Mail and Email

Re: Civil Rights Protections of Pregnancy Resource Centers

Attorney General Healey:

First Liberty Institute is a non-profit law firm dedicated to defending and restoring religious liberty for all Americans. Massachusetts Family Institute is a nonpartisan public policy organization dedicated to strengthening families in Massachusetts. We represent a coalition of pregnancy resource centers in Massachusetts, including Boston Center for Pregnancy Choices, Abundant Hope Pregnancy Resource Center, Clearway Clinic, Bethlehem House, and Your Options Medical (collectively “PRCs”). Each of our clients are concerned by your office’s recent actions against pregnancy resource centers along with its refusal to enforce the law to protect these centers from the wave of criminal actions taken against them.

Specifically, your letter of July 19, 2022, suggests you may seek civil sanctions against our clients. See Exhibit 1. As outlined below, any effort by your office to sanction the PRC’s as you described would violate the U.S. Constitution. Further, on July 6, 2022, you issued a “consumer advisory” warning against PRCs and encouraging consumers to file complaints with your office about their work. See Exhibit 2. We ask that you remove the “consumer advisory” you issued on July 6, 2022 and withdraw your letter of July 19, 2022. Further, we ask that you make clear what actions you are taking, or will take, to protect the PRCs. Please direct all communications regarding this issue to us.

Reproductive health facilities, like the PRC’s, provide essential services.

The PRCs’ religious beliefs motivate them to care for women facing unintended pregnancies. They distribute free diapers, wipes, formula, baby food, blankets, and clothing. Many offer parenting programs that help equip new parents facing the important job of raising their children. Others offer free screenings for STD’s along with free pregnancy tests, medical consultations, and professional counseling. For those who respond negatively to their abortion experience, the PRCs provide supportive counseling and mentors. Some even recruit knitters throughout their community who knit sweaters, booties, and blankets that are given—free of charge—to women who request them for their babies.

As reproductive health facilities, our clients also provide essential professional services. The Massachusetts Department of Public Health licenses at least two of the PRCs as medical clinics who provide medical services under the supervision of a medical doctor. Others employ licensed professional counselors to provide mental health care for women seeking to process their reproductive health decisions.

These are the groups you targeted with your letter: men and women, motivated by their faith to provide medical and professional counseling services and give away diapers, baby wipes, and hand-knitted baby booties to those in need. Rather than protect these faith-based organizations providing professional reproductive health services, as is the duty of your office, your letter has placed them in further jeopardy. More than one has faced violent threats and vandalism of their facilities such that women hoping to obtain free baby formula (in a time of its short supply) and a baby blanket are now scared to approach these reproductive health facilities.

For example, a group calling itself “Jane’s Revenge” violently attacked our client, Clearway Clinic, the very night you issued your “consumer advisory” against PRCs causing significant economic damage and stoking fear. It was a clear attempt to intimidate and drive away this faith-based, nonprofit organization. This is a crime in the Commonwealth of Massachusetts. A picture of part of the damage is below.



Another facility, pictured below, found graffiti scrawled across their entrance. The phrase, “Not Real Abortion Clinic” unartfully echoes the allegations you, within days of this attack, leveled against the PRCs that provide counseling, medical services, STD screening, and free baby sweaters knitted by volunteers who love babies and their mothers.



Two other facilities we represent arrived to find their buildings splattered with red paint clearly intended to look like blood. Vandals, armed with spray paint, also scrawled threats to their physical security, “Jane’s Revenge,” and symbols for organizations who are known to fire-bomb buildings and physically assault private citizens. No arrests have been made. No criminal defendants identified. And, to our knowledge, you have taken no action to investigate and prosecute Jane’s Revenge or other anarchists.





We are deeply troubled by the hostility you have exhibited, and sanctioned, towards our clients, all of whom are faith-based organizations simply seeking to live out their faith by serving pregnant women in desperate need of assistance. Instead of applauding the PRCs for the vital work they perform in their communities, your office maliciously accused these centers of posing a threat to “pregnant people” and that “pregnant people” should be warned against visiting them. You have also incorrectly stated that pregnancy resource centers use “deceptive and coercive tactics” when they provide their free, essential services. Even more concerning, you threatened legal action against at least one pregnancy resource center for allegedly interfering with access to abortion services.

Your office’s hostility against our clients’ religious beliefs raises serious concerns that you intend to take legal action against our clients in violation of their constitutional rights. As detailed below, your threatened course of action likely violates both the Free Speech and Free Exercise Clauses of the First Amendment to the U.S. Constitution. Further, your failure to investigate the crimes committed against our clients and bring the culprits behind those crimes to justice demonstrates your refusal to provide equal protection under the law.

At a minimum, we ask that you outline the actions you have taken and intend to take to protect these PRCs. Has your office directed law enforcement to investigate the violent acts against the PRCs? Have you written a letter to the leadership of “Jane’s Revenge” informing them of the criminal and civil penalties your office may seek for their acts of vandalism and trespass against our clients? Are you pursuing civil sanctions against those interfering with access to reproductive health services, destroying or damaging a reproductive health facility, and intimidating and interfering with persons seeking or providing reproductive health services at these PRCs? Please respond with detailed actions taken by your office—or that your office intends to take—to protect the citizens of your state who work and volunteer at these PRCs to love, counsel, feed, and clothe mothers and their babies at their reproductive health facilities.

We remind you that, as an officer of the Commonwealth of Massachusetts, you have a duty to *all* citizens of Massachusetts, including those with whom you may politically disagree with as they knit baby blankets and distribute baby food.

An Attorney General may not target speech she dislikes, nor enforce viewpoints she prefers.

In your July 19 letter, you threaten enforcement action against the PRCs despite the fact that they are engaged in constitutionally protected speech and exercise. Any such enforcement would likely discriminate on the basis of content and viewpoint in violation of the Free Speech Clause of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment. “Content-based regulations target speech based on its communicative content” and “are presumptively unconstitutional.” *Nat’l Inst. of Fam. & Life Advoc. v. Becerra*, 138 S. Ct. 2361, 2371 (2018). Courts heavily scrutinize such government action because “the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.” *Police Dep’t of City of Chi. v. Mosley*, 408 U.S. 92, 95 (1972); *see also Plyler v. Doe*, 457 U.S. 202, 216 (1982) (“The Equal Protection Clause directs that all persons similarly circumstanced shall be treated alike.”).

Thus, while you may disagree with the PRCs’ speech, “the government may not selectively shield the public from some kinds of speech on the ground that they are more offensive than others.” *McCullen v. Coakley*, 573 U.S. 464, 477 (2014). Your threatened enforcement actions single out entities that discuss the topic of pregnancy, a content-based distinction that violates the U.S. Constitution.

Further, your threatened enforcement actions discriminate against facilities that hold a viewpoint against abortion. The Supreme Court of the United States has repeatedly made clear that such viewpoint discrimination by the government is strictly prohibited. *See Cornelius v. NAACP Legal Def. & Educ. Fund*, 473 U.S. 788, 811 (1985) (holding that the government violates the First Amendment when it suppresses the viewpoint espoused); *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 46 (1983) (holding that viewpoint discrimination is prohibited regardless of forum).

The government violates the law when it suppresses or excludes private speech simply because the speech expresses a religious viewpoint. *See Shurtleff v. City of Boston*, 142 S. Ct. 1583, 1593 (2022) (holding the exclusion of a Christian flag from Boston’s flag-raising program is unconstitutional viewpoint discrimination); *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98 (2001) (holding that the exclusion of a religious club’s use of school property because it was religious constitutes viewpoint discrimination.); *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819 (1995) (finding that viewpoint discrimination violates the First Amendment, fosters hostility toward religion, and undermines state neutrality toward religion); *Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384 (1993) (holding that a government actor may not favor one viewpoint at the expense of another); *Widmar v. Vincent*, 454 U.S. 263 (1981) (rejecting

a college's exclusion of a religious group's access to facilities because its policy excluded based upon the viewpoint of the club's speech).

The Supreme Court of the United States characterizes unlawful viewpoint discrimination as “an egregious form of content discrimination.” *Rosenberger*, 515 U.S. at 829; *see also id.* at 828 (finding “[i]t is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys”); *id.* at 829 (“The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.”); *Cornelius*, 473 U.S. at 806 (“[T]he government violates the First Amendment when it denies access to a speaker solely to suppress the point of view he espouses on an otherwise includible subject.”); *Perry Educ. Ass’n*, 460 U.S. at 46 (government may not “suppress expression merely because public officials oppose the speaker’s view”).

Our clients emphatically deny and oppose your erroneous comments regarding the vital services they provide to their communities. Your attempts to use the bully pulpit and Massachusetts law as a means to intimidate and silence our clients, though not rising to the level of the vandalism and physical threats they have already faced, expose your hostility to their religious viewpoints. Your office may not require the PRCs to espouse your preferred viewpoint. To do so is to violate the U.S. Constitution: “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

Rather than expend further efforts to prescribe your preferred orthodoxy on the PRCs, we ask that you identify the measures you have taken, or are taking, to ensure their physical safety and maximize the space for the PRCs to advocate for their viewpoints on this important issue.

The Free Exercise Clause protects the PRCs against your threatened sanctions.

The Free Exercise Clause guarantees to all Americans the “right to believe and profess whatever religious doctrine [they] desire[],” even doctrines out of favor with a majority of fellow citizens. *Employment Div. v. Smith*, 494 U.S. 872, 877 (1990). These beliefs “need not be acceptable, logical, consistent, or comprehensible to others in order to merit . . . protection.” *Thomas v. Review Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 714 (1981). Nor is it the role of government to determine whether an adherent has “correctly perceived” the commandments of his religion. *Thomas*, 450 U.S. at 716.

The First Amendment protects not only “the right to harbor religious beliefs inwardly and secretly” but also “does perhaps its most important work by protecting the ability of those who hold religious beliefs of all kinds to live out their faiths in daily life through the performance of (or abstention from) physical acts.” *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2421 (2022). Thus, public officials may not act “in a manner

intolerant of religious beliefs or restrict[] practices because of their religious nature.” *Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1877 (2021). Nor may they “act in a manner that passes judgment upon or presupposes the illegitimacy of religious beliefs and practices.” *Masterpiece Cakeshop, Ltd. v. Colorado C.R. Comm’n*, 138 S. Ct. 1719, 1731 (2018). Instead, “[t]he Constitution commits government itself to religious tolerance, and upon even slight suspicion that proposals for state intervention stem from animosity to religion or distrust of its practices, all officials must pause to remember their own high duty to the Constitution and to the rights it secures.” *Id.*

Here, your office has exhibited alarming hostility towards our clients and their religious beliefs. On multiple occasions you publicly demeaned the religious beliefs of the PRCs regarding the sanctity of human life. You incorrectly describe them as using “deceptive and coercive” tactics when serving their constituents and state they “provide inaccurate and misleading information” regarding abortion. Such comments are troubling not only because they impermissibly pass judgment on our clients’ religious beliefs, but also attempt to persuade the public that our clients’ religious beliefs are somehow incorrect and dangerous. *See id.* at 1731; *see also Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 725 (2014) (stating it is not the government’s role “to say that . . . religious beliefs are mistaken”). These comments are “inappropriate for [an official] charged with the solemn responsibility of fair and neutral enforcement of [Massachusetts] law” and “cast doubt on the fairness and impartiality of” your office in any legal action it is considering against our clients. *Masterpiece Cakeshop*, 138 S. Ct. at 1729–31.

The Free Exercise Clause “forbids subtle departures from neutrality” and “covert suppression of particular religious beliefs.” *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 534 (1993). Therefore, any government action that creates “even slight suspicion that proposals for state intervention stem from animosity to religion or distrust of its practices” will be “set aside” by courts. *Lukumi*, 508 U.S. at 547. Your office’s overt animosity towards our clients’ religious beliefs goes far beyond a subtle departure from neutrality. You have placed a finger on the scale, tipping it toward the political position you prefer to be believed and followed. We urge you, instead, to remember your duty to serve Bay Staters of all faiths and to protect the rights of the PRCs as secured by the U.S. Constitution.

Your office must protect the PRC’s—even if it disagrees with them.

As a civil rights attorney, in private practice you protected buffer zones to protect women from harassment at reproductive health facilities. The PRCs are reproductive health facilities protected by law. *See Greenhut v. Hand*, 996 F. Supp. 372, 375 (D.N.J. 1998) (“Congress obviously recognized, as does this court, that a woman’s reproductive health encompasses much more than access to a medical or surgical procedure . . . FACE also applies to facilities offering pregnant women counseling about alternatives to abortion.”); *Terry v. Reno*, 101 F.3d 1412, 1419 (D.C.Cir.1996) (noting that FACE protects “facilities providing pre-pregnancy and pregnancy counseling services, as well as facilities counseling alternatives to abortion”).

Women are seeking the reproductive health services provided by the PRCs and, as described above, are facing intimidation and harassment—often violent and meant to intimidate access to the reproductive health services they offer. Yet, rather than bring the full weight of your office to bear upon those who commit crimes against reproductive health facilities in your state, you threaten to enforce civil sanctions against our clients because you disagree with their otherwise protected speech and religious exercise.

It is no defense to dismiss the crimes committed against our clients as protected speech. “The First Amendment does not protect violence.” *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 916 (1982) *see also* *Samuels v. Mackell*, 401 U.S. 66, 75, (1971) (Douglas, J., concurring) (“Certainly violence has no sanctuary in the First Amendment, and the use of weapons, gunpowder, and gasoline may not constitutionally masquerade under the guise of ‘advocacy.’”). Your letter and “consumer advisory,” threatening civil sanctions against otherwise protected Constitutional rights, paints with too broad a brush, “broadly curtailing group activity leading to litigation [that] may easily become a weapon of oppression, however evenhanded its terms appear.” *NAACP v. Button*, 371 U.S. 415, 435–36 (1963). We, therefore, request that you provide what steps you have taken, or will take, to protect the PRCs against the crimes that have been committed against them.

Conclusion

Reproductive health is a subject fraught with emotions and vast areas of disagreement. Our nation has long permitted the space for neighbors to disagree with one another. Much of that is owed to elected officials, like you, who “pause to remember [your] own high duty to the Constitution and to the rights it secures.” *Masterpiece Cakeshop*, 138 S. Ct. at 1731. This duty includes providing equal protection under the law to all people regardless of their viewpoints or religions. We ask that you respond, in writing within 14 days, to the requests made herein: of removing your July 6, 2022 “consumer advisory,” withdrawing your letter of July 19, 2022, and articulating how you have acted to protect, or will act to protect, our clients.

Thank you for your attention to this matter. If we may be of further service, please do not hesitate to call (469-440-7585) or email (jdys@firstliberty.org).

Respectfully,

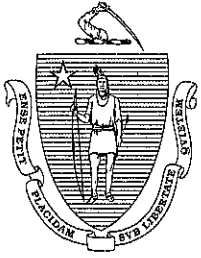


Jeremy Dys, Senior Counsel
Ryan Gardner, Counsel
First Liberty Institute



Andrew Beckwith, President
Sam Whiting, Staff Attorney
Massachusetts Family Institute

Exhibit 1



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

TEL: (617) 727-2200
www.mass.gov/ago

July 19, 2022

BY OVERNIGHT MAIL

Attleboro Women's Health Center
Abundant Hope Pregnancy Resource Center
152 Emory Street Unit 4 Rear
Attleboro, MA 02703

Re: Potential Violations of the Massachusetts Civil Rights Act

Dear Sir/Madam:

Please be advised that the Civil Rights Division of the Office of the Attorney General has received complaints alleging that you and/or your employees or volunteers have engaged in a pattern or practice of civil rights violations, including by interfering, or attempting to interfere, with the exercise of the constitutionally protected right to access abortion care in Massachusetts. See Moe v. Sec'y of Admin. and Fin., 382 Mass. 629 (1981). In particular, we have received information alleging that you and/or your employees or volunteers have:

- Led pregnant people to believe that they could obtain abortion care at your organization and had made appointments for abortion services at your organization, even though you do not and cannot provide that service;
- Delayed scheduling appointments for pregnant people who requested abortion services so that they were past the point at which they could legally obtain an abortion by the time that they were seen by your organization and learned that you are a crisis pregnancy center and not an abortion provider;
- Made confusing, deceptive, and/or misleading statements about the availability of abortion services and medically accurate options counseling at your organization, and then harassed and intimidated people who attempted to access those services at your organization;
- Placed volunteers or employees wearing "official looking vests" in the driveway that abuts Four Women Health Services ("Four Women")—a healthcare facility that provides abortion services—to direct Four Women's patients to your organization, causing patients to experience stress, confusion, and undue delay in navigating to care;



- Attempted to prevent pregnant people from leaving your facility when they realized that they were in the wrong place or otherwise declined your services;
- Followed pregnant people who left your facility to go to Four Women, yelling at them “do not kill your baby” and attempting to intimidate, pressure, or shame them away from accessing abortion services;
- Deliberately misrepresented information about the safety and efficacy of abortion in order to confuse, scare, or deceive people into carrying unwanted pregnancies to term;¹
- Continued to harass pregnant people by phone or mail after they declined your services; and
- Harassed, intimidated, and/or threatened Four Women’s employees.

The Massachusetts Civil Rights Act prohibits interference or attempted inference by threats, intimidation, or coercion with the exercise or enjoyment of rights protected by the constitution or laws of the Commonwealth. G.L. c. 12, § 11H. To the extent you have interfered with the right of pregnant people in Massachusetts to access abortion care through conduct or tactics that are threatening, intimidating, or coercive, you and/or your employees or volunteers have violated the MCRA. Please be advised that violations of the Massachusetts Civil Rights Act can result in an award of compensatory damages for any aggrieved person or entity, litigation costs and reasonable attorneys’ fees, civil penalties up to \$5,000 per violation, and appropriate injunctive relief.

Accordingly, this letter constitutes a demand that you immediately cease and desist from engaging in this conduct. To the extent you continue to engage in this conduct, please be advised that the Office of the Attorney General may pursue appropriate legal action against you and any employees or volunteers who have engaged in this conduct.

Please contact me at amanda.hainsworth@mass.gov and (617) 963-2618 to further discuss this letter.

Sincerely,



Amanda Hainsworth
Assistant Attorney General
Managing Attorney
Civil Rights Division
Office of the Attorney General

¹ For example, your website falsely claims that medication abortions are reversible and includes an inaccurate recitation of the risks associated with abortion.

Exhibit 2



CONSUMER ADVISORY: CRISIS PREGNANCY CENTERS

If you are pregnant and looking to understand your abortion options, you should consult with a licensed reproductive healthcare provider.

WARNING: Crisis Pregnancy Centers (CPCs) do **NOT** provide comprehensive reproductive healthcare. CPCs are organizations that seek to prevent people from accessing abortion care.

- CPCs may appear to be reproductive health care clinics, but do **NOT** provide abortion care or abortion referrals, contraception or other reproductive health care, despite what they may advertise.
- Most CPCs are **NOT** licensed medical facilities.
 - CPCs are **NOT** typically staffed by licensed doctors or nurses, even though some people who work at CPCs may try to look the part, for example, by wearing a white coat.
 - Some CPCs offer ultrasounds performed by unlicensed personnel who are not qualified to provide that service, which may lead to inaccurate or misleading results about a pregnancy.
 - CPCs staffed by unlicensed personnel are **NOT** required to keep your medical records private.
 - Unlicensed CPCs are **NOT** required to follow codes of ethics or standards of care that govern healthcare professions because they are not healthcare providers.
- CPCs often provide inaccurate and misleading information about abortion and the medical and mental health effects of abortion.
- CPCs often mislead people about how far they are into their pregnancy.
- CPCs often try to delay scheduling appointments to push people beyond the point at which they can obtain an abortion.

Do research and ask questions when scheduling an appointment to learn about your abortion options. Be aware of the warning signs.

- Look at the website and online reviews before making an appointment.
- Ask whether the center is licensed and will provide you with an abortion or a referral for abortion before you go to an appointment.
- Watch for these warning signs, including that the center:
 - Is listed as a pregnancy resource center, pregnancy help center, pregnancy care center, or women's resource center on CPC websites such as: helpinyourarea.com/massachusetts.
 - Advertises free pregnancy tests, abortion counseling, pre-abortion screenings, abortion education, but do not provide abortion or help you access abortion care elsewhere.
 - Attempts to delay your appointment.
 - Uses tactics to try to pressure you into continuing a pregnancy, for example, by providing a small plastic fetus or baby clothes.
- For help finding a licensed reproductive healthcare provider, talk to your doctor or check this list: abortioncarenewengland.org/providers.
- When you arrive for your appointment, make sure you are in the right place. Many CPCs are located near clinics that provide abortion and use similar sounding names.

The Attorney General's Office is committed to securing the civil rights of all people in Massachusetts or traveling to Massachusetts to access healthcare. **If you have concerns about your experience with a crisis pregnancy center, file a complaint with our Civil Rights Division at mass.gov/ago/civilrightscomplaint or at 617-963-2917.**



AG Healey Warns Patients About Crisis Pregnancy Centers

Advisory Informs People That Crisis Pregnancy Centers Do Not Offer Abortion or Comprehensive Reproductive Care

BOSTON — In the wake of the U.S. Supreme Court decision overturning *Roe v. Wade*, Attorney General Maura Healey today issued a consumer advisory warning patients seeking reproductive health services about the limited and potentially misleading nature of the services provided by crisis pregnancy centers. In Massachusetts, abortion remains legal, and people have a right to access comprehensive reproductive healthcare.

In today's [multilingual advisory](#), AG Healey urges patients to do their research before making an appointment to access abortion or reproductive healthcare, especially if they are seeking information about abortion care. Crisis Pregnancy Centers do not provide comprehensive reproductive healthcare, rather they are organizations that seek to prevent people from accessing abortion care. If you are pregnant and looking to understand your abortion options, you should consult with a licensed reproductive healthcare provider.

"While crisis pregnancy centers claim to offer reproductive healthcare services, their goal is to prevent people from accessing abortion and contraception," said **AG Healey**. "In Massachusetts, you have the right to a safe and legal abortion. We want to ensure that patients can protect themselves from deceptive and coercive tactics when seeking the care they need."

"In Massachusetts, so-called crisis pregnancy centers outnumber legitimate abortion care providers 3 to 1," said **Senator Elizabeth Warren**.

"I strongly commend Attorney General Healey and community partners for their efforts to crack down on these deceptive organizations to protect residents and women coming to Massachusetts seeking abortion care. I'll keep fighting in Congress to stop these harmful practices nationwide."

"People facing an unintended pregnancy deserve compassionate, medically-accurate care," said **Rebecca Hart Holder, Executive Director of Reproductive Equity Now**. "Crisis pregnancy centers, or fake clinics, are dangerous facilities that use deceptive advertising to deceive pregnant people into believing that they provide abortion care, when in reality, many do not even have doctors on staff to discuss the full range of health care options with clients. These facilities are often funded by anti-abortion organizations and have one goal in mind: to stop pregnant people from accessing abortion care. That's why clear and accurate information on the dangers of CPCs is so important. In a post-Roe America, we need to ensure people know how to navigate legitimate, unbiased reproductive health care."

The advisory warns that while Crisis Pregnancy Centers may appear to be reproductive health care clinics, they do not provide abortion care or abortion referrals, contraception, or other reproductive health care, despite what they may advertise. Importantly, people who are pregnant or believe they may be pregnant should know that:

- Most Crisis Pregnancy Centers are not licensed medical facilities or staffed by licensed doctors or nurses.
- Some Crisis Pregnancy Centers offer ultrasounds performed by unlicensed personnel, which may lead to inaccurate or misleading results about a pregnancy.
- Crisis Pregnancy Centers staffed by unlicensed personnel are not required to keep your medical records private.
- Unlicensed Crisis Pregnancy Centers are not required to follow codes of ethics or standards of care that govern healthcare professions.

- Crisis Pregnancy Centers often provide inaccurate and misleading information about abortion and the medical and mental health effects of abortion.
- Crisis Pregnancy Centers often mislead people about how far they are into their pregnancy.
- Crisis Pregnancy Centers often try to delay scheduling appointments to push people beyond the point at which they can obtain an abortion.
- Many Crisis Pregnancy Centers are located near clinics that provide abortion and use similar sounding names. When you arrive for your appointment, make sure you are in the right place.

The [AG's advisory](#) offers advice for patients seeking reproductive health services, including looking at online reviews before making an appointment, asking whether the center is licensed, and looking out for warning signs. Warning signs include that the center:

- Is listed as a pregnancy resource center, pregnancy help center, pregnancy care center, or women's resource center on websites such as: <https://helpinyourarea.com/massachusetts/>.
- Advertises free pregnancy tests, abortion counseling, pre-abortion screenings, abortion education, but do not provide abortion or help you access care elsewhere.
- Attempts to delay your appointment.
- Uses tactics to try to pressure you into continuing a pregnancy, for example, by providing baby clothes or a plastic fetus.

For help finding a licensed reproductive healthcare provider, talk to your doctor or check this list: <https://abortioncarenewengland.org/providers>.

The Attorney General's Office is committed to securing the civil rights of all people in Massachusetts or traveling to Massachusetts to access healthcare. If you have concerns about your experience with a crisis pregnancy center, file a complaint with our Civil Rights Division [online](#) or at 617-963-2917.

###

Exhibit 4

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

Case No. 8:23-cv-701

ASHLEY MOODY, on behalf of the
People of the State of Florida,

Plaintiff,

v.

CALEB HUNTER FREESTONE,
AMBER MARIE SMITH-STEWART,
ANNARELLA RIVERA, and
GABRIELLA VICTORIA OROPESA.

Defendants.

**FIRST AMENDED COMPLAINT FOR
PERMANENT INJUNCTIVE RELIEF**

INTRODUCTION

In the wake of the U.S. Supreme Court’s leaked decision in *Dobbs v. Jackson Women’s Health Organization*, 142 S. Ct. 2228 (2022), pro-abortion extremists from criminal organizations like Antifa and Jane’s Revenge have sought to silence pro-life individuals through violence and intimidation. These organizations often target “crisis pregnancy centers”—non-profit organizations that offer free services to pregnant women including financial support, ultrasounds, and counseling but do not perform or promote abortions. Since the opinion leak in *Dobbs*, Antifa and Jane’s Revenge have vandalized and

threatened these centers across the country by spray painting their walls, breaking their windows, and even setting fire to their buildings.

Defendants are members of Antifa and Jane's Revenge and have participated in these coordinated attacks in the State of Florida. Defendants vandalized and threatened at least three crisis pregnancy centers in the State, including by spray painting on their walls the Jane's Revenge calling card: "If abortions aren't safe, neither are you."

The State of Florida sues Defendants for violations of the Freedom of Access to Clinic Entrances Act (the "FACE Act"), 18 U.S.C. § 248. The FACE Act authorizes state attorneys general to bring a civil action against those who threaten persons or damage facilities providing reproductive health services. *Id.* § 248(c)(1) and (3). Florida seeks statutory damages, civil penalties, and injunctive relief against Defendants as provided by § 248(c)(3)(B).

PARTIES

1. Attorney General Ashley Moody is Florida's Chief Legal Officer and has authority to file suit on behalf of the State. Florida is a sovereign State and has the authority and responsibility to protect the health, safety, and welfare of its citizens.

2. Defendant Caleb Hunter Freestone resides in Miami, Florida in Miami-Dade County. Mr. Freestone is a member of Antifa and Jane's Revenge.¹

3. Defendant Amber Marie Smith-Stewart resides in Ocoee, Florida in Orange County. Ms. Smith-Stewart is a member of Antifa and Jane's Revenge.

4. Defendant Annarella Rivera resides in Lakeland, Florida in Polk County. Ms. Rivera is a member of Antifa and Jane's Revenge.

5. Defendant Gabriella Victoria Oropesa resides in Cooper City, Florida in Broward County. Ms. Oropesa is a member of Antifa and Jane's Revenge.

JURISDICTION AND VENUE

6. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

7. Venue lies in this district pursuant to 28 U.S.C. § 1391(e)(1) because a substantial part of the events giving rise to the claim occurred in Polk County, Florida.

8. Polk County is in the Tampa Division of this district. L.R. 1.04(a).

¹ Mr. Freestone is a known activist who has previously been detained for his pro-abortion protests. Ryan Nelson, "S.O.S. Biden They Won't Stop at Roe:' Man Climbs Metal Structure to Send Abortion Rights Message, NBCMIAMI.COM (Jul. 9, 2022, 11:16 PM), <https://www.nbcmiami.com/news/local/s-o-s-biden-they-wont-stop-at-roe-man-climbs-metal-structure-to-send-abortion-rights-message/2801814/>, and arrested for protesting a school-board meeting rejecting the use of two sex-education textbooks, Kate Payne, *One Person Was Arrested at Heated Miami-Dade School Board Meeting*, WLRN 91.3 FM (Jul. 22, 2022, 6:26 PM), <https://www.wlrn.org/education/2022-07-22/one-person-was-arrested-at-heated-miami-dade-school-board-meeting>.

LEGAL STANDARD

9. The FACE Act subjects to civil and criminal penalties any person who “by force or threat of force . . . intentionally . . . intimidates or interferes with or attempts to . . . intimidate or interfere with any person because that person is or has been . . . providing reproductive health services.” 18 U.S.C. § 248(a)(1).

10. The FACE Act also subjects to civil and criminal penalties any person who “intentionally damages or destroys the property of a facility, or attempts to do so, because such facility provides reproductive health services.” *Id.* § 248(a)(3).

11. The FACE Act authorizes civil actions by state attorneys general: “If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of [the FACE Act], such Attorney General may commence a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any appropriate United States District Court.” *Id.* § 248(c)(3)(A).

12. The FACE Act defines “reproductive health services” as “reproductive health services provided in a . . . clinic . . . or other facility, and includes medical, surgical, counseling or referral services relating to the human reproductive system, including services related to pregnancy.” *Id.* § 248(e)(5).

13. The FACE Act defines “facility” to include “the building or structure in which the facility is located.” *Id.* § 248(e)(1).

14. The FACE Act authorizes state attorneys general to recover statutory damages of \$5,000 per violation of § 248(a)(1) and (3). *Id.* § 248(c)(3)(B).

15. The FACE Act authorizes courts, in order to “vindicate the public interest,” to award civil penalties of up to \$15,000 for the first violation, and up to \$25,000 for each subsequent violation, of § 248(a). *Id.*

FACTUAL BACKGROUND

16. On May 2, 2022, *Politico* leaked a draft opinion of the decision in *Dobbs v. Jackson Women’s Health Organization* overturning *Roe v. Wade* and ending constitutional protections for abortions.²

17. Since this leaked opinion, pro-abortion extremists have instigated a wave of attacks against pro-life organizations across the country ranging from vandalism to fire-bombing.³

² Josh Gerstein and Alexander Ward, *Supreme Court Has Voted to Overturn Abortion Rights, Draft Opinion Shows*, POLITICO (May 5, 2022, 8:32 PM), <https://www.politico.com/news/2022/05/02/supreme-court-abortion-draft-opinion-00029473>.

³ See Letter from Members of Congress to Attorney General Merrick B. Garland (June 15, 2022), <https://tenney.house.gov/sites/evo-subsites/tenney.house.gov/files/evo-media-document/06.15.2022%20Letter%20to%20DOJ%20RE%20Domestic%20Terrorist%20Attacks%20on%20Pro-Life%20Institutions.pdf>; see also Letter from Senator Chuck Grassley to FBI Director Christopher Wray (June 27, 2022), https://www.grassley.senate.gov/imo/media/doc/grassley_to_fbi_-_abortion-related_extremism.pdf.

18. Some of the attacks include:

- a. On May 8, 2022, extremists set fire to the office of the pro-life organization Wisconsin Family Action. The extremists also graffitied the building with the phrase “If abortions aren’t safe then you aren’t either.”⁴
- b. On June 22, 2022, extremists vandalized a building hosting Jackson Right to Life. The extremists broke windows and left messages stating “If abortion isn’t safe neither r u! [sic]” and “Jane’s Revenge.”⁵
- c. On June 25, 2022, extremists vandalized a crisis pregnancy center in Lynchburg, Virginia. The extremists shattered windows at the center and graffitied the wall with messages including “If abortion ain’t safe, you ain’t safe.”⁶

⁴ Kyle Jones and Tamia Fowlkes, *Madison Police, Fire Department Say Fire at Wisconsin Family Action Office Was Arson*, CHANNEL 3000 (May 8, 2022), https://www.channel3000.com/news/crime/madison-police-fire-department-say-fire-at-wisconsin-family-action-office-was-arson/article_71017bf3-e105-5094-8a9c-e3ffa94ec211.html.

⁵ Houston Keene, *Pro-life Org, Congressman’s Campaign Office Vandalized in Jane’s Revenge-Linked Attack*, FOX NEWS (Jun. 22, 2022, 2:28 PM), <https://www.foxnews.com/politics/pro-life-org-congressmans-campaign-office-vandalized-janes-revenge>.

⁶ Virginia Allen, *Inside a Pregnancy Center That Pro-Abortion Vandals Attacked*, THE DAILY SIGNAL (Aug. 7, 2022), <https://www.dailysignal.com/2022/08/07/inside-a-pregnancy-center-that-pro-abortion-vandals-attacked/>.

d. On August 1, 2022, extremists vandalized the crisis pregnancy center Abria Pregnancy Resources in St. Paul, Minnesota. The extremists broke the glass doors of the center and spray-painted the message “If abortions aren’t safe, neither are you.”⁷

e. On December 17, 2022, extremists vandalized the crisis pregnancy center Pregnancy Aid Detroit by spray-painting messages including “Jane’s Revenge” and “Jeanne, if abortions aren’t safe neither are you.”⁸

19. These attacks harm clinics offering services free of charge, harm citizens seeking and in need of pregnancy related services, create an atmosphere of fear and intimidation, and destabilize civil society.

20. Defendants participated in the litany of attacks on pro-life crisis pregnancy centers by vandalizing three such centers across the State of Florida.

⁷ Mara H. Gottfried, *Doors Broken, Graffiti Left Behind at Pregnancy Resource Center in St. Paul*, TWINCITIES.COM (Aug. 1, 2022, 6:19 PM), <https://www.twincities.com/2022/08/01/doors-broken-graffiti-left-behind-at-pregnancy-resource-center-in-st-paul/>.

⁸ Francis X. Donnelly, *Pro-life Pregnancy Center in Eastpointe, Board Member’s House Spray-painted With Graffiti*, THE DETROIT NEWS (Dec. 17, 2022, 4:03 PM), <https://www.detroitnews.com/story/news/local/macomb-county/2022/12/17/pro-life-pregnancy-center-board-members-house-graffiti-spray-painted/69737422007/>.

21. Defendants' attacks mirrored the vandalism occurring across the country, specifically Defendants' use of the phrase "If abortions aren't safe, neither are you."

22. From around May 2022 through July 2022, Defendants conspired to injure, oppress, threaten, and intimidate employees of crisis pregnancy facilities in the free exercise and enjoyment of the rights and privileges secured to them by 18 U.S.C. § 248.

23. On or about May 28, 2022, Defendants Freestone, Smith-Stewart, Rivera, and Oropesa damaged and destroyed the property of South Broward Pregnancy Help Center in Hollywood, Florida (the "Hollywood Facility").

24. The Hollywood Facility offers free counseling, pregnancy testing, and ultrasound examination to women with unexpected pregnancies.

25. The Hollywood Facility relies "on donations from parishes, schools, community groups, and individual donors."⁹

26. Defendants Freestone, Smith-Stewart, Rivera, and Oropesa spray painted threats including "If abortions aren't SAFE then niether [sic] are you."

27. On or about June 26, 2022, Defendants Freestone, Smith-Stewart, and Rivera damaged and destroyed the property of LifeChoice crisis pregnancy center in Winter Haven, Florida (the "Winter Haven Facility").

⁹ ARCHDIOCESE OF MIAMI OFFICE OF RESPECT LIFE, <https://respectlifemiami.org/pregnancy-help-centers> (last visited March 28, 2023).

28. The Winter Haven Facility offers free counseling, pregnancy testing, and ultrasound examination to women with unexpected pregnancies.

29. The Winter Haven Facility’s “mission is to reach, serve, and equip individuals facing unexpected pregnancies to make life affirming decisions through educational, tangible and spiritual one-on-one support.”¹⁰

30. The Winter Haven Facility is “solely community-supported” and “offer[s] all services free of charge.”¹¹

31. Defendants Freestone, Smith-Stewart, and Rivera spray painted threats including “YOUR TIME IS UP!!”; “WE’RE COMING for U”; and “We are everywhere.”

32. On or about July 3, 2022, Defendants Freestone and Oropesa damaged and destroyed the property of Heartbeat of Miami pregnancy center in Hialeah, Florida (the “Hialeah Facility”).

33. The Hialeah Facility offers free counseling, pregnancy testing, and ultrasound examination to women with unexpected pregnancies.

34. The Hialeah Facility’s mission is “to join with our community in establishing life-saving, life-changing pregnancy help medical clinics in the neediest neighborhoods in South Florida.”¹²

¹⁰ LIFECHOICE, <https://lifechoicewh.com/about-us/our-center> (last visited Mar. 28, 2023).

¹¹ *Id.*

¹² HEARTBEAT OF MIAMI, <https://heartbeatofmiami.org/about/> (last visited Mar. 28, 2023).

35. The Hialeah Facility provides “pregnancy tests, sonograms, pregnancy consultation and education, ongoing support and referrals, prenatal referrals, adoption referrals, post-abortion counseling, [and] parenting preparation for moms and dads.”¹³

36. Defendants Freestone and Oropesa spray painted threats including “If abortions aren’t safe the [sic] neither are you.”

COUNT 1

**Threatening and Intimidating Persons
in Violation of 18 U.S.C. 248(a)(1)
(Hollywood Facility)
(Defendants Freestone, Smith-Stewart, Rivera, and Oropesa)**

37. Florida incorporates paragraphs 1–36.

38. The FACE Act prohibits threatening or intimidating, or attempting to threaten or intimidate, “any person because that person is or has been . . . providing reproductive health services.” 18 U.S.C. § 248(a)(1).

39. “Reproductive health services” includes “medical” and “counseling” services related to pregnancy. *Id.* § 248(e)(5).

40. The persons who worked at the Hollywood Facility provided reproductive health services.

¹³ *Id.*

41. Defendants Freestone, Smith-Stewart, Rivera, and Oropesa threatened and intimidated persons working at the Hollywood Facility because they provided reproductive health services.

42. Florida “has a quasi-sovereign interest in the health and well-being—both physical and economic—of its residents.” *Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592, 607 (1982).

43. Additionally, Florida has a significant public interest in “protecting a woman’s freedom to seek pregnancy-related services, ensuring public safety and order, . . . [and] protecting property rights.” *Schenck v. Pro-Choice Network of Western New York*, 519 U.S. 357, 372 (1997).

44. Defendants Freestone, Smith-Stewart, Rivera, and Oropesa’s actions harmed the health and well-being of Florida’s citizens, particularly women seeking pregnancy services and persons providing pregnancy services.

45. Defendants Freestone, Smith-Stewart, Rivera, and Oropesa’s actions also undermined public safety and order.

46. Finally, Defendants Freestone, Smith-Stewart, Rivera, and Oropesa committed these violations during a wave of violence against pro-life pregnancy centers for which the public interest in an orderly and civil society must be vindicated.

47. Florida seeks from Defendants Freestone, Smith-Stewart, Rivera, and Oropesa, jointly and severally, \$5,000 in statutory damages.

48. To vindicate the public interest, Florida seeks \$15,000 in civil penalties from Defendant Freestone.

49. To vindicate the public interest, Florida seeks \$15,000 in civil penalties from Defendant Smith-Stewart.

50. To vindicate the public interest, Florida seeks \$15,000 in civil penalties from Defendant Rivera.

51. To vindicate the public interest, Florida seeks \$15,000 in civil penalties from Defendant Oropesa.

COUNT 2

Threatening and Intimidating Persons in Violation of 18 U.S.C. 248(a)(1) (Winter Haven Facility) (Defendants Freestone, Smith-Stewart, and Rivera)

52. Florida incorporates paragraphs 1–36.

53. The FACE Act prohibits threatening or intimidating, or attempting to threaten or intimidate, “any person because that person is or has been . . . providing reproductive health services.” 18 U.S.C. § 248(a)(1).

54. “Reproductive health services” includes “medical” and “counseling” services related to pregnancy. *Id.* § 248(e)(5).

55. The persons who worked at the Winter Haven Facility provided reproductive health services.

56. Defendants Freestone, Smith-Stewart, and Rivera threatened and intimidated persons working at the Winter Haven Facility because they provided reproductive health services.

57. Florida “has a quasi-sovereign interest in the health and well-being—both physical and economic—of its residents.” *Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592, 607 (1982).

58. Additionally, Florida has a significant public interest in “protecting a woman’s freedom to seek pregnancy-related services, ensuring public safety and order, . . . [and] protecting property rights.” *Schenck v. Pro-Choice Network of Western New York*, 519 U.S. 357, 372 (1997).

59. Defendants Freestone, Smith-Stewart, and Rivera’s actions harmed the health and well-being of Florida’s citizens, particularly women seeking pregnancy services and persons providing pregnancy services.

60. Defendants Freestone, Smith-Stewart, and Rivera’s actions also undermined public safety and order.

61. Finally, Defendants Freestone, Smith-Stewart, and Rivera committed these violations during a wave of violence against pro-life pregnancy centers for which the public interest in an orderly and civil society must be vindicated.

62. Florida seeks from Defendants Freestone, Smith-Stewart, and Rivera, jointly and severally, \$5,000 in statutory damages.

63. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Freestone because this is a subsequent violation of § 248.

64. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Smith-Stewart because this is a subsequent violation of § 248.

65. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Rivera because this is a subsequent violation of § 248.

COUNT 3

Threatening and Intimidating Persons in Violation of 18 U.S.C. 248(a)(1) (Hialeah Facility) (Defendants Freestone and Oropesa)

66. Florida incorporates paragraphs 1–36.

67. The FACE Act prohibits threatening or intimidating, or attempting to threaten or intimidate, “any person because that person is or has been . . . providing reproductive health services.” 18 U.S.C. § 248(a)(1).

68. “Reproductive health services” includes “medical” and “counseling” services related to pregnancy. *Id.* § 248(e)(5).

69. The persons who worked at the Hialeah Facility provided reproductive health services.

70. Defendants Freestone and Oropesa threatened and intimidated persons working at the Hialeah Facility because they provided reproductive health services.

71. Florida “has a quasi-sovereign interest in the health and well-being—both physical and economic—of its residents.” *Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592, 607 (1982).

72. Additionally, Florida has a significant public interest in “protecting a woman’s freedom to seek pregnancy-related services, ensuring public safety and order, . . . [and] protecting property rights.” *Schenck v. Pro-Choice Network of Western New York*, 519 U.S. 357, 372 (1997).

73. Defendants Freestone and Oropesa’s actions harmed the health and well-being of Florida’s citizens, particularly women seeking pregnancy services and persons providing pregnancy services.

74. Defendants Freestone and Oropesa’s actions also undermined public safety and order.

75. Finally, Defendants Freestone and Oropesa committed these violations during a wave of violence against pro-life pregnancy centers for which the public interest in an orderly and civil society must be vindicated.

76. Florida seeks from Defendants Freestone and Oropesa, jointly and severally, \$5,000 in statutory damages.

77. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Freestone because this is a subsequent violation of § 248.

78. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Oropesa because this is a subsequent violation of § 248.

COUNT 4

**Damaging the Property of a Reproduction
Services Facility in Violation of 18 U.S.C. 248(a)(3)
(Hollywood Facility)
(Defendants Freestone, Smith-Stewart, Rivera, and Oropesa)**

79. Florida incorporates paragraphs 1–36.

80. The FACE Act prohibits “intentionally damag[ing] or destroy[ing] the property of a facility, or attempting to do so, because the facility provides reproductive health services.” 18 U.S.C. § 248(a)(3).

81. “Reproductive health services” includes “medical” and “counseling” services related to pregnancy. *Id.* § 248(e)(5).

82. The Hollywood Facility provided reproductive health services.

83. Defendants Freestone, Smith-Stewart, Rivera, and Oropesa damaged the Hollywood Facility because it provided reproductive health services.

84. Florida “has a quasi-sovereign interest in the health and well-being—both physical and economic—of its residents.” *Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592, 607 (1982).

85. Additionally, Florida has a significant public interest in “protecting a woman’s freedom to seek pregnancy-related services, ensuring public safety and order, . . . [and] protecting property rights.” *Schenck v. Pro-Choice Network of Western New York*, 519 U.S. 357, 372 (1997).

86. Defendants Freestone, Smith-Stewart, Rivera, and Oropesa's actions harmed the health and well-being of Florida's citizens, particularly women seeking pregnancy services and persons providing pregnancy services.

87. Defendants Freestone, Smith-Stewart, Rivera, and Oropesa's actions also harmed the property rights of Florida citizens and undermined public safety and order.

88. Finally, Defendants Freestone, Smith-Stewart, Rivera, and Oropesa committed these violations during a wave of violence against pro-life pregnancy centers for which the public interest in an orderly and civil society must be vindicated.

89. Florida seeks from Defendants Freestone, Smith-Stewart, Rivera, and Oropesa, jointly and severally, \$5,000 in statutory damages.

90. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Freestone because this is a subsequent violation of § 248.

91. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Smith-Stewart because this is a subsequent violation of § 248.

92. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Rivera because this is a subsequent violation of § 248.

93. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Oropesa because this is a subsequent violation of § 248.

COUNT 5

**Damaging the Property of a Reproduction
Services Facility in Violation of 18 U.S.C. 248(a)(3)
(Winter Haven Facility)
(Defendants Freestone, Smith-Stewart, and Rivera)**

94. Florida incorporates paragraphs 1–36.

95. The FACE Act prohibits “intentionally damag[ing] or destroy[ing] the property of a facility, or attempting to do so, because the facility provides reproductive health services.” 18 U.S.C. § 248(a)(3).

96. “Reproductive health services” includes “medical” and “counseling” services related to pregnancy. *Id.* § 248(e)(5).

97. The Winter Haven Facility provided reproductive health services.

98. Defendants Freestone, Smith-Stewart, and Rivera damaged the Winter Haven Facility because it provided reproductive health services.

99. Florida “has a quasi-sovereign interest in the health and well-being—both physical and economic—of its residents.” *Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592, 607 (1982).

100. Additionally, Florida has a significant public interest in “protecting a woman’s freedom to seek pregnancy-related services, ensuring public safety and order, . . . [and] protecting property rights.” *Schenck v. Pro-Choice Network of Western New York*, 519 U.S. 357, 372 (1997).

101. Defendants Freestone, Smith-Stewart, and Rivera's actions harmed the health and well-being of Florida's citizens, particularly women seeking pregnancy services and persons providing pregnancy services.

102. Defendants Freestone, Smith-Stewart, and Rivera's actions also harmed the property rights of Florida citizens and undermined public safety and order.

103. Finally, Defendants Freestone, Smith-Stewart, and Rivera committed these violations during a wave of violence against pro-life pregnancy centers for which the public interest in an orderly and civil society must be vindicated.

104. Florida seeks from Defendants Freestone, Smith-Stewart, and Rivera, jointly and severally, \$5,000 in statutory damages.

105. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Freestone because this is a subsequent violation of § 248.

106. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Smith-Stewart because this is a subsequent violation of § 248.

107. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Rivera because this is a subsequent violation of § 248.

COUNT 6

**Damaging the Property of a Reproduction
Services Facility in Violation of 18 U.S.C. 248(a)(3)
(Hialeah Facility)
(Defendants Freestone and Oropesa)**

108. Florida incorporates paragraphs 1–36.

109. The FACE Act prohibits “intentionally damag[ing] or destroy[ing] the property of a facility, or attempting to do so, because the facility provides reproductive health services.” 18 U.S.C. § 248(a)(3).

110. “Reproductive health services” includes “medical” and “counseling” services related to pregnancy. *Id.* § 248(e)(5).

111. The Hialeah Facility provided reproductive health services.

112. Defendants Freestone and Oropesa damaged the Hialeah Facility because it provided reproductive health services.

113. Florida “has a quasi-sovereign interest in the health and well-being—both physical and economic—of its residents.” *Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592, 607 (1982).

114. Additionally, Florida has a significant public interest in “protecting a woman’s freedom to seek pregnancy-related services, ensuring public safety and order, . . . [and] protecting property rights.” *Schenck v. Pro-Choice Network of Western New York*, 519 U.S. 357, 372 (1997).

115. Defendants Freestone and Oropesa's actions harmed the health and well-being of Florida's citizens, particularly women seeking pregnancy services and persons providing pregnancy services.

116. Defendants Freestone and Oropesa's actions also harmed the property rights of Florida citizens and undermined public safety and order.

117. Finally, Defendants Freestone and Oropesa committed these violations during a wave of violence against pro-life pregnancy centers for which the public interest in an orderly and civil society must be vindicated.

118. Florida seeks from Defendants Freestone and Oropesa, jointly and severally, \$5,000 in statutory damages.

119. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Freestone because this is a subsequent violation of § 248.

120. To vindicate the public interest, Florida seeks a \$25,000 civil penalty from Defendant Oropesa because this is a subsequent violation of § 248.

COUNT 7

Request for Permanent Injunctive Relief

121. Florida incorporates paragraphs 1–36.

122. The FACE Act authorizes the Attorney General to seek permanent injunctive relief. 18 U.S.C. § 248(c)(3)(B).

123. Defendants have a history of disruptive criminal behavior in the name of political activism, especially towards providers of reproductive health services.

124. Defendants have a history of repeatedly violating the FACE Act.

125. Defendant Freestone previously protested and disrupted a fundraising event for Heartbeat of Miami.

126. On February 20, 2023, Defendant Freestone, after being charged with violations of the FACE Act and in violation of his pretrial release conditions, was arrested for criminal mischief and providing false identification to the arresting officer.

127. Defendants are likely to continue to intimidate and interfere with the provision of reproductive services in the State of Florida.

128. Florida requests the following injunctive relief:

a. Prohibit Defendants from going within 100 feet of any Crisis Pregnancy Center in the State of Florida.

PRAYER FOR RELIEF

For these reasons, Florida asks the Court to:

a) Enter judgment against Defendants Freestone, Smith-Stewart, Rivera, and Oropesa, jointly and severally, in the amount of \$10,000 (\$5,000 for Count 1 and \$5,000 for Count 4);

- b) Enter judgment against Defendants Freestone, Smith-Stewart, and Rivera, jointly and severally, in the amount of \$10,000 (\$5,000 for Count 2 and \$5,000 for Count 5);
- c) Enter judgment against Defendants Freestone and Oropesa, jointly and severally, in the amount of \$10,000 (\$5,000 for Count 3 and \$5,000 for Count 6);
- d) Assess against Defendant Freestone civil penalties of \$140,000 (\$15,000 for Count 1, and \$25,000 for Counts 2–6);
- e) Assess against Defendant Smith-Stewart civil penalties of \$90,000 (\$15,000 for Count 1, and \$25,000 for Counts 2,4, and 5);
- f) Assess against Defendant Rivera civil penalties of \$90,000 (\$15,000 for Count 1, and \$25,000 for Counts 2, 4 and 5);
- g) Assess against Defendant Oropesa civil penalties of \$90,000 (\$15,000 for Count 1, and \$25,000 for Counts 3,4, and 6);
- h) Award Florida its reasonable costs and expenses, including attorney fees, incurred in the prosecution of this action as authorized by § 248(c)(3)(B).
- i) Enjoin Defendants from going within 100 feet of any Crisis Pregnancy Center in the State of Florida.
- j) Award such other relief as the Court deems equitable and just.

Respectfully submitted,

Ashley Moody
ATTORNEY GENERAL

John Guard (FBN 374600)
CHIEF DEPUTY ATTORNEY GENERAL

James H. Percival (FBN 1016188)
CHIEF OF STAFF

Henry Whitaker (FBN 1031175)
SOLICITOR GENERAL

/s/ Joseph Hart
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Counsel for the State of Florida

CERTIFICATE OF SERVICE

I CERTIFY that on this 18th day of April 2023, I served the foregoing on Defendants Caleb Freestone and Amber Marie Smith-Stewart via email as consented to by said Defendants in writing in accordance with Fed. R. Civ. P. 5(b)(2)(F).

I CERTIFY that I will serve the newly added Defendants Gabriella Victoria Oropesa and Annarella Rivera in accordance with Fed. R. Civ. P. 4 and timely file with the Court a Proof of Service.

/s/ Joseph E. Hart
Joseph E. Hart

Exhibit 5

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

HEARTBEAT OF MIAMI, INC.,

Plaintiff,

v.

Case No. 23-cv-705

JANE'S REVENGE; CALEB HUNTER FREESTONE, in his personal capacity and as a representative of Jane's Revenge; AMBER MARIE SMITH-STEWART, in her personal capacity and as a representative of Jane's Revenge; ANNARELLA RIVERA, in her personal capacity and as a representative of Jane's Revenge; and GABRIELLA OROPESA, in her personal capacity and as a representative of Jane's Revenge; and JANE DOES 6-20.

Defendants.

**AMENDED COMPLAINT REQUESTING PERMANENT
INJUNCTIVE RELIEF**

Plaintiff Heartbeat of Miami, Inc. ("Heartbeat"), by and through counsel, and for its Complaint against Defendants, hereby states as follows:

INTRODUCTION

1. "If abortions aren't safe, then neither are you." This is the mantra that Jane's Revenge repeated over and over since that extremist and criminal enterprise

began attacking life-affirming reproductive healthcare facilities across the country in May 2022. Jane's Revenge and its cells in different states targeted these facilities because they provide reproductive healthcare services to women and couples facing an unplanned pregnancy. Their goal is simple: to injure, intimidate, and interfere with the operations of life-affirming reproductive healthcare facilities using extreme and unlawful means until these facilities cease to exist. Jane's Revenge's campaign of violence, executed by its associated cells across the country against life-affirming reproductive healthcare facilities, has resulted in attacks on over 80 facilities across the country, including three facilities in Florida.

2. Heartbeat of Miami is one such victim of the attacks orchestrated by Jane's Revenge and its members. Heartbeat is a non-profit, faith-based organization located in South Florida that strives every day to create a community where every woman feels loved and supported in her pregnancy, especially those facing an unplanned pregnancy. Heartbeat believes that all women deserve compassionate, competent, and life-affirming medical care and support through their pregnancies. To this end, Heartbeat provides resources, support, counseling, and medical care to its clients. Since opening its doors in 2007, Heartbeat has assisted thousands of women in navigating both their pregnancies and the early stages of motherhood. It does all of this based on its religious calling to serve its

community and love “the least” of its community, including underserved and low-income individuals.

3. Despite the important and meaningful work Heartbeat performs in its community, it found itself caught up in the wave of violence sweeping the nation on July 3, 2022, when Defendants attacked one of Heartbeat’s reproductive healthcare facilities in Hialeah, Florida. This attack was planned and carried out by Defendant Caleb Hunter Freestone, Defendant Amber Marie Smith-Stewart, Defendant Annarella Rivera, Defendant Gabriella Oropesa and other members of Defendant Jane’s Revenge. At approximately 1:00 a.m. on July 3rd, Defendants unlawfully entered Heartbeat’s property, damaged its security camera, and threatened the lives and safety of Heartbeat and its staff and volunteers by spray-painting that “If abortions aren’t safe the [sic] neither are you”; and that Defendants’ “rage will not Stop.” Defendants’ hostility towards Heartbeat did not stop there either, as Defendant Freestone and Defendant Rivera also infiltrated and attempted to interfere with Heartbeat’s annual fundraising Gala in September 2022.

4. Defendants’ conduct damaged Heartbeat’s facility and was intended to intimidate Heartbeat and interfere with its important work as a means of furthering the objective of the Jane’s Revenge enterprise. The threats had their

intended effect, causing Heartbeat's personnel to fear for their personal safety and the safety of their families.

5. Rather than respect the rule of law, voice disagreement peacefully in protest, or seek political redress of their grievances, Defendants chose to resort to injury and intimidation, the likes of which is both shocking and foreign to the American concept of ordered liberty.

6. Defendants' threatening conduct violated Heartbeat's civil rights under the federal Freedom of Access to Clinic Entrances Act ("FACE Act"), 18 U.S.C. § 248, and its rights under Florida law.

7. Heartbeat now files suit to protect its rights and prevent Defendants from engaging in any further unlawful acts against its facilities and life-affirming reproductive health facilities like it across the nation.

JURISDICTION AND VENUE

8. The Court has subject matter jurisdiction over this case under 28 U.S.C. § 1331, as this civil action arises under the laws of the United States. The Court also has subject matter jurisdiction under 28 U.S.C. § 1343(a)(4), as this civil action seeks to recover damages and equitable relief under an Act of Congress providing for the protection of civil rights.

9. This Court has supplemental jurisdiction over the state claims pursuant to 28 U.S.C. § 1367.

10. Venue is proper in the United States District Court for the Middle District of Florida under 28 U.S.C. § 1391(b)(1),(2) because Defendant Smith-Stewart resides in this district and all Defendants reside in Florida and because a substantial part of the events giving rise to this action occurred in Polk County.

11. Polk County is in the Tampa Division of this district. L.R. 1.04(a).

PARTIES

12. Plaintiff Heartbeat of Miami, Inc. is a non-profit religious organization. Its principal location is 390 W. 49th Street Hialeah, Florida 33012, where it provides reproductive health services to women and couples in its community facing unplanned or unwanted pregnancies.

13. Defendant Jane's Revenge is an unincorporated criminal association. It is organized into local cells across the country to accomplish the association's illicit goals. Four members of Jane's Revenge are Defendant Caleb Hunter Freestone, Defendant Amber Marie Smith-Stewart, Defendant Annarella Rivera and Defendant Gabriella Oropesa. Pursuant to Rule 23.2 of the Federal Rules of Civil Procedure, Defendants Freestone, Smith-Stewart, and Rivera are being sued in their capacities as representatives of Jane's Revenge.

14. Defendant Caleb Hunter Freestone is a resident of Miami-Dade County, Florida, and participated with other Defendants in the illegal conduct involving Heartbeat's Clinic.

15. Defendant Amber Marie Smith-Stewart is a resident of Orange County, Florida, and participated with other Defendants in the illegal conduct involving Heartbeat's Clinic.

16. Defendant Annarella Rivera is a resident of Miami-Dade County, Florida, and participated with other Defendants in the illegal conduct involving Heartbeat's Clinic.

17. Defendant Gabriella Oropesa, formerly Jane Doe 5, is a resident of Broward County, and participated with other Defendants in the illegal conduct involving Heartbeat's Clinic.

18. Defendants Jane Does 6-20 are alleged to have been involved in the advertising, planning, support, coordination, and execution of the events at Heartbeat's reproductive healthcare facility and Gala and will be specifically named as Defendants when their true identities are ascertained.

FACTUAL BACKGROUND

A. Heartbeat provides life-affirming reproductive healthcare to its community.

19. Heartbeat is a non-profit faith-based organization located in South Florida that has been providing competent and caring reproductive services to the women in its community since 2007.

20. Heartbeat is an affiliate of Heartbeat International, one of the oldest and most expansive network of life-affirming reproductive healthcare facilities in the country.

21. Heartbeat's mission is "[t]o join with [its] community in establishing life-saving, life-changing pregnancy help medical clinics in the neediest neighborhoods of South Florida."¹

22. To this end, it provides a variety of medical and counseling services to its patients, including pregnancy tests, sonograms, pregnancy consultation and education, ongoing support for women during and after their pregnancies, prenatal referrals, adoption referrals, post-abortion counseling, parenting classes, material goods from its baby boutique, women's wellness examinations, consultations with its abortion pill reversal contact center, and opportunities to learn about healthy sexual values and personal growth.

23. Heartbeat currently operates four facilities in and around Miami, Florida, including two facilities in Miami, one facility in North Miami, and one facility in Hialeah.

24. Heartbeat's Hialeah facility (the "Hialeah Facility") first opened its doors in 2007 next to an abortion facility. Since opening its doors, the Hialeah

¹ HEARTBEAT OF MIAMI, <https://heartbeatofmiami.org/about/> (last visited Mar. 28, 2023).

Facility has provided compassionate and competent reproductive healthcare to women and couples facing an unplanned pregnancy.

25. In response to the high demand in its community, Heartbeat expanded its operations and began renting the facility that previously housed the nearby abortion facility in 2012 after that facility closed down.

26. Since switching locations, the Hialeah Facility has thrived. It currently provides reproductive health services to approximately 1,400 women annually, including providing over 1,000 pregnancy tests and ultrasounds every year.

B. Jane's Revenge begins attacking life-affirming reproductive healthcare facilities around the country.

27. Jane's Revenge is a militant pro-abortion criminal enterprise that emerged after the leak of a Supreme Court of the United States draft opinion of *Dobbs v. Jackson Women's Health Organization* in May 2022.

28. The leaked *Dobbs* opinion suggested the U.S. Supreme Court was poised to overturn the constitutional right to abortion declared by the Court's decision in *Roe v. Wade*.

29. Two days after the leak, activists targeted, vandalized, and set on fire the offices of Wisconsin Family Action. Police determined that the damage would have been far greater but for a Molotov cocktail thrown through a window that

failed to ignite. Police also found graffiti that read, “If abortions aren’t safe then you aren’t either” along with other indicia of the office having been targeted for their pro-life views, support of a decision in *Dobbs* overturning *Roe*, and encouragement of local pregnancy resource centers.²

30. On May 10, 2022, a reporter named Robert Evans received a statement from Jane’s Revenge claiming responsibility for the firebombing of the Madison facility.³

31. The statement revealed the motives for the attack along with the purpose of Jane’s Revenge. It demanded the “disbanding of all anti-choice establishments, fake clinics, and violent anti-choice groups within the next thirty days” and threatened to “adopt increasingly extreme tactics” to achieve its desired goals. It declared that the group’s membership consisted of “many” groups “all over the US.”

32. Three weeks later, Jane’s Revenge issued another statement calling for a “night of rage” when the Supreme Court issued its *Dobbs* opinion. It called

² Kyle Jones and Tamia Fowlkes, *Madison Police, Fire Department Say Fire at Wisconsin Family Action Office Was Arson*, CHANNEL 3000 (May 8, 2022), https://www.channel3000.com/news/crime/madison-police-fire-department-say-fire-at-wisconsin-family-action-office-was-arson/article_71017bf3-e105-5094-8a9c-e3ffa94ec211.html.

³ Robert Evans (@IwriteOK), TWITTER (May 10, 2022, 2:24 AM), <https://twitter.com/IwriteOK/status/1523926913806336000>.

for the creation of “autonomously organized self-defense networks” to carry out the group’s extremist and criminal agenda.⁴ The group made its intent to intimidate anyone it perceived to be opposed to its agenda clear by stating “[w]e need them to be afraid of us.”

33. Upon information and belief, Jane’s Revenge is a criminal enterprise that is organized into local cells across the country to accomplish the enterprise’s illicit goals, including to intimidate, attack, and interfere with access to life-affirming reproductive healthcare facilities.

34. On June 15, 2022, shortly after the expiration of its 30-day deadline, Jane’s Revenge issued another threatening statement calling for increased violence against life-affirming reproductive healthcare facilities. Jane’s Revenge took credit for the work of “cells” around the country, including attacks on life-affirming reproductive healthcare facilities in Wisconsin, Colorado, Massachusetts, Washington, Oregon, Iowa, North Carolina, New York, Texas, and Florida. It stated that carrying out such attacks was “easy and fun” and declared “open season” on any life-affirming reproductive healthcare facility that did not immediately cease operations.⁵

⁴ *NIGHT OF RAGE*, JANE’S REVENGE (May 30, 2022), <https://janesrevenge.noblogs.org/2022/05/30/night-of-rage/>.

⁵ *Jane’s Revenge: Another Communiqué*, JANE’S REVENGE (June 15, 2022), <https://janesrevenge.noblogs.org/2022/06/15/janes-revenge-another-communique/>.

35. In the months since Jane's Revenge came into existence and the release of the Supreme Court's decision in the *Dobbs* case, Jane's Revenge and its members attacked dozens of life-affirming reproductive healthcare facilities across the country.⁶ The attacks bore a similar *modus operandi*, consisting of vandalizing and damaging the life-affirming reproductive healthcare facilities' property. The cells around the country, following the direction of Jane's Revenge leadership to intimidate, attack, and interfere with access to life-affirming reproductive healthcare facilities, also spray-painted similar threats around the country, attempting to intimidate these facilities by stating that "if abortions aren't safe, neither are you" and signing off as "Jane" or "Jane's Revenge."

⁶ *Tracking Attacks on Pregnancy Centers & Pro-Life Groups*, CATHOLICVOTE (JUNE 9, 2022), <https://catholicvote.org/pregnancy-center-attack-tracker/>.

C. Defendants attack the Hialeah Facility.

36. On July 3, 2022, Heartbeat became one of the many victims of Jane's Revenge when Defendants attacked the Hialeah Facility. Surveillance footage from the Hialeah Facility shows that two Defendants unlawfully entered Heartbeat's property in Hialeah at approximately 1:00 a.m. with the intent to carry out Jane's Revenge's goal of intimidating and attacking life-affirming reproductive healthcare facilities.⁷

37. To this end, Defendants damaged the building housing the Hialeah Facility and spray-painted threatening messages to intimidate Heartbeat to

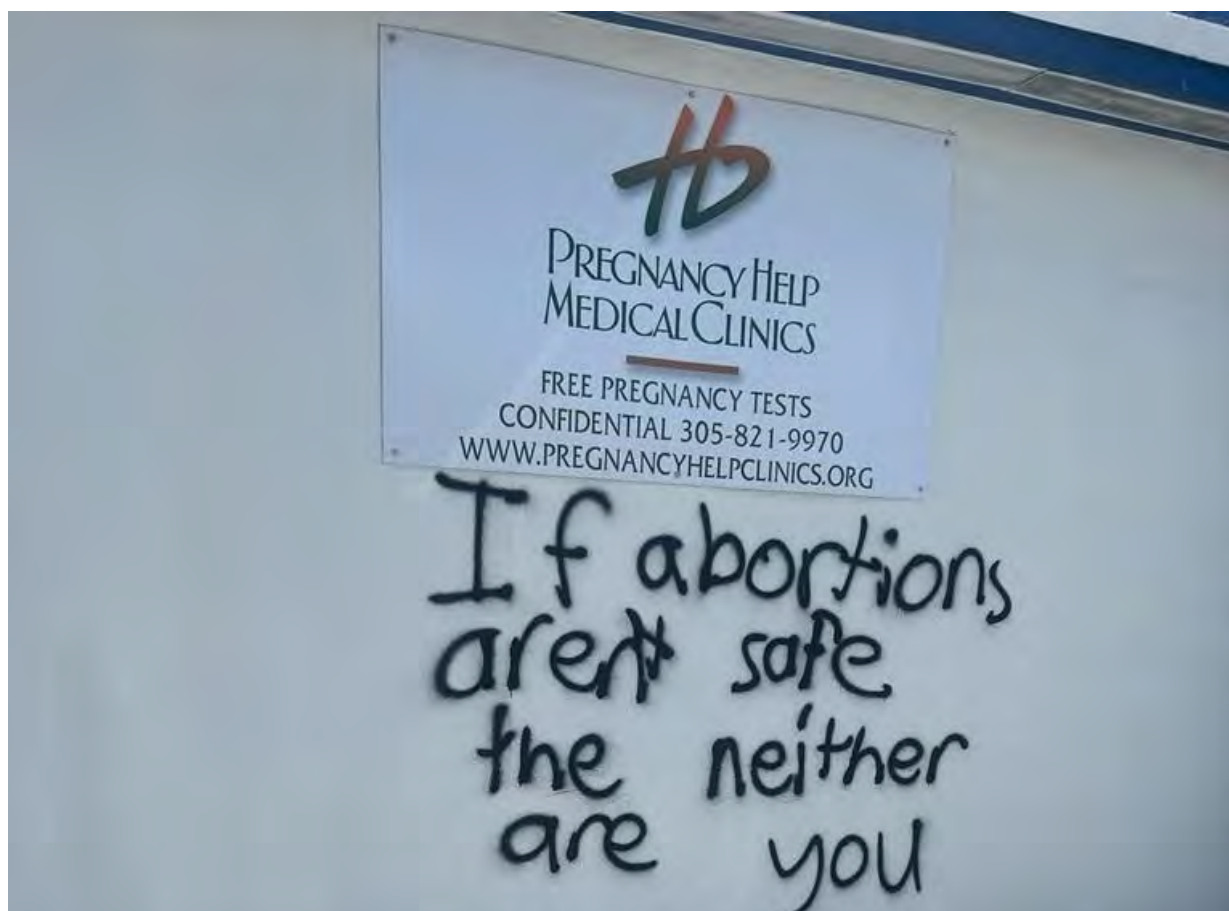


acquiesce to Jane's Revenge's demand for Heartbeat to close its doors. These

⁷ A true and correct copy of Heartbeat's surveillance footage is available at the following link: https://firstliberty.org/wp-content/uploads/2023/03/RPReplay_Final1679064308.mov.

threats included stating that “If abortions aren’t safe the [sic] neither are you”; “Prolife? What about death penalty for those accused?”; and, seemingly to ensure their intimidation would continue, “our rage will not Stop.”

38. Defendants also attributed these messages to “Jane” or “Jane’s Revenge” and spray-painted the anarchy symbol in multiple locations on Heartbeat’s facility.



39. In addition to the vandalism, Defendants attempted to avoid



accountability for their actions by damaging and rendering inoperable the security cameras located at the Hialeah Facility by shining a laser into the camera. By rendering the security cameras inoperable, the Defendants managed to avoid at least some detection of their illicit activity, and their actions left Heartbeat's

Hialeah Facility without the benefit of security surveillance and vulnerable to the caprice of other would-be criminals.

40. But more harmful than the material damage Defendants' actions caused was the mental anguish inflicted on Heartbeat's employees and volunteers. Defendants' threats of force were intended to interfere with Heartbeat's provision of life-affirming reproductive health services by intimidating its personnel and making them "afraid of" Jane's Revenge. The threats had their intended effect.

41. While Defendants failed in their goal of coercing Heartbeat to cease its operation, their threats of force succeeded in making its personnel fear for their personal safety and the safety of their families.

42. Defendants' actions of intimidation and violence forced Heartbeat to provide physical 24-hour security to protect the ability of their employees and patients to access its life-affirming reproductive healthcare facility.

D. Defendants infiltrate and disrupt Heartbeat's annual fundraising Gala.

43. Defendants' efforts to intimidate Heartbeat did not end with the July 3rd attack.

44. On September 17, 2022, Heartbeat held its annual Gala at the Trump National Doral Miami Resort & Hotel in Miami, Florida. Like many other non-profit organizations, Heartbeat relies upon the donations of its supporters to fund

its operations. The Gala was Heartbeat's largest fundraising event of the year and was attended by over 300 people.

45. In the weeks leading up to the event, Defendant Freestone and other Defendants began conspiring to disrupt Heartbeat's Gala.

46. One method Defendant Freestone used to further his efforts against Heartbeat was the use of various social media pages entitled "Whatever it takes," including pages on Facebook and Twitter bearing the handle "WIT4Change."⁸ Upon information and belief, Defendant Freestone and other Defendants are moderators for these social media pages.

47. In the days leading up to the Gala, Whatever It Takes created multiple posts calling for activists in the Miami area to protest the Gala, including promising bail and jail support for anyone arrested during the Gala.

48. Whatever It Takes also created posts doxing both the director and a board member of Heartbeat to intimidate these individuals from continuing their work providing reproductive healthcare services.

49. In light of the public threats and ongoing efforts to intimidate this life-affirming reproductive healthcare facility, Heartbeat expended significant

⁸ Whatever It Takes (@wit4change), FACEBOOK, <https://www.facebook.com/wit4change>; Whatever It Takes (@WIT4Change), TWITTER, <https://twitter.com/WIT4Change>.

resources to provide security for its staff, volunteers, clients, and other guests attending its Gala.

50. Additionally, Defendant Freestone and other conspirators hacked into Heartbeat's registration for its Gala and added themselves to the guest list without paying the required fee for making such a reservation. The actions were taken in furtherance of an effort to disrupt Heartbeat's provision of reproductive health services by intimidating those who would financially support this life-affirming reproductive healthcare facility and preventing Heartbeat from obtaining the donations it relies upon for its operations.

51. On the night of September 17, 2022, Defendants executed their plan to disrupt Heartbeat's Gala and intimidate its attendees, including its staff, volunteers, directors, supporters, and clients. During the Gala's dinner, Defendant Freestone and Defendant Rivera forced their way into the venue hosting the event. Once inside the Gala, they began shouting obscenities and disparaging language regarding Heartbeat and its work in the community. They also scattered business cards around the venue containing false information about the work performed by Heartbeat, including accusing Heartbeat of operating "FAKE CLINICS" and stating Heartbeat's reproductive healthcare facilities were "Designed to Lie to You." While scattering this propaganda, Defendants Freestone and Rivera began aggressively made their way towards the President for Heartbeat, Ms. Martha

Avila. Because of the threats made against the Hialeah Facility, Ms. Avila feared physical harm.



52. Fortunately, before Defendants were able to inflict any additional harm on Heartbeat, they were escorted out of the Gala and arrested on criminal trespassing charges.⁹

⁹ MUGSHOTS ZONE, <https://miamidadefl.mugshots.zone/freestone-caleb-mugshot-09-18-2022/> (last visited Mar. 28, 2023); MUGSHOTS ZONE, <https://miamidadefl.mugshots.zone/rivera-annarella-mugshot-09-17-2022/> (last visited Mar. 28, 2023).

53. Defendants' disruption of Heartbeat's Gala was intentionally done to interfere with Heartbeat's provision of reproductive health services by disrupting fundraising efforts and intimidating Heartbeat's staff, volunteers, clients, and supporters. Further, Defendants did not have permission to enter the Gala.

54. On September 20, 2022, Defendant Freestone posted on the "Whatever It Takes" Twitter page that activists had "successfully disrupted" Heartbeat's Gala.¹⁰

55. Upon their arrest, other unknown conspirators organized to bail Defendants Freestone and Rivera out of jail, as reflected in a September 17, 2022, Facebook post on the Whatever It Takes page.¹¹

¹⁰ Whatever It Takes (@WIT4Change), TWITTER (Sept. 20, 2022), <https://twitter.com/WIT4Change/status/1572307765246455809>.

¹¹ Whatever It Takes (@wit4change), FACEBOOK (Sept. 17, 2022), [https://www.facebook.com/wit4change/posts/pfbid0kfvdjzBrS2RKjaK6Vk1gF7WnZ9F2ej5jUjyJeGzFYWmLVHvbwDLXgt2bLxFHSmsTI?_cft__\[0\]=AZWSZVP0tqowHmSW9_pxlelE2Zk-afLqLrqT9xhwjD11avi4YxLTqLakB9gQINJsowRwT6-cyOtcI-BPdo6d-Nvt0LFCfBN6nhQ_HOT_x6VogzjOYuDHm3C9x_fIQ67fjeY5y-86X2tYWXNeTUd6qS5yfkCzOnFZTQr-oABS2HCjfrUstgQrFdivWxUKpHintGrpO0ag8KO8cwGCcthuEZ4dRpxX_ptNb3_fPahB3r_tEyw&_tn_=%2CO%2CP-R](https://www.facebook.com/wit4change/posts/pfbid0kfvdjzBrS2RKjaK6Vk1gF7WnZ9F2ej5jUjyJeGzFYWmLVHvbwDLXgt2bLxFHSmsTI?_cft__[0]=AZWSZVP0tqowHmSW9_pxlelE2Zk-afLqLrqT9xhwjD11avi4YxLTqLakB9gQINJsowRwT6-cyOtcI-BPdo6d-Nvt0LFCfBN6nhQ_HOT_x6VogzjOYuDHm3C9x_fIQ67fjeY5y-86X2tYWXNeTUd6qS5yfkCzOnFZTQr-oABS2HCjfrUstgQrFdivWxUKpHintGrpO0ag8KO8cwGCcthuEZ4dRpxX_ptNb3_fPahB3r_tEyw&_tn_=%2CO%2CP-R).

E. Defendants Freestone and Smith-Stewart are indicted for violating the FACE Act.

56. On January 18, 2023, Defendants Freestone and Smith-Stewart were indicted by a federal grand jury for violating the FACE Act and conspiracy to violate the FACE Act.¹² A copy of the Indictment is attached hereto as Exhibit “A.”

57. The Indictment alleges that Defendants Freestone and Smith-Stewart conspired to and were responsible for attacking three life-affirming reproductive healthcare facilities in Florida between May 2022 and July 2022, including Heartbeat’s facility.

58. The Indictment refers to the three facilities as Facilities A, B, and C. The indictment recounts Defendants’ attack on Heartbeat and refers to it as Facility C.

59. The Indictment highlights the similarities between the multiple attacks Defendants have made upon life-affirming reproductive healthcare facilities. It states Facility A, which is located in Hollywood, Florida, and associated with the Archdiocese of Miami Ministry, was attacked on May 26, 2022. Similar to the attack on Heartbeat, it states Defendants spray-painted “If abortions aren’t SAFE then niether [sic] are you” on Facility A’s property. Likewise, the

¹² Office of Public Affairs, *Two Defendants Indicted for Civil Rights Conspiracy and FACE Act Offenses Targeting Pregnancy Resource Centers*, United States Department of Justice (Jan. 24, 2023), <https://www.justice.gov/opa/pr/two-defendants-indicted-civil-rights-conspiracy-and-face-act-offenses-targeting-pregnancy-0>.

Indictment states that Defendants attacked Facility B, located in Winter Haven, Florida, on June 26, 2022, and spray-painted threatening messages on Facility B's property, including "YOUR TIME IS UP!!"; "WE'RE COMING for U"; and "We are everywhere."

60. Upon information and belief, the attacks upon Heartbeat and Facilities A and B by Defendants Freestone, Smith-Stewart, Oropesa and other unknown Defendants were performed in furtherance of the criminal enterprise known as Jane's Revenge.

61. In January 2023, federal law enforcement officers arrested Defendants Freestone and Smith-Stewart pursuant to the Indictment.

62. On March 22, 2023, a federal grand jury returned a Superseding Indictment adding charges against Defendants Rivera and Oropesa for violating the FACE Act. A copy of the Superseding Indictment is attached hereto as Exhibit "B."

63. The Superseding Indictment alleges that Defendants Rivera and Oropesa conspired with Defendants Freestone and Smith-Stewart to attack Facilities A and B along with the Hialeah Facility.

64. The Superseding Indictment alleges that Defendant Rivera travelled to and participated in the attacks on Facilities A and B. It further alleges that

Defendant Oropesa travelled to and participated in the attack on the Hialeah Facility and Facility A.

FIRST CAUSE OF ACTION

**Violation of the Freedom of Access to Clinic Entrances Act
(18 U.S.C. § 248(a)(1))
(Defendants Jane’s Revenge, Freestone, and Oropesa)**

65. Heartbeat incorporates and adopts by reference the allegations in paragraphs 1-64 of the First Amended Complaint as if fully set forth herein.

66. The FACE Act prohibits the use of or attempted use of threats of force to intentionally injure, intimidate, or interfere with any person or facility that provides reproductive healthcare services because that person or facility provides or will provide reproductive health services.

67. The FACE Act defines reproductive health services to mean “reproductive health services provided in a hospital, clinic, physician’s office, or other facility” and to include “medical, surgical, counselling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.” 18 U.S.C. § 248(e)(5).

68. The FACE Act defines facility to mean a “hospital, clinic, physician’s office, or other facility that provides reproductive health services.” *Id.* § 248(e)(1).

69. The FACE Act defines intimidate to mean “plac[ing] a person in reasonable apprehension of bodily harm to him- or herself or to another.” *Id.* § 248(e)(3).

70. Heartbeat is a facility that provides reproductive health services as defined by the FACE Act. Specifically, Heartbeat provides a variety of medical and counseling services to its patients, including pregnancy tests, sonograms, pregnancy consultation and education, prenatal referrals, adoption referrals, post-abortion counseling, parenting classes, women’s wellness appointments, and abortion pill reversal services.

71. On or about July 3, 2022, Defendants travelled to Hialeah, Florida, unlawfully entered the property housing the Hialeah Facility, and spray-painted threats of force on the Hialeah Facility, including, “If abortions aren't safe the[n] neither are you.”

72. These threats of force were intended to place Heartbeat and its staff and volunteers in reasonable fear of harm to themselves if they provided reproductive health services and had its intended effect.

73. Defendants engaged in this intentionally threatening conduct because Heartbeat provides reproductive health services to its community.

74. As a direct, legal, and proximate result of Defendants’ conduct, Heartbeat sustained damages in an amount to be proven at trial. At a minimum,

Heartbeat is entitled to recover \$5,000 in damages for each violation the FACE Act committed by Defendants.

75. Defendants are jointly and severally liable for these actions.

76. Heartbeat is entitled to compensatory and punitive damages as well as injunctive relief to prevent future violations of the FACE Act against its facilities. Additionally, Heartbeat is entitled to the reasonable costs of this lawsuit and its reasonable attorneys' fees.

SECOND CAUSE OF ACTION

Violation of the Freedom of Access to Clinic Entrances Act (18 U.S.C. § 248(a)(1)) (Defendants Jane's Revenge, Freestone, and Rivera)

77. Heartbeat incorporates and adopts by reference the allegations in paragraphs 1-64 of the First Amended Complaint as if fully set forth herein.

78. The FACE Act prohibits any attempt intentionally injure, intimidate, or interfere with any person or facility who provides reproductive healthcare services because that person or facility provides or will provide reproductive health services.

79. The FACE Act defines reproductive health services to mean "reproductive health services provided in a hospital, clinic, physician's office, or other facility" and to include "medical, surgical, counselling or referral services

relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.” 18 U.S.C. § 248(e)(5).

80. The FACE Act defines facility to mean a “hospital, clinic, physician’s office, or other facility that provides reproductive health services.” *Id.* § 248(e)(1).

81. The FACE Act defines intimidate to mean “plac[ing] a person in reasonable apprehension of bodily harm to him- or herself or to another.” *Id.* § 248(e)(3).

82. Heartbeat is a facility that provides reproductive health services as defined by the FACE Act. Specifically, Heartbeat provides a variety of medical and counseling services to its patients, including pregnancy tests, sonograms, pregnancy consultation and education, prenatal referrals, adoption referrals, post-abortion counseling, parenting classes, women’s wellness appointments, and abortion pill reversal services.

83. On or about September 17, 2022, Defendants travelled to Miami, Florida, unlawfully entered the property where Heartbeat was hosting its annual fundraising Gala and attempted to interfere with Heartbeat’s fundraising efforts and intimidate Heartbeat’s employees from continuing to provide reproductive healthcare services.

84. Specifically, Defendant Freestone and Defendant Rivera forced their way into the venue hosting the event. Once inside the Gala, they began shouting

obscenities and disparaging language regarding Heartbeat and its work in the community. They also scattered propaganda around the venue containing false information about the work performed by Heartbeat and began aggressively making their way towards Ms. Martha Avila, Heartbeat's President, causing her to fear physical harm.

85. Defendants' unlawful interference with Heartbeat's Gala was intended to place Heartbeat and its staff and volunteers in reasonable fear of harm to themselves because they provide reproductive health services and had its intended effect.

86. Defendants engaged in this threatening conduct because Heartbeat provides reproductive health services to its community.

87. As a direct, legal, and proximate result of Defendants' conduct, Heartbeat sustained damages in an amount to be proven at trial. At a minimum, Heartbeat is entitled to recover \$5,000 in damages for each violation the FACE Act committed by Defendants.

88. Defendants are jointly and severally liable for these actions.

89. Heartbeat is entitled to compensatory and punitive damages as well as injunctive relief to prevent future violations of the FACE Act against its facilities. Additionally, Heartbeat is entitled to the reasonable costs of this lawsuit and its reasonable attorneys' fees.

THIRD CAUSE OF ACTION

**Violation of the Freedom of Access to Clinic Entrances Act
(18 U.S.C. § 248(a)(3))
(Defendants Jane’s Revenge, Freestone, and Oropesa)**

90. Heartbeat incorporates and adopts by reference the allegations in paragraphs 1-64 of the First Amended Complaint as if fully set forth herein.

91. The FACE Act prohibits intentionally damaging or destroying or attempting to damage or destroy a facility’s property because the facility provides reproductive health services.

92. The FACE Act defines reproductive health services to mean “reproductive health services provided in a hospital, clinic, physician’s office, or other facility” and to include “medical, surgical, counselling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.” 18 U.S.C. § 248(e)(5).

93. The FACE Act defines facility to mean a “hospital, clinic, physician’s office, or other facility that provides reproductive health services.” *Id.* § 248(e)(1).

94. Heartbeat is a facility that provides reproductive health services as defined by the FACE Act. Specifically, Heartbeat provides a variety of medical and counseling services to its patients, including pregnancy tests, sonograms, pregnancy consultation and education, prenatal referrals, adoption referrals, post-

abortion counseling, parenting classes, women's wellness appointments, and abortion pill reversal services.

95. On or about July 3, 2022, Defendants travelled to Hialeah, Florida, and spray-painted threats on Heartbeat's clinic including "If abortions aren't safe the[n] neither are you." Additionally, Defendants damaged Heartbeat's security camera by shining a laser at its lens.

96. Defendants' unlawful actions damaged Heartbeat's property, namely its clinic's facility and its security camera.

97. Defendants engaged in this destructive conduct because Heartbeat provides reproductive health services to its community.

98. As a direct, legal, and proximate result of Defendants' conduct, Heartbeat sustained damages in an amount to be proven at trial. At a minimum, Heartbeat is entitled to recover \$5,000 in damages for each violation the FACE Act committed by Defendants.

99. Defendants are jointly and severally liable for these actions.

100. Heartbeat is entitled to compensatory and punitive damages as well as injunctive relief to prevent future violations of the FACE Act against its facilities. Additionally, Heartbeat is entitled to the reasonable costs of this lawsuit and its reasonable attorneys' fees.

FOURTH CAUSE OF ACTION

**Trespass to Property
(Defendants Jane's Revenge, Freestone, and Oropesa)**

101. Plaintiff incorporates and adopts by reference the allegations in paragraphs 1-64 of the First Amended Complaint as if fully set forth herein.

102. Heartbeat has a possessory interest in the property housing its Hialeah Facility.

103. Defendants committed an unauthorized intrusion upon Heartbeat's private property by spray-painting threats on Heartbeat's Hialeah Facility including "If abortions aren't safe the[n] neither are you."

104. As a direct, legal, and proximate result of Defendants' conduct, Heartbeat sustained damages in an amount to be proven at trial.

105. Defendants are jointly and severally liable for these actions.

FIFTH CAUSE OF ACTION

**Trespass to Property
(Defendants Jane's Revenge, Freestone, and Rivera)**

106. Plaintiff incorporates and adopts by reference the allegations in paragraphs 1-64 of the First Amended Complaint as if fully set forth herein.

107. Heartbeat had a possessory interest in the property it rented from the Trump National Doral Miami Resort & Hotel for its annual Gala on September 17, 2022.

108. Defendants committed an unauthorized intrusion upon Heartbeat's private property by forcing their way into the Gala, shouting obscenities and disparaging language regarding Heartbeat and its work in the community, scattering propaganda around the venue containing false information about the work performed by Heartbeat, and acting aggressively towards attendees of the Gala.

109. As a direct, legal, and proximate result of Defendants' conduct, Heartbeat sustained damages in an amount to be proven at trial.

110. Defendants are jointly and severally liable for these actions.

SIXTH CAUSE OF ACTION

Civil Conspiracy (All Defendants)

111. Plaintiff incorporates and adopts by reference the allegations in paragraphs 1-64 of the First Amended Complaint as if fully set forth herein.

112. Defendants are two or more persons who entered into an agreement to engage in unlawful conduct pursuant to their membership in the criminal enterprise known as Jane's Revenge.

113. Specifically, Defendants agreed to plan, support, coordinate, execute, or otherwise assist in the commission of unlawful acts, including violations of the FACE Act, the Florida Racketeer Influenced and Corrupt Organization Act, and trespass to Heartbeat's property.

114. Defendants engaged in one or more overt acts in pursuance of their unlawful conspiracy, including but not limited to planning, supporting, coordinating, executing, or otherwise assisting in the commission of the following unlawful acts:

- a. Entering the property housing the Hialeah Facility without authorization, damaging Heartbeat's property at the Hialeah Facility, and spray-painting threats of force on the Hialeah Facility, including "If abortions aren't safe the[n] neither are you," on July 3, 2022.
- b. Forcing their way into Heartbeat's annual Gala at the Trump National Doral Miami Resort & Hotel on September 17, 2022, shouting obscenities and disparaging language regarding Heartbeat and its work in the community, scattering propaganda around the venue containing false information about the work performed by Heartbeat, and acting aggressively towards attendees of the Gala.

115. Upon information and belief, all of Defendants' actions against Heartbeat were in pursuance of a nationwide conspiracy with the extremist group known as Jane's Revenge.

116. Upon information and belief, Jane's Revenge and other members of Jane's Revenge who are unknown at this time assisted in planning, supporting, coordinating, and executing the unlawful conduct discussed above.

117. As a direct, legal, and proximate result of Defendants' conduct, Heartbeat sustained damages in an amount to be proven at trial.

118. Defendants are jointly and severally liable for these actions.

SEVENTH CAUSE OF ACTION

Florida Racketeer Influenced and Corrupt Organization ("RICO") Act (Fla. Stat. § 895.03(3)) (All Defendants)

119. Plaintiff incorporates and adopts by reference the allegations in paragraphs 1-64 of the First Amended Complaint as if fully set forth herein.

120. Under the Florida RICO Act, it is unlawful for any person associated with any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity.

121. The Florida RICO Act defines an enterprise to include any "group of individuals associated in fact although not a legal entity." Fla. Stat. § 895.02(5).

122. The Florida RICO Act defines racketeering activity to mean "to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit" various criminal acts, including a violation

of Chapter 806 of the Florida Statutes relating to arson and criminal mischief. *Id.* § 895.02(8)(a)(31.).

123. Under Section 806.13 of the Florida Statute, it is unlawful for a person to “willfully and maliciously injure[] or damage[] by any means any real or personal property belonging to another, including, but not limited to, the placement of graffiti thereon or other acts of vandalism thereto. *Id.* § 806.13(1)(a).

124. The Florida RICO Act defines a pattern of racketeering activity to mean “engaging in at least two incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents.” *Id.* § 895.02(7).

125. Jane’s Revenge is an enterprise as defined by the Florida RICO Act. Specifically, Jane’s Revenge is a nationwide criminal enterprise consisting of cells in communities across the country with a common goal of using extreme and criminal tactics to injure, intimidate, or interfere with the operations of life-affirming reproductive healthcare facilities.

126. Defendants are persons associated with Jane’s Revenge.

127. Upon information and belief, Defendants coordinated with other members of Jane’s Revenge to create one or more cells of Jane’s Revenge in Florida.

128. Defendants conducted or participated in the Jane's Revenge criminal enterprise by planning, supporting, coordinating, executing, or otherwise assisting in the commission of the following unlawful acts:

- a. Entering the property housing Facility A, as listed in the Indictment against Defendants Freestone and Smith-Steward, and spray-painting threatening messages on Facility A, including "If abortions aren't SAFE then niether [sic] are you," on May 26, 2022.
- b. Entering the property housing Facility B, as listed in the Indictment against Defendants Freestone and Smith-Steward, and spray-painting threatening messages on Facility B, including "YOUR TIME IS UP!!"; "WE'RE COMING for U"; and "We are everywhere," on June 26, 2022.
- c. Entering the property housing the Hialeah Facility without authorization, damaging Heartbeat's property at the Hialeah Facility, and spray-painting threatening messages on the Hialeah Facility, including "If abortions aren't safe the[n] neither are you," on July 3, 2022.

129. Defendants' attacks against the Hialeah Facility, Facility A, and Facility B constitute racketeering activity under the Florida RICO Act because they

are a violation of Chapter 806 of the Florida Statutes. Specifically, Defendants willfully and maliciously damaged real and personal property belonging to Heartbeat and others through the placement of graffiti thereon or other acts of vandalism.

130. The attacks upon the Hialeah Facility, Facility A, and Facility B between May 26, 2022, and July 3, 2022, constitute a pattern of racketeering as defined by the Florida RICO Act.

131. By attacking these life-affirming reproductive healthcare facilities, Defendants engaged in at least two incidents of racketeering conduct.

132. Further, the attacks on the facilities shared the same or similar intents, results, accomplices, victims, or methods of commission or are otherwise interrelated by distinguishing characteristics. Defendants engaged in this pattern of racketeering activity with the same intent: to injure, intimidate, or interfere with the operations of life-affirming reproductive healthcare facilities. Upon information and belief, the attacks also involved the same accomplices. Additionally, the methods of commission, results, and distinguishing characteristics of the attacks are the same or similar. At each facility, Defendants unlawfully entered each facility's property at night and spray-painted similar threatening messages on the facility's property, including threats that the facilities were not safe or that Defendants were "coming for" the facilities. Moreover,

Defendants spray-painted either “Jane” or “Jane’s Revenge” at each of the facilities.

133. Upon information and belief, Defendants have conspired and continue to conspire to commit additional attacks on life-affirming reproductive healthcare facilities in Florida. Further, there is a significant risk of ongoing attacks on Heartbeat and other life-affirming reproductive healthcare facilities by members of the Jane’s Revenge enterprise. To date, at least three life-affirming reproductive healthcare facilities have been attacked by Jane’s Revenge in 2023.

134. As a direct, legal, and proximate result of Defendants’ conduct, Heartbeat sustained damages in an amount to be proven at trial.

135. Defendants are jointly and severally liable for these actions.

EIGHTH CAUSE OF ACTION

Florida Racketeer Influenced and Corrupt Organization (“RICO”) Act (Fla. Stat. § 895.03(4)) (All Defendants)

136. Plaintiff incorporates and adopts by reference the allegations in paragraphs 1-64 of the First Amended Complaint as if fully set forth herein.

137. Under the Florida RICO Act, it is unlawful for any person associated with any enterprise to conspire or endeavor to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity.

138. Under the Florida RICO Act, it is unlawful for any person associated with any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity.

139. The Florida RICO Act defines an enterprise to include any “group of individuals associated in fact although not a legal entity.” Fla. Stat. § 895.02(5).

140. The Florida RICO Act defines racketeering activity to mean “to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit” various criminal acts, including a violation of Chapter 806 of the Florida Statutes relating to arson and criminal mischief. *Id.* § 895.02(8)(a)(31.).

141. Under Section 806.13 of the Florida Statute, it is unlawful for a person to “willfully and maliciously injure[] or damage[] by any means any real or personal property belonging to another, including, but not limited to, the placement of graffiti thereon or other acts of vandalism thereto. *Id.* § 806.13(1)(a).

142. The Florida RICO Act defines a pattern of racketeering activity to mean “engaging in at least two incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents.” *Id.* § 895.02(7).

143. Jane's Revenge is an enterprise as defined by the Florida RICO Act. Specifically, Jane's Revenge is a nationwide criminal enterprise consisting of cells in communities across the country with a common goal of using extreme and criminal tactics to injure, intimidate, or interfere with the operations of life-affirming reproductive healthcare facilities across the country.

144. Defendants are persons associated with Jane's Revenge.

145. Specifically, Defendants agreed to the overall objective of Jane's Revenge of using extreme and criminal tactics to injure, intimidate, or interfere with the operations of life-affirming reproductive healthcare facilities. This agreement is demonstrated by the overt and intentional actions taken by Defendants to accomplish this objective.

146. Upon information and belief, Defendants conspired with other members of Jane's Revenge to create one or more cells of Jane's Revenge in Florida.

147. Defendants conspired to conduct or participate in the Jane's Revenge criminal enterprise by planning, supporting, coordinating, executing, or otherwise assisting in the commission of the following unlawful acts:

- a. Entering the property housing Facility A, as listed in the Indictment against Defendants Freestone and Smith-Steward, and spray-painting threatening messages on Facility A,

including “If abortions aren’t SAFE then niether [sic] are you,” on May 26, 2022.

- b. Entering the property housing Facility B, as listed in the Indictment against Defendants Freestone and Smith-Steward, and spray-painting threatening messages on Facility B, including “YOUR TIME IS UP!!”; “WE’RE COMING for U”; and “We are everywhere,” on June 26, 2022.
- c. Entering the property housing the Hialeah Facility without authorization, damaging Heartbeat’s property at the Hialeah Facility, and spray-painting threatening messages on the Hialeah Facility, including “If abortions aren’t safe the[n] neither are you,” on July 3, 2022.

148. The attacks against the Hialeah Facility, Facility A, and Facility B constitute racketeering activity under the Florida RICO Act because they are a violation of Chapter 806 of the Florida Statutes. Specifically, Defendants willfully and maliciously damaged real and personal property belonging to Heartbeat and others through the placement of graffiti thereon or other acts of vandalism.

149. The attacks upon the Hialeah Facility, Facility A, and Facility B between May 26, 2022, and July 3, 2022, constitute a pattern of racketeering as defined by the Florida RICO Act.

150. By attacking these life-affirming reproductive healthcare facilities, Defendants engaged in at least two predicate acts of racketeering conduct in furtherance of the objectives of Jane's Revenge.

151. Further, the attacks on the facilities shared the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics. Defendants engaged in this pattern of racketeering activity with the same intent: to injure, intimidate, or interfere with the operations of life-affirming reproductive healthcare facilities. Upon information and belief, the attacks also involved the same accomplices. Additionally, the methods of commission, results, and distinguishing characteristics of the attacks are the same or similar. At each facility, Defendants unlawfully entered each facility's property at night and spray-painted similar threatening messages on the facility's property, including threats that the facilities were not safe or that Defendants were "coming for" the facilities. Moreover, Defendants spray-painted either "Jane" or "Jane's Revenge" at each of the facilities.

152. Upon information and belief, Defendants have conspired and continue to conspire to commit additional attacks on life-affirming reproductive healthcare facilities in Florida. Further, there is a significant risk of ongoing attacks on Heartbeat and other life-affirming reproductive healthcare facilities by

members of the Jane's Revenge enterprise. To date, at least three life-affirming reproductive healthcare facilities have been attacked by Jane's Revenge in 2023.

153. Upon information and belief, Defendants have also conspired with other members of Jane's Revenge across the country to plan, support, coordinate, or otherwise assist other members of Jane's Revenge in attacking one or more of the dozens of life-affirming reproductive healthcare facilities that have been victims of attacks across the country between May 2022 and the present.

154. As a direct, legal, and proximate result of Defendants' conduct, Heartbeat sustained damages in an amount to be proven at trial.

155. Defendants are jointly and severally liable for these actions.

PRAYER FOR RELIEF

WHEREFORE, Heartbeat prays for relief and judgment as follows:

- a. Permanently enjoin Defendants from (1) using force or threats of force to injure, intimidate, or interfere with Heartbeat's efforts to provide reproductive health services to its community, (2) damaging or destroying Heartbeat's property, and (3) going within 100 feet of any reproductive healthcare facility operated by Heartbeat or any event hosted by Heartbeat;
- b. Order the dissolution of the Jane's Revenge criminal enterprise;

- c. Award compensatory, punitive, and nominal damages for the damages suffered in violation of federal and state law in amount to be determined by the trier of fact;
- d. Award costs and expenses Heartbeat incurred in bringing this action, including reasonable attorneys' fees; and
- e. All other further relief that the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Dated: April 14, 2023

Respectfully submitted,

JEFFREY C. MATEER*
DAVID J. HACKER*
JEREMY DYS*
RYAN GARDNER*
LEA E. PATTERSON*
FIRST LIBERTY INSTITUTE
2001 West Plano Parkway
Suite 1600
Plano, TX 75075
(972) 941-4444

*Motions for special admission
will be filed with the court

/s/ Jason Gonzalez
JASON GONZALEZ, LEAD COUNSEL
FLORIDA BAR NO: [REDACTED]
PAUL C. HUCK, JR.
FLORIDA BAR NO: [REDACTED]
AMBER STONER NUNNALLY
FLORIDA BAR NO: [REDACTED]
TAYLOR GREENE
FLORIDA BAR NO. [REDACTED]
LAWSON HUCK GONZALEZ, PLLC
215 South Monroe Street, Suite 320
Tallahassee, Florida 32301
(850) 825-4334

[REDACTED]

Counsel for Plaintiffs

Exhibit 6

United States Senate

WASHINGTON, DC 20510

September 19, 2022

Jor-El Godsey
President
Heartbeat International
8405 Pulsar Place
Columbus, OH 43240

Dear Mr. Godsey:

We write to express our concerns about the sensitive health information Heartbeat International and its affiliate crisis pregnancy centers (CPCs) collect from women who misleadingly believe they can seek legitimate abortion and reproductive health care services at more than 2,000 affiliate CPC facilities in the United States.¹ After luring pregnant people – many in desperate situations – to affiliate CPC facilities by using a variety of false and misleading tactics, Heartbeat International then collects a significant amount of their personal health care information, which in many cases does not appear to be protected by the *Health Insurance Portability and Accountability Act* (HIPAA). We fear that, in the wake of the Supreme Court’s *Dobbs v. Jackson Women’s Health Organization* decision that stripped women of their right to an abortion, this information may be used to put women’s health and freedom to choose in jeopardy, and to put them and their health care providers at risk of criminal penalties.

Heartbeat International explicitly states that its vision “is to make abortion unwanted today and unthinkable for future generations.”² To accomplish that goal, it invested in data collection and in 2017 created a database called the “Next Level Content Management Solution” (Next Level CMS)³ to keep track of people that contact Heartbeat International or any affiliate CPCs. Next Level CMS’ website states that it “harnesses the power of big data” to “[make] sure that no client ever falls through the cracks from the moment you say ‘Hello.’”⁴

Often, when people contact or visit a CPC, they share personal information, including their name, address, and phone number, and more private information such as “sexual and reproductive histories, test results, [and] ultrasound photos.”⁵ Next Level CMS is a one-stop shop for storing that data, and you promote services such as a Client Risk Tracker, which “keep[s]

¹ Over 3,000 affiliated pregnancy help locations worldwide and over 971 affiliate locations outside of the United States; Heartbeat International, “Heartbeat International,” <https://www.heartbeat.services/org/services-home>; Heartbeat International, “International Affiliates,” <https://www.heartbeatinternational.org/international>.

² Heartbeat International, “Heartbeat International,” <https://www.heartbeatinternational.org/>.

³ Privacy International, “How anti-abortion activism is exploiting data,” July 22, 2019, <https://privacyinternational.org/long-read/3096/how-anti-abortion-activism-exploiting-data>; Pregnancy Help News, “How Every Pregnancy Center Can Make the Most of ‘Big Data,’” Heartbeat International, April 23, 2017, <https://pregnancyhelpnews.com/next-level>.

⁴ Next Level Center Management Solution, “About Us,” <https://www.nextlevelcms.com/about-us>.

⁵ Time, “Anti-Abortion Pregnancy Centers Are Collecting Troves of Data That Could Be Weaponized Against Women,” Abigail Abrams and Vera Bergengruen, June 22, 2022, <https://time.com/6189528/anti-abortion-pregnancy-centers-collect-data-investigation/>.

[CPCs] up to speed on each individual woman’s anticipated risk level” for obtaining an abortion.⁶ In addition to Next Level CMS, you have also marketed a 24/7 hotline, Option Line, which has fielded calls – and collected data – from more than five million women.⁷ It is deeply troubling that your organization has provided limited clarity, or no clarity whatsoever, about “how the data [it collects] is used [and] stored, and for how long.”⁸

Patient data privacy has become a significant concern in the aftermath of the Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*, with advocates worried that, in states that have banned or severely restricted abortion, “the CPC industry is now functioning as surveillance infrastructure for the anti-abortion movement, amassing data that could be used in pregnancy- and abortion-related prosecutions post-*Roe*.”⁹ Because your organization and its affiliate CPCs are not legitimate medical providers, they are not subject to federal health data privacy laws like HIPAA, which protects “sensitive patient health information from being disclosed without the patient’s consent or knowledge.”¹⁰ Heartbeat International – which is explicitly opposed to abortion rights – appears to be in a position to collect a significant amount of personal information from women about their pregnancies and potential plans for managing their care, but it is not under any legal obligation to maintain the confidentiality of this information, or keep it out of the hands of abortion bounty hunters.

While your organization and many of its affiliate CPCs claim to adhere to HIPAA to protect patients’ health information,¹¹ it does not disclose how it is using the data it collects, whether it is keeping personal information secure, and whether it intends to do so in the future. Heartbeat International promotes websites that have inaccurate claims, including that CPCs “use intake forms as a type of confidentiality agreement, which grants the woman confidentiality protections like she would receive under HIPAA. In other words, they ‘resemble’ HIPAA forms because they act like HIPAA forms.”¹² But these forms do not offer the same protections as HIPAA.¹³ This is deeply concerning, especially as recent reports by privacy experts have highlighted the threats posed by abortion bounty hunter laws and emphasized that “pregnant people’s digital

⁶ Next Level Center Management Solution, “CMS Overview,” <https://www.nextlevelcms.com/overview>.

⁷ Heartbeat International, “Option Line,” <https://www.heartbeatinternational.org/our-work/option-line>.

⁸ Privacy International, “How anti-abortion activism is exploiting data,” July 22, 2019,

<https://privacyinternational.org/long-read/3096/how-anti-abortion-activism-exploiting-data>.

⁹ The Alliance, “The CPC Industry as a Surveillance Tool of the Post-*Roe* State,” February 2022,

https://alliancestateadvocates.org/wp-content/uploads/sites/107/Alliance_CPC_Report_Feb2022_UrgentBrief2-10-22.pdf.

¹⁰ Time, “Anti-Abortion Pregnancy Centers Are Collecting Troves of Data That Could Be Weaponized Against Women,” Abigail Abrams and Vera Bergengruen, June 22, 2022, <https://time.com/6189528/anti-abortion-pregnancy-centers-collect-data-investigation/>;

CDC, “Health Information & Privacy: FERPA and HIPAA,” <https://www.cdc.gov/phlp/publications/topic/healthinformationprivacy.html>.

¹¹ Next Level Center Management Solution, “Frequently Asked Questions,” <https://www.nextlevelcms.com/faq>;

Pregnancy Center Truth, “THE TRUTH ABOUT PREGNANCY CENTERS,”

<https://pregnancycentertruth.com/the-truth/pregnancy-centers>.

¹² Tweet by Heartbeat Int’l on June 28, 2022, <https://twitter.com/HeartbeatIntl/status/1542183824779517952?s=20&t=JAD2T5UQDJWUS4-8arLyAQ>;

Pregnancy Center Truth, “THE TRUTH ABOUT PREGNANCY CENTERS,” <https://pregnancycentertruth.com/the-truth/pregnancy-centers>.

¹³ AMA Journal of Ethics, “Why Crisis Pregnancy Centers Are Legal but Unethical,” Amy G. Bryant and Jonas J. Swartz, March 2018, <https://journalofethics.ama-assn.org/article/why-crisis-pregnancy-centers-are-legal-unethical/2018-03>.

lives will be under the microscope.”¹⁴ There have already been alarming cases where digital trails were used as evidence by prosecutors,¹⁵ and we are concerned that the lack of transparency and lack of protection will allow the data Heartbeat International and its affiliates collect to “be used in pregnancy- and abortion-related prosecutions.”¹⁶

Given our concerns about Heartbeat International’s misleading practices, the information the organization and affiliates collect on pregnant people and those seeking information about abortions, and the lack of legal protections for this data, we request that you provide answers to the following questions no later than October 3, 2022:

1. What categories of information are collected for individuals that contact or visit Heartbeat International or affiliate CPCs, including through Option Line?
 - a. Do you obtain information on individuals’ sexual histories?
 - b. Do you obtain information on individuals’ pregnancy status?
 - c. Do you obtain information on whether these individuals may be considering abortions or seeking abortions?
2. Is any of the information Heartbeat International collects subject to HIPAA or other medical privacy laws?
3. Please describe Heartbeat International’s guidelines for handling people’s personal information or sensitive reproductive health data and provide a written copy of these guidelines.
 - a. How does Heartbeat International use the personal information it collects?
 - b. How long does Heartbeat International, or platforms it runs (including Next Level CMS), hold on to people’s data?
 - c. How does Heartbeat International ensure these data are safe and secure?
 - d. Does Heartbeat International share people’s data with anyone? If yes, with whom?
 - i. Has Heartbeat International ever shared people’s data with law enforcement? If so, under what circumstances?
 - ii. Has Heartbeat International ever provided this information to any private citizen or other third party entity?
 - iii. Has Heartbeat International ever made this information public?
 - iv. Has Heartbeat International ever sold these data to any entity? If so, which entity, and under what circumstances were the data sold?
4. Have law enforcement officials ever required your organization (including Option Line, Extend Web Services, and Next Level CMS) to turn over an individual’s data, including information on reproductive health care, pursuant to a subpoena, court order, or other methods of compulsory process?
 - a. If yes, please provide a list of the times and circumstances in which your

¹⁴ Surveillance Technology Oversight Project, “Pregnancy Panopticon: Abortion Surveillance After *Roe*,” Albert Fox Cahn and Eleni Manis, May 24, 2022, <https://www.stopspying.org/pregnancy-panopticon>.

¹⁵ The Markup, “After Dobbs, Advocates Fear School Surveillance Tools Could Put Teens at Risk,” Todd Feathers, July 8, 2022, <https://themarkup.org/privacy/2022/07/08/after-dobbs-advocates-fear-school-surveillance-tools-could-put-teens-at-risk>.

¹⁶ The Alliance, “The CPC Industry as a Surveillance Tool of the Post-*Roe* State,” February 2022, https://alliancestateadvocates.org/wp-content/uploads/sites/107/Alliance_CPC_Report_Feb2022_UrgentBrief2-10-22.pdf.

organization has provided such information to law enforcement officials.

Sincerely,



Elizabeth Warren
United States Senator



Mazie K. Hirono
United States Senator



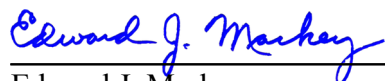
Cory A. Booker
United States Senator



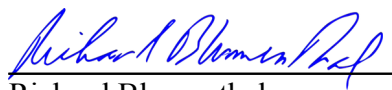
Bernard Sanders
United States Senator



Ron Wyden
United States Senator



Edward J. Markey
United States Senator



Richard Blumenthal
United States Senator

Exhibit 7



October 31, 2022

The Hon. Elizabeth Warren
United States Senator
United States Senate
309 Hart Senate Office Building
Washington, DC 20510

Re: Life-Affirming Reproductive Health Facilities Serve Women

Sen. Warren:

On behalf of Heartbeat International, we appreciate your response dated October 21, 2022. As we explained in our letter on October 1, 2022, Heartbeat International exists to serve women and families in their local communities. Heartbeat’s highest priority is caring for its clients, including protecting their privacy. To this end, it complies with all pertinent laws and regulations of the United States. It has not and does not share personally identifiable information with law enforcement, the public, nor any third party.

We would hope that your continued interest in the work of Heartbeat International stems from a joint compassion for the women served by our network of life-affirming reproductive health facilities and its myriad of volunteers. Yet, having now received *two* inquiries from sitting United States Senators—all of whom appear to support your hope that the federal government will “shut [life-affirming reproductive health facilities] down all around the country,”¹—we are left to conclude that your questions have little to do with understanding our client’s network of facilities, the women served, or even the use of personally identifiable information.

Rather, you appear determined to wield the power of your office to investigate a private organization that holds to a religious and ideological position with which you disagree. Such is inappropriate and beneath your office. As the U.S. Supreme Court reminds you, “Investigations conducted solely for the personal aggrandizement of the investigators or to ‘punish’ those investigated are indefensible.” *Watkins v. United States*, 354 U.S. 178, 187 (1957). We remind you that your sworn duty is to the representation of *all* of your constituents, not merely those with whom you agree.

¹ Jessica Chasmar, *Google to crack down on search results for crisis pregnancy centers after Dem pressure*, August 25, 2022. <https://www.foxbusiness.com/politics/google-crack-down-search-results-crisis-pregnancy-centers-dem-pressure>.

Further, our client is concerned with your refusal to answer reasonable questions posed to their elected officials.² You demand answers from those you serve, yet refuse to answer their questions. The duties of a United States Senator afford you the freedom to ask questions in support of legislative duties—questions our client has now twice answered. Yet, despite our client’s ongoing cooperation, you have purposefully dodged the questions posed by those you are duty-bound to serve. We are forced to conclude that you are determined to insulate yourself from answering the questions of our client. This is disappointing and troubling.

Since May, vandals have targeted more than 100 life-affirming reproductive health facilities and religious institutions.³ Rather than publicly condemn those criminal actions, you fanned the flames by falsely accusing the volunteers of life-affirming reproductive facilities of “torturing” pregnant women.⁴ And, in that time, the United States Department of Justice (“DOJ”)—over which the Constitution gives you oversight—has yet to secure any conviction or present even a single indictment against these criminals.

You decline our request to articulate what legislation you are considering to provide additional protection to our client from further attacks. You will not indicate whether you have asked, or will ask, the DOJ whether it has identified a single suspect of these crimes. Vandals have violated federal law by intimidating our client and interfering with a woman’s access to reproductive health facilities in network with our client. These acts of intimidation and interference are egregious violations of the Freedom of Access to Clinic Entrances (“FACE”) Act, 18 U.S.C. § 248. Instead of requiring Attorney General Merrick Garland or Director Christopher Wray to provide answers, you seem to treat our client like a criminal rather than a victim.

When asked to identify even a single example of a public statement in which you, or any of the signatories to your letters, publicly repudiate the numerous criminal acts designed to obstruct, injure, intimidate, or interfere with access to life-affirming reproductive health facilities, you identified none.

You publicly expressed your hope that the federal government will shut down private, life-affirming reproductive health facilities but refused to identify what resources of the federal government you have marshalled to ensure that women are able to access the counseling, resources, and/or reproductive health care provided by the facilities in network with our client.

We respectfully request that you refocus your energies. Rather than fix your ire on our client, redirect your attention to the oversight of the federal government entrusted by the American people to your care. Demonstrate unequivocally to the American people

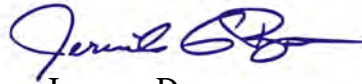
² Heartbeat International is a network of life-affirming reproductive health facilities across the country, including 22 locations in Massachusetts, Hawaii, New Jersey, New Hampshire, Oregon, and Connecticut.

³ Jessica Chasmar, *More than 100 pro-life orgs, churches attacked since Dobbs leak*, October 20, 2022, <https://www.foxnews.com/politics/100-pro-life-orgs-churches-attacked-dobbs-leak>.

⁴ *Id.* at FN 1.

that you will protect even those with whom you disagree by equal application of the laws passed by the U.S. Senate.

Respectfully,



Jeremy Dys
Senior Counsel
First Liberty Institute

CC: The Hon. Mazie K. Hirono
United States Senator
United States Senate
109 Hart Senate Office Building
Washington, DC 20510

The Hon. Cory Booker
United States Senator
United States Senate
717 Hart Senate Office Building
Washington, DC 20510

The Hon. Bernard Sanders
United States Senator
United States Senate
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The Hon. Ron Wyden
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The Hon. Edward J. Markey
United States Senator
United States Senate
255 Dirksen Senate Office
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Washington, DC 20510

The Hon. Richard Blumenthal
United States Senator
United States Senate
706 Hart Senate Office Building
Washington, DC 20510

Exhibit 8



October 1, 2022

The Hon. Elizabeth Warren
United States Senator
United States Senate
309 Hart Senate Office Building
Washington, DC 20510

Re: Protecting Life-Affirming Reproductive Health Facilities

Sen. Warren, et al.:

First Liberty Institute is the nation's largest law firm dedicated exclusively to defending and restoring religious liberty for all Americans. We represent Heartbeat International in connection with the letter you sent dated September 19, 2022. Please direct all communications concerning this matter to my attention.

Heartbeat International ("Heartbeat") is among the oldest and most expansive network of life-affirming pregnancy resource centers in the country. These life-affirming reproductive health facilities exist with a mission that every woman would feel loved and supported in her pregnancy. Because no woman should feel so alone or hopeless that she turns to abortion, believing it to be her only choice, Heartbeat affiliates provide resources, including adoption, maternity homes, parental education, and provision of free resources—including baby formula, diapers, and clothing—at some 2,000 locations across the country. Most offer medical services, including ultrasound, STD/STI testing and/or treatment, and more. Client confidentiality has been a core principle for life-affirming organizations for decades,¹ and Heartbeat International works hard to protect the privacy of its clients.

Heartbeat exists to serve women and families in their local communities. To that end, Heartbeat does not share personally identifiable information with law enforcement. In fact, no law enforcement official has ever requested, let alone required, Heartbeat to provide personally identifiable information. Heartbeat has never made personally identifiable information public nor sold such information to any third party at any time.

Every woman deserves compassionate care and support when facing an unexpected pregnancy. The tools pregnancy centers use to provide this care are safe and secure, as client safety and confidentiality are of the utmost importance.

While we appreciate your interest in the important work of Heartbeat International, we are aware of no law or legal instrument that would authorize you to

¹ <https://www.heartbeatinternational.org/about-us/commitment-of-care>

conduct an investigation of this private, religious nonprofit, much less compel them to answer your questions. Rather, your letter appears to be an unwarranted effort to investigate a private organization which holds to a religious and ideological opinion with which you disagree. The United States Supreme Court firmly rebuked such actions over 60 years ago.² United States Senators should not use the power of their office to harass private citizens in hopes of creating conflict for legislative solutions otherwise wanting for a problem to solve. Your questions are neither appropriate, nor germane.

In recent months, you, Senator Warren, have called for Congress to “move more aggressively” in regulating life-affirming reproductive health facilities.³ You applauded Massachusetts Attorney General Maura Healey’s actions to place a “consumer advisory” on pro-life reproductive health facilities in Massachusetts.⁴ And, perhaps most unbecoming of all, you accused life-affirming reproductive health facilities of “torturing” pregnant women while calling upon the federal government to “shut them down all around the country.”⁵

Your calculated rhetoric encouraged vandals who have unleashed their criminal activity across the country, including against Heartbeat International affiliates, in an effort to obstruct, injure, intimidate, or otherwise interfere with women making reproductive health decisions at life-affirming reproductive health facilities. Such acts violate the Freedom of Access to Clinic Entrances Act (“FACE”), 18 U.S.C. § 248. Perhaps you are unaware that it was only *after* you announced your anger against these centers on the steps of the U.S. Supreme Court on May 4, 2022, that criminals unleashed the vandalism and destruction of property owned by life-affirming reproductive health facilities as shown below.⁶

² “There is no general authority to expose the private affairs of individuals without justification in terms of the functions of the Congress. . . . Investigations conducted solely for the personal aggrandizement of the investigators or to ‘punish’ those investigated are indefensible.” *Watkins v. United States*, 354 U.S. 178, 187 (1957).

³ Alison Kuznitz, *U.S. Sen. Elizabeth Warren wants to crack down on ‘deceptive’ crisis pregnancy centers in Massachusetts, across the country*, June 29, 2022, <https://www.masslive.com/politics/2022/06/us-sen-elizabeth-warren-wants-to-crack-down-on-deceptive-crisis-pregnancy-centers-in-massachusetts-across-the-country.html>.

⁴ Dialynn Dwyer, *Maura Healey issues warning about ‘crisis pregnancy centers’ in Mass.*, July 6, 2022. <https://www.boston.com/news/politics/2022/07/06/maura-healey-warning-crisis-pregnancy-centers/>.

⁵ Jessica Chasmar, *Google to crack down on search results for crisis pregnancy centers after Dem pressure*, August 25, 2022. <https://www.foxbusiness.com/politics/google-crack-down-search-results-crisis-pregnancy-centers-dem-pressure>.

⁶ Jeremy Dys and Andrew Beckwith, *Letter to the Honorable Maura Healey Regarding Civil Rights Protections of Pregnancy Resource Centers*, September 13, 2022, https://firstliberty.org/wp-content/uploads/2022/09/PRC-Letter-to-AG-Healey-with-exhibits_Redacted.pdf; Joe Bukuras, *Some Arrests Have Been Made in Connection With Attacks on Catholic Churches and Pro-Life Pregnancy Centers*, July 20, 2022, <https://www.ncregister.com/cna/some-arrests-have-been-made-in-connection-with-attacks-on-catholic-churches-and-pro-life-pregnancy-centers>.





Pro-life reproductive health facilities affiliated with Heartbeat International are protected by federal law. *See* 18 U.S.C §248; *see generally* *Life Ctr., Inc. v. City of Elgin, Ill.*, 993 F. Supp. 2d 863, 865 (N.D. Ill. 2013) (describing FACE Act claim brought by a

life-affirming reproductive health facility against ordinances regulating its mobile clinic). Yet they, and many others, have suffered broken windows, property damage, and even fire-bombings—all physical threats and acts of intimidation singularly designed, as you said of your hopes for the federal government, to “shut them down all around the country.”⁷

Heartbeat International and its network of thousands of employees, volunteers, and supporters have been made to feel unsafe, in part, because of your words. We therefore ask that you, and your colleagues copied on this letter, respond within twenty (20) days of the date of this letter to the following questions:

1. Have you issued any public statement repudiating the numerous criminal acts designed to obstruct, injure, intimidate, or interfere with access to pro-life reproductive health facilities?
2. How many press conferences, media events, or speeches from the Senate floor have you held, or participated in, to announce your anger at those who have used bricks, crow bars, spray paint, and fire-bombs to obstruct, injure, intimidate, or otherwise interfere with women making reproductive health decisions at life-affirming reproductive health facilities across the country?
3. Have you requested the President of the United States, U.S. Attorney General, Federal Bureau of Investigation, Bureau of Alcohol, Tobacco, and Firearms, and/or Homeland Security to investigate the crimes perpetrated against these pro-life reproductive health facilities?
4. Have you requested that Attorney General Maura Healey (or any other state attorney general) issue a consumer advisory against the group known as “Jane’s Revenge” in Massachusetts?
5. Have you requested that Google, Yelp, and/or internet service providers flag the website “JanesRevenge.NoBlogs.org” for investigation for its criminal conspiracy against life-affirming reproductive health facilities?
6. What legislation have you introduced that would protect life-affirming reproductive health facilities from further physical and/or cyber attacks?
7. Are you considering legislation that would further protect women seeking to make reproductive health decisions at life-affirming reproductive health facilities?
8. What requests have you made in the last six (6) months of state elected officials, state agencies, or other state actors/agencies to ensure the safety of the volunteers and employees of life-affirming reproductive health facilities across the country?
9. What resources of the federal government is your office presently marshaling to ensure a woman’s right to choose to seek counseling, resources, and/or reproductive health care at life-affirming reproductive health facilities remains undiminished by activists, vandals, and/or politicians?
10. Please provide any letters, memoranda, or documents that complain of, or urge your response to, the work of life-affirming reproductive health facilities.

⁷ See *supra* at footnote 3.

We ask that you construe these above questions as submitted under the United States Freedom of Information Act, 5 U.S.C. § 552, and respond within the statutory deadline. Please conform your responses accordingly. To that end, we further request any and all correspondence (including letters, emails, and/or text messages), memoranda, or documents created by you and/or your staff, or held in your possession, that is responsive to the questions outlined above, including letters, emails, and/or text messages submitted to you by constituents, public interest groups, and/or elected officials.

Respectfully,



Jeremy Dys
Senior Counsel
First Liberty Institute

CC: The Hon. Mazie K. Hirono
United States Senator
United States Senate
109 Hart Senate Office Building
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United States Senator
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