

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

YELLOWHAMMER FUND, on)	
behalf of itself and its clients.)	CASE NO. 2:23-cv-00450-MHT
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	
)	
ATTORNEY GENERAL OF)	
ALABAMA STEVE MARSHALL,)	
in his official capacity)	
)	
Defendant.)	
)	
WEST ALABAMA WOMEN’S)	
CENTER, on behalf of themselves)	
and their staff; et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STEVE MARSHALL, in his official)	
capacity as Alabama Attorney)	
General,)	
)	
Defendant.)	

PLAINTIFF YELLOWHAMMER FUND’S
MOTION FOR SUMMARY JUDGMENT

TABLE OF CONTENTS

INTRODUCTION	1
STATEMENT OF FACTS	3
A. Defendant Threatened to Prosecute Abortion Helpers for Engaging in Constitutionally Protected Activities.....	3
B. Plaintiff Is a Reproductive Justice Organization that Communicates a Message of Solidarity and Support to Pregnant Alabamians.	4
C. Plaintiff Has a Genuine Desire to Engage in Constitutionally Protected Activities.....	5
D. Plaintiff’s Desired Expression About Lawful, Out-of-State Abortion Care Is Vital in Light of Alabama’s Abortion Ban.....	7
STANDARD OF REVIEW	8
ARGUMENT	10
A. Supporting A Pregnant Person’s Lawful, Out-Of-State Abortion Does Not Violate Any Alabama Law.....	11
B. Applying the Alabama Abortion Ban to Criminalize Abortion in a State Where it Is Lawful Would Violate the Due Process Clause and Foundational Principles of Sovereignty and Comity.....	17
C. Defendant’s Threats Violate Helpers’ Rights to Free Expression and Association Under the First Amendment.....	20
D. Alabama Code § 13A-4-4 is Unconstitutionally Overbroad.....	33
E. Defendant’s Threats Violate Plaintiff’s and Pregnant Alabamians’ Right to Travel.....	36
CONCLUSION.....	47

TABLE OF AUTHORITIES

Cases

303 Creative LLC v. Elenis, 143 S. Ct. 2298 (2023)..... 21, 22

Americans for Prosperity Foundation v. Bonta, 141 S. Ct. 2373 (2021)..... 30, 33

Anderson v. Liberty Lobby Inc., 477 U.S. 242 (1986) 8, 9

Ashcroft v. Free Speech Coal., 535 U.S. 234 (2002) 21

Attorney General of New York v. Soto-Lopez, 476 U.S. 898 (1986)..... 37, 40, 43

Barrows v. Jackson, 346 U.S. 249 (1953)..... 44

Bd. of Airport Comm’rs of City of Los Angeles v. Jews for Jesus, Inc., 482 U.S. 569
(1987)..... 33, 35, 36

Bigelow v. Virginia, 421 U.S. 809 (1975) 19, 20, 32

BMW of N. America, Inc. v. Gore, 517 U.S. 559 (1996)..... 18

Boy Scouts of Am. v. Dale, 530 U.S. 640 (2000)..... 29

Brady v. Carnival Corp., 33 F.4th 1278 (11th Cir. 2022)..... 8

Broadrick v. Oklahoma, 413 U.S. 601 (1973)..... 33

Brown v. Hartlage, 456 U.S. 45 (1982)..... 34

Carey v. Pop. Servs. Int’l, 431 U.S. 678 (1977)..... 44

Catron v. City of St. Petersburg, 658 F.3d 1260 (11th Cir. 2011)..... 33

Coral Ridge Ministries Media, Inc. v. Amazon.com, Inc., 6 F.4th 1247 (11th Cir.
2021) 24

Craig v. Boren, 429 U.S. 190 (1976)..... 44

Crandall v. Nevada, 73 U.S. 35 (1867)..... passim

Cruthers v. State, 67 N.E. 930 (Ind. 1903)..... 13, 14, 16

Dennis v. United States, 341 U.S. 494 (U.S. 1951)..... 31, 34

DJR Assocs. LLC v. Hammonds, 241 F. Supp. 3d 1208 (N.D. Ala. 2017) 19

Dobbs v. Jackson Women’s Health Organization, 142 S. Ct. 2228 (2022)... 3, 6, 8, 19

Edwards v. California, 314 U.S. 160 (1941)..... passim

Elrod v. Burns, 427 U.S. 347 (1976) 29

FF Cosmetics FL, Inc. v. City of Miami Beach, 866 F.3d 1290 (11th Cir. 2017) 35, 36

Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale, 901 F.3d 1235 (11th Cir. 2018) 22, 23, 24, 25

Garvie v. City of Fort Walton Beach, 366 F.3d 1186 (11th Cir. 2004) 9

Griswold v. Connecticut, 381 U.S. 479 (1965) 44

Grosjean v. Am. Press Co., 297 U.S. 233 (1936)..... 21

Healy v. James, 408 U.S. 169 (1972) 30

Henry v. Attorney General, 45 F.4th 1272 (11th Cir. 2022) 33

Holder v. Humanitarian Law Project, 561 U.S. 1 (2010)..... 31

Holloman ex rel. Holloman v. Harland, 370 F.3d 1252 (11th Cir. 2004) 23, 25

Jacobs v. The Florida Bar, 50 F.3d 901 (11th Cir. 1995)..... 10

June Med. Servs. L.L.C. v. Russo, 140 S. Ct. 2103 (2020)..... 44, 46, 47

Kaplan v. California, 413 U.S. 115 (1973) 22

Kowalski v. Tesmer, 543 U.S. 125 (2004)..... 45

Matal v. Tam, 137 S. Ct. 1744 (2017) 26

McCutcheon v. Fed. Election Comm’n, 572 U.S. 185 (2014)..... 24

Myers v. United States, 377 F.2d 412 (5th Cir. 1967)..... 41

NAACP v. Alabama ex rel. Patterson, 357 U.S. 449 (1958)..... 29

Nat’l Pork Producers Council v. Ross, 143 S. Ct. 1142 (2023)..... 18

New York Life Ins. Co. v. Head, 234 U.S. 149 (1914) 18

New York State Club Ass’n, Inc. v. City of New York, 487 U.S. 1 (1988) 34

Nielsen v. Oregon, 212 U.S. 315 (1909) 17, 19, 31

Otto v. City of Boca Raton, 981 F.3d 854 (11th Cir. 2020) 27, 28, 32

Planned Parenthood Greater N.W. v. Labrador, No. 23-cv-001420, 2023 WL
 4864962 (D. Idaho July 31, 2023)..... 28

Police Dep’t of Chic. v. Mosley, 408 U.S. 92 (1972)..... 21

Powers v. Ohio, 499 U.S. 400 (1991)..... 44

Rape v. Poarch Band of Creek Indians, 250 So. 3d 547 (Ala. 2017) 13

Reed v. Town of Gilbert, 576 U.S. 155 (2015) 26, 27, 32

Reflectone, Inc. v. Farrand Optical Co., 862 F.2d 841 (11th Cir. 1989)..... 9

Roberts v. U.S. Jaycees, 468 U.S. 609 (1984)..... 28, 29, 31

Robinson v. Marshall, No. 2:19-cv-365-MHT, 2022 WL 2314402 (M.D. Ala. June
 24, 2022) 3

Rosenberger v. Rector and Visitors of Univ. of Va., 515 U.S. 819 (1995) 26

Rutan v. Republican Party of Ill., 497 U.S. 62 (1990) 32

Saenz v. Roe, 526 U.S. 489 (1999) 36

Shapiro v. Thompson, 394 U.S. 618 (1969) 36, 38

Singleton v. Wulff, 428 U.S. 106 (1976)..... 46

Speech First, Inc. v. Cartwright, 32 F.4th 1110 (11th Cir. 2022)..... 26

Spence v. State of Wash., 418 U.S. 405 (1974) 22, 24, 25

State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408 (2003) 19

Steffel v. Thompson, 415 U.S. 452 (1972)..... 9

Stewart v. Baldwin Cnty. Bd. of Educ., 908 F.2d 1499 (11th Cir. 1990)..... 23

Susan B. Anthony List v. Driehaus, 573 U.S. 149 (2014) 45

Texas v. Johnson, 491 U.S. 397 (1989)..... 22, 25

Thompson v. State, 17 So. 512 (Ala. 1895)..... 14, 15, 34

Turner Broadcasting Sys., Inc. v. F.C.C., 512 U.S. 622 (1994)..... 21

United States v. Goodwin, 457 U.S. 368 (1982) 17

United States v. Guest, 383 U.S. 745 (1966)..... passim

United States v. Williams, 553 U.S. 285 (2008)..... 33

Wallace v. Brownell Pontiac-GMC Co., 703 F.2d 525 (11th Cir. 1983)..... 9

Wollschlaeger v. Governor of Fla., 848 F.3d 1293 (11th Cir. 2017)..... 27

Young Apartments, Inc. v. Town of Jupiter, FL, 529 F.3d 1027 (11th Cir. 2008) 45,
46, 47

Zobel v. Williams, 457 U.S. 55 (1982) 36, 37

Statutes

Ala. Code § 13A-1-4..... 12

Ala. Code § 13A-4-3..... 11, 14

Ala. Code § 13A-4-4..... passim

Ala. Code § 13A-5-11..... 3

Ala. Code § 13A-5-6..... 3

Ala. Code § 26-23H-3..... 12

Ala. Code § 26-23H-4..... 3, 7, 12

Ala. Code § 26-23H-6..... 3

Ala. Code §13A-2-23..... 11, 14

Ark. Code Ann. § 5-61-304..... 7

Ga. Code Ann. § 16-12-140..... 7

Ga. Code Ann. § 16-12-141..... 7

Idaho Code § 18-622 7

Ky. Rev. Stat. Ann. § 311.772..... 7

La. Stat. Ann. § 40:1061..... 7

Miss. Code Ann. § 41-41-4..... 7

Mo. Rev. Stat. § 188.017 7

Okla. Stat. Ann. tit. 21, § 861 7

S.D. Codified Laws § 22-17-5.1 7

Tenn. Code Ann. § 39-15-213 7

Tex. Health & Safety Code Ann. § 170A.002..... 7

W. Va. Code § 16-2R-3 7

Wis. Stat. § 940.04..... 7

Other Authorities

Commentary to Ala. Code § 13A-1-4 12

Moderated by Manley F. Brown, The Honorable Marc T. Treadwell, *The United States Attorney's Office Middle District of Georgia: Gary B. Blasingame, Manley F. Brown, Joseph H. Davis, and Joseph W. Popper, Jr.*, 22 J.S. Legal Hist. 73 (2014)..... 41

Peggy Cooper Davis et. al., *The Persistence of the Confederate Narrative*, 84 Tenn. L. Rev. 301 (2017)..... 42

S.B. 1, 122nd Leg., 1st Spec. Sess. (Ind. 2022) 7

S.B. 2150, 68th Leg. Sess., Reg. Sess. (N.D. 2023)..... 7

Rules

Fed. R. Civ. P. 56..... 8, 9

Constitutional Provisions

U.S. Const. am. 1 passim

U.S. Const. am. 14 passim

INTRODUCTION

This is a summary judgment motion in a civil rights action about helpers and the active infringement of their constitutional rights in the State of Alabama. Helpers are the people who aid others in accessing their rights. When helpers extend a hand, they do more than simply provide aid; they send a message. To those who are persecuted, they send a message of solidarity. To the oppressors, helpers send a message of protest and defiance. This is true whether the aid furthers a politically popular viewpoint or one that is held by the minority. And it is especially true when a state disagrees with the message, values, or goals of the aid provided.

Yellowhammer Fund (“Plaintiff”) is a non-profit helper that operated an abortion fund for approximately five years before Alabama’s abortion ban took effect. Last year, the Defendant, Alabama Attorney General Steve Marshall, threatened to prosecute organizations that help pregnant people leave the state for lawful abortion care. One of Defendant’s threats was recorded on a radio program and cannot be disputed. If not for Defendant’s threats, Plaintiff would reopen the fund and continue helping pregnant Alabamians seek lawful out-of-state abortion care.

Each of Plaintiff’s claims can be decided in its favor on legal grounds and on the face of Defendant’s threats, and there are no disputed facts that bar resolution. As a matter of law, Alabama’s abortion ban reaches only as far as its borders. Yellowhammer Fund would not violate any law if it helped pregnant Alabamians

access lawful abortion care in other states, and Defendant's assertion that he can criminalize people who support such care offends the values of sovereignty and comity that are foundational to our constitutional structure.

Further, there can be no dispute that Defendant's threats blatantly burden speech and expressive conduct on the basis of its content and viewpoint, infringe on the right to associate with others in pursuit of shared goals, and inhibit a wide range of expression about lawful out-of-state conduct. Defendant has no interest, much less a compelling one, in silencing Plaintiff's support for out-of-state abortion and infringing on Alabamians' right to seek and support lawful medical care. Even if Defendant's mere disagreement with Plaintiff's messages was sufficiently compelling, Defendant's broad threats are not narrowly tailored for such an egregious violation of constitutional rights. And because it is clear from Defendant's threats that his primary objective is to prevent Plaintiff and pregnant Alabamians from aiding and engaging in interstate travel, Defendant's threats violate the constitutional right to travel.

The facts of this case are not in dispute, and Defendant's threats against Plaintiff and other abortion helpers are well documented. Accordingly, Plaintiff respectfully moves this Court to enter summary judgment on its claims and prohibit Defendant from further infringing on the constitutional rights of abortion helpers and those they serve.

STATEMENT OF FACTS

A. Defendant Threatened to Prosecute Abortion Helpers for Engaging in Constitutionally Protected Activities.

Alabama’s near-total abortion ban—Alabama Code § 26-23H-4 (“Abortion Ban”)—took effect on June 24, 2022, the day the United States Supreme Court released its opinion in *Dobbs v. Jackson Women’s Health Organization*, 142 S. Ct. 2228 (2022). See *Robinson v. Marshall*, No. 2:19-cv-365-MHT, 2022 WL 2314402, at *1 (M.D. Ala. June 24, 2022). Violations of the Abortion Ban are punishable by up to life in prison and a fine of up to \$60,000. Ala. Code §§ 13A-5-6, 13A-5-11, 26-23H-6(a).

On August 11, 2022, Defendant appeared on the Jeff Poor Show, a local talk radio program, and threatened to criminally prosecute abortion helpers in Alabama. Among other things, Defendant stated, “if someone was promoting themselves . . . as a funder of abortion out of state . . . that is potentially criminally actionable for us,” and that he would “look . . . closely” at anyone who uses funds to “facilitate” out-of-state abortion care.¹ Suelzle Decl. ¶¶ 3–7. In his remarks, Defendant specifically mentioned “groups out of Tuscaloosa” that provide support for out-of-state abortion.² Suelzle Decl. ¶ 6.

¹ The Suelzle Declaration contains a transcription of Alabama Attorney General Steve Marshall, Jeff Poor Show FM Talk 1065, August 11, 2022 at 4:29:09 p.m., 8:00 min – 10:01, available at <https://fmtalk1065.com/podcast/alabama-attorney-general-steve-marshall-jeff-poor-show-thursday-8-11-22> (last visited July 3, 2023).

² *Id.*

Members of Plaintiff’s staff learned about Defendant’s statements after his appearance on the Jeff Poor Show. Fountain Decl. ¶ 22; McLain Decl. ¶ 23. Yellowhammer Fund believed that Defendant’s threats specifically targeted them. *See* McLain Decl. ¶ 23; Fountain Decl. ¶¶ 6, 22–23. In the months since his radio appearance, Defendant has repeatedly reaffirmed his belief that he can target abortion helpers when they assist with lawful, out-of-state abortion care.³ *See* Fountain Decl. ¶¶ 24–27, 29–30; McLain Decl. ¶¶ 24–25, 33.

B. Plaintiff Is a Reproductive Justice Organization that Communicates a Message of Solidarity and Support to Pregnant Alabamians.

Yellowhammer Fund is a reproductive justice organization founded in 2017. Fountain Decl. ¶¶ 6–7; McLain Decl. ¶ 17. Reproductive justice organizations are typically Black-led organizations that believe all people have the right to decide whether to have children, when to have children, and how to parent the children they have in safe and healthy environments. Fountain Decl. ¶ 6; McLain Decl. ¶ 17. Yellowhammer Fund believes that every person should be free to make decisions about their bodies, families, and futures without shame or governmental interference.

³ *See, e.g.*, Ashley Bowerman, *Alabama AG clarifies prosecution rules under abortion law*, WSFA 12 News (Jan. 11, 2023), <https://www.wsfa.com/2023/01/12/alabama-ag-clarifies-prosecution-rules-under-abortion-law/>; Nathaniel Weixel, *Abortion advocates sue Alabama AG over prosecution threats for out-of-state travel*, The Hill (July 31, 2023), <https://thehill.com/policy/healthcare/4128993-abortion-advocates-sue-alabama-ag-over-prosecution-threats-for-out-of-state-travel/> (explaining that the attorney general responded to the filing of this lawsuit by stating that he “will continue to vigorously enforce Alabama laws protecting unborn life which include the Human Life Protection Act. That includes abortion providers conspiring to violate the Act”).

Fountain Decl. ¶¶ 1, 6–7, 9–13, 16–19; McLain Decl. ¶¶ 17, 32. Plaintiff provides support to pregnant Alabamians and their families to help eliminate barriers to abortion care, with a specific focus on addressing racial inequity in reproductive healthcare. *See, e.g.*, Fountain Decl. ¶¶ 8–16, 19–20; McLain Decl. ¶¶ 6–8, 14–16. Like all helpers, Plaintiff communicates a message of solidarity and support to people in need. *See* Fountain Decl. ¶¶ 10–13, 18–20; McLain Decl. ¶¶ 11–14; 29–30, 32.

C. Plaintiff Has a Genuine Desire to Engage in Constitutionally Protected Activities.

From 2017 to June 24, 2022, Yellowhammer Fund operated an abortion fund that provided financial and logistical support to pregnant people seeking abortion care. Fountain Decl. ¶¶ 7, 14–18; McLain Decl. ¶¶ 6–13. The fund provided support to pregnant Alabamians and residents of other states who needed help accessing abortions within and outside of Alabama. McLain Decl. ¶¶ 3, 6, 18; Fountain Decl. ¶ 7. In addition to paying for the cost of abortion care, the fund helped callers with transportation, childcare, and lodging, and provided guidance, moral support, and information about reproductive healthcare. McLain Decl. ¶¶ 6–13; Fountain Decl. ¶¶ 7, 18. Members of Plaintiff’s staff also drove patients to abortion appointments both within and outside of Alabama. Fountain Decl. ¶ 16.

Plaintiff’s abortion fund was a core part of the organization’s mission. *See* Fountain Decl. ¶¶ 10, 14–19. The fund met a critical gap for pregnant Alabamians, with a particular focus on helping people of color and people with low incomes.

McLain Decl. ¶¶ 11–16; Fountain Decl. ¶¶ 19–20. Well before *Dobbs*, Plaintiff began to plan for a future in which abortion care would be banned in Alabama. McLain Decl. ¶¶ 18–21. Plaintiff anticipated that the abortion fund would play a critical role helping pregnant Alabamians travel to states where abortion care remained legal, and it began developing plans to expand the fund to meet community needs. *Id.*

After *Dobbs*, Plaintiff paused the operation of the abortion fund. McLain Decl. ¶ 22; Fountain Decl. ¶ 21. Plaintiff has not resumed providing support to pregnant Alabamians seeking abortion care because it fears criminal prosecution as a result of Defendant’s threats. McLain Decl. ¶¶ 23–25; Fountain Decl. ¶¶ 24–26, 29–30. Plaintiff has also stopped collaborating with pregnant Alabamians, abortion funds, advocacy groups, and out-of-state clinics out of fear that its associations will be criminalized. Fountain Decl. ¶¶ 17, 25; McLain Decl. ¶¶ 7, 27.

Since *Dobbs*, pregnant Alabamians continue to contact Yellowhammer Fund seeking support for accessing abortion care in states where abortion is legal. McLain Decl. ¶ 26. Plaintiff’s help line receives between five and ten calls per week from people seeking support from the fund. *Id.* Because Plaintiff no longer operates the fund, it notifies callers that it cannot provide them with help. *Id.* at ¶ 27. Plaintiff would resume providing support to callers and advertising the services of the fund if it could be assured that it would not face criminal prosecution for doing so. *Id.* at ¶¶ 32–33;

Fountain Decl. ¶¶ 28–30. Plaintiff also would resume providing information to callers about out-of-state abortion care. McLain Decl. at ¶¶ 32–33; Fountain Decl. ¶¶ 28–30

D. Plaintiff’s Desired Expression About Lawful, Out-of-State Abortion Care Is Vital in Light of Alabama’s Abortion Ban.

Today, sixteen states, including Alabama, ban or severely restrict abortion.⁴ Of the four states that border Alabama, Mississippi and Tennessee currently have near-total bans on abortion; Georgia has a 6-week ban; and Florida has a 15-week ban. Miss. Code Ann. § 41-41-45; Tenn. Code Ann. § 39-15-213; Ga. Code Ann. §§ 16-12-140, 16-12-141; Fla. Stat. Ann. § 390.0111. Pregnant Alabamians who seek abortion care must travel long distances to access care in states where abortion is legal. *See* White Decl. ¶ 21; McLain Decl. ¶¶ 28, 31.

People who are unable to obtain an abortion face significant medical, social, and economic consequences. White Decl. ¶¶ 22, 27. The United States has a higher rate of maternal mortality than any other developed nation, and that rate has increased in recent years. *Id.* at ¶ 34. Alabama has the third highest maternal mortality rate in the country, at 36.4 deaths per 100,000 live births. *Id.* Carrying a pregnancy to term is

⁴ Ala. Code § 26-23H-4; Ark. Code Ann. § 5-61-304; Ga. Code Ann. §§ 16-12-140, 16-12-141; Idaho Code § 18-622; S.B. 1, 122nd Leg., 1st Spec. Sess. (Ind. 2022); Ky. Rev. Stat. Ann. § 311.772; La. Stat. Ann. § 40:1061; Miss. Code Ann. § 41-41-45; Mo. Rev. Stat. § 188.017; S.B. 2150, 68th Leg. Sess., Reg. Sess. (N.D. 2023); Okla. Stat. Ann. tit. 21, § 861; S.D. Codified Laws § 22-17-5.1; Tenn. Code Ann. § 39-15-213; Tex. Health & Safety Code Ann. § 170A.002; W. Va. Code § 16-2R-3; Wis. Stat. § 940.04.

especially dangerous for certain populations. Pregnancy-related deaths disparately impact communities of color. *Id.* at ¶ 35. According to a 2021 report, the maternal mortality rate for Black women is 2.6 times higher than the rate for non-Hispanic white women. *Id.* Specifically, the maternal mortality rate for non-Hispanic white women in 2021 was 26.6 deaths per 100,000 live births, while the maternal mortality rate for Black women was 69.9 deaths per 100,000 live births. *Id.* at ¶ 36.

Those who seek abortion care in Alabama are disproportionately people of color and low-income people. *Id.* at ¶ 23. Along with Kentucky, Alabama is the sixth-poorest state in the country. *Id.* at ¶ 24. Since *Dobbs*, abortion has become increasingly inaccessible for pregnant Alabamians. *Id.* at ¶¶ 16, 26. Without financial and logistical support from abortion funds and practical support organizations, many Alabamians struggle to access abortion care today. *Id.* at ¶¶ 24–25.

STANDARD OF REVIEW

“The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). A “party may file a motion for summary judgment at any time until 30 days after the close of all discovery.” Fed. R. Civ. P. 56(b). “[A] ‘genuine’ dispute exists if ‘a jury applying [the applicable] evidentiary standard could reasonably find for either the plaintiff or the defendant’ as to the material fact.” *Brady v. Carnival Corp.*, 33 F.4th 1278, 1281 (11th Cir. 2022) (quoting *Anderson v. Liberty Lobby Inc.*, 477 U.S. 242, 255 (1986)). However, “the mere existence of *some* alleged

factual dispute between the parties” will not defeat a summary judgment motion unless the dispute is genuine and the fact is material to the outcome of the case. *Anderson*, 477 U.S. at 247–48.

Rule 56 permits a party to move for summary judgment at any time. *See Reflectone, Inc. v. Farrand Optical Co.*, 862 F.2d 841, 843 (11th Cir. 1989) (per curiam) (explaining that there is no “blanket prohibition on the granting of summary judgment motions before discovery”); *Wallace v. Brownell Pontiac-GMC Co.*, 703 F.2d 525, 527 (11th Cir. 1983). A court can delay consideration of a motion for summary judgment to allow the nonmoving party “time to obtain affidavits or declarations or to take discovery,” Fed. R. Civ. P. 56(d)(2), but only if the non-moving party identifies with specificity how delaying the ruling “will enable him, by discovery or other means, to rebut the movant’s showing of the absence of a genuine issue of fact.” *Wallace*, 703 F.2d at 527 (citation omitted). Summary judgment is appropriate if “the pertinent facts are obvious and indisputable from the record,” and “the only remaining truly debatable matters are legal questions that a court is competent to address.” *Garvie v. City of Fort Walton Beach*, 366 F.3d 1186, 1190 (11th Cir. 2004).

An actual arrest, prosecution, or other enforcement action is not a prerequisite to challenging the law when an individual is subject to a threat of prosecution. *See Steffel v. Thompson*, 415 U.S. 452, 458–59 (1972). A plaintiff may establish standing by showing that they were threatened with prosecution, prosecution is likely, or there

is a credible threat of prosecution. *Jacobs v. The Florida Bar*, 50 F.3d 901, 904 (11th Cir. 1995).

ARGUMENT

Plaintiff is entitled to summary judgment because there are no factual disputes that preclude resolution of its claims. As a matter of law, Alabama's Abortion Ban reaches only as far as its borders, and the Due Process Clause strictly forbids Defendant from applying Alabama laws outside of the state's borders. Even if the conspiracy and accessory liability statutes could be read to criminalize out-of-state activities, Defendant cannot constitutionally prosecute, nor threaten to prosecute, out-of-state lawful conduct.

Additionally, as a helper providing aid to people in need of support, Plaintiff necessarily engages in speech, expressive conduct, and expressive association in pursuit of its goals. Defendant's threats to prosecute Plaintiff and other helpers for speaking about lawful, out-of-state activities violate the First Amendment because they restrict speech on the basis of its content and viewpoint. Further, because Defendant's primary objective is to burden the right to travel, Defendant's threats also blatantly infringe on Plaintiff's and pregnant Alabamians' right to travel by penalizing those who would assist people seeking to travel across state lines for lawful abortion care. As a result, Plaintiff is entitled to summary judgment on its claims that Defendant's threats violate the constitutional rights of Plaintiff and pregnant Alabamians who seek lawful abortion care in other states.

A. Supporting A Pregnant Person’s Lawful, Out-Of-State Abortion Does Not Violate Any Alabama Law.

The conduct that Yellowhammer Fund wishes to engage in clearly does not violate Alabama law. This is because the Abortion Ban only applies to abortions performed in Alabama. Defendant’s threats invoking the conspiracy and accessory liability statutes assume that the underlying conduct of those offenses violates Alabama’s Abortion Ban. However, if an abortion is lawful in the state where it occurs, there is no such offense.

Alabama’s general conspiracy statute provides that “[a] person is guilty of criminal conspiracy if, with the intent that conduct *constituting an offense* be performed, he or she agrees with one or more persons to engage in or cause the performance of the conduct, and any one or more of the persons does an overt act to effect an objective of the agreement.” *See* Ala. Code § 13A-4-3(a) (emphasis added). Alabama’s accessory liability statute provides that “[a] person is legally accountable for the behavior of another *constituting a criminal offense* if, with the intent to promote or assist the commission of the offense . . . He aids or abets such other person in committing the offense.” Ala. Code § 13A-2-23(2) (emphasis added). If an out-of-state abortion is not a violation of the Abortion Ban—which it is not—there can be no conspiracy or aiding and abetting liability for assisting with an out-of-state abortion.

1. The Alabama Abortion Ban Does Not Criminalize Abortion in A State Where Abortion Is Legal.

By its plain terms, the Abortion Ban does not apply outside of Alabama. Only those acts defined as a crime under Alabama law are considered crimes. Ala. Code § 13A-1-4 (“No act or omission is a crime unless made so by” Alabama “statute or lawful ordinance.”). Further, it is a bedrock principle in Alabama law that “persons accused of crime—and also the prosecuting officials, the courts and all others concerned with the administration of justice—are entitled to know in plain explicit language what constitutes the offense charged.” Commentary to Ala. Code § 13A-1-4. The Abortion Ban states: “It shall be unlawful for any person to intentionally perform or attempt to perform an abortion” except under extremely limited circumstances. Ala. Code § 26-23H-4(a). The Abortion Ban clearly does not criminalize out-of-state abortions.⁵

Interpreting the Abortion Ban to apply only to abortions in Alabama is consistent with references to “Alabama” in the statute and its definitions.⁶ Reading the statute to only apply within Alabama’s borders is also consistent with traditional notions of state sovereignty, as expressed by Alabama courts. *See Rape v. Poarch Band of Creek*

⁵ Even if the statute’s language sought to establish that the Abortion Ban applies to abortions occurring outside of the state, which it does not, such a provision would be unconstitutional as discussed in Section B, *see infra* at 17.

⁶ *See, e.g.*, Ala. Code § 26-23H-4(b) (“[A]n attending physician licensed in Alabama” can use his or her judgment regarding exceptions); Ala. Code § 26-23H-3(5) (defining “physician” as “[a] person licensed to practice medicine and surgery or osteopathic medicine and surgery in Alabama.”); Ala. Code § 26-23H-3(6) (“[T]ermination may be performed and shall be only performed by a physician licensed in Alabama in a hospital as defined in the Alabama Administrative Code and to which he or she has admitting privileges.”).

Indians, 250 So. 3d 547, 553 (Ala. 2017) (“As to a matter over which a government has no regulatory authority, it is not sovereign. Black’s Law Dictionary 1631 (10th ed. 2014) defines ‘state sovereignty’ as ‘[t]he right . . . to self-government; the supreme authority exercised by each state.’”).

Few cases have had to address issues such as this, because states generally criminalize the same conduct. However, in *Cruthers v. State*, 67 N.E. 930 (Ind. 1903), the Indiana Supreme Court addressed a similar situation in which Indiana tried to punish conduct that was illegal in Indiana but lawful in Illinois where it occurred. The court found the crime could not be charged in Indiana, even though most participants were Indiana residents. In that case, the defendant, Mr. Cruthers, told the victim that Mr. Cruthers would be running a foot race, and enticed the victim to travel to Illinois and bet on Mr. Cruthers. *Id.* at 931. Mr. Cruthers threw the race, and Indiana prosecutors tried to charge him with bunko steering—a somewhat obscure offense about enticing others into participating in fraudulent gambling. *Id.* 930–32. The Indiana Supreme Court said the defendant could not have been guilty of the underlying offense of bunko steering because “[t]hat section has no extraterritorial force or operation, and the offense thereby defined cannot be committed partly within the state of Indiana and partly without.” *Id.* at 932. He could not have committed the crime because all he did in Indiana was make representations to entice the person to Illinois, where all of the acts of the “crime” occurred. *Id.* at 933. However, because bunko steering was not a crime in Illinois, the court held that the conviction could not stand.

Id. Just as Indiana could not punish lawful conduct occurring in Illinois, Alabama cannot punish abortion occurring in states where it is legal.

2. The Conspiracy and Aiding and Abetting Laws Do Not Criminalize Helpers Who Help Pregnant People Obtain Lawful Abortions.

It then necessarily follows that a violation of Alabama’s conspiracy or accessory liability laws in connection with the Abortion Ban can pertain only to abortions performed in Alabama. Conspiracy requires intent to violate an Alabama criminal offense. Ala. Code § 13A-4-3(a). Accessory liability involves holding a person accountable for an Alabama criminal offense, if that person assists in the commission of that offense. Ala. Code § 13A-2-23. As a result, Ala. Code §§ 13A-4-3 and 13A-2-23 do not apply to Plaintiff’s desired activities because Plaintiff seeks to assist Alabamians in obtaining lawful, out-of-state abortion care, which Alabama’s Abortion Ban does not reach. *See supra* at 11.

Defendant has threatened to prosecute such conduct as conspiracy using Alabama Code § 13A-4-4. That statute provides that “[a] conspiracy formed in this state to do an act beyond the state, which, if done in this state, would be a criminal offense, is indictable and punishable in this state in all respects as if such conspiracy had been to do such act in this state.” *Id.* Alabama Code § 13A-4-4 was only intended to codify *Thompson v. State*, 17 So. 512 (Ala. 1895), and this Court should interpret it in line with that case.

In *Thompson*, the Alabama Supreme Court determined that a prosecutor could indict on a conspiracy to “unlawfully take one thousand dollars . . . from [the victim’s] person, and against his will, by violence.” *Id.* at 513. The victim of the robbery lived in Georgia at the time of the offense. *Id.* There was no question in *Thompson* that the act of robbery would have been a crime in the state where it was planned to occur. *Id.* In fact, the indictment explicitly acknowledged the illegality of the act where it occurred. *Id.* at 513, 516. While the court in *Thompson* agreed there was no statute that explicitly criminalized conspiracies to commit unlawful acts in other states, the court explained that the clearly unlawful nature of the act in both states was sufficient to justify the indictment. *Id.* at 515–16.

Alabama Code § 13A-4-4—which merely codified the decision in *Thompson*—should not be interpreted to apply under these circumstances. Here, the threats of prosecution relate to activities that would be legal in the state where they occur. Alabama Code § 13A-4-4 can only conceivably reach conspiracies to engage in conduct that is illegal where it occurs. Upon information and belief, Alabama Code § 13A-4-4 has never been used to prosecute an extraterritorial conspiracy, and it certainly has not been used to prosecute someone who formed an alleged conspiracy to engage in legal conduct. Since it is impossible for Plaintiff to “conspire” to support lawful, out-of-state abortions, its desired activities are not prohibited by Alabama Code § 13A-4-4.

This was also true in *Cruthers*, which evaluated a statute like Alabama Code § 13A-4-4. That Indiana statute stated:

Aiding Felony in Another State. Every person who shall, while in this state, *aid in and abet the perpetration or attempt to perpetrate an offense in another state which by the laws of this state is a felony*, shall be deemed guilty of a felony, and upon conviction thereof shall be punished in the same manner and to the same extent as accessories before the fact to the commission of such a felony are prosecuted and punished by the criminal laws of the state; and it shall not be essential to the conviction of such person of said felony that the principal be prosecuted for the crime charged.

See Cruthers, 67 N.E. at 931 (emphasis added).⁷ The court held that the defendant could not be guilty of aiding and abetting bunko steering because bunko steering was not a crime in Illinois, where it occurred:

There is an entire absence in the information of any averment or facts to show that the acts done and perpetrated . . . in the state of Illinois . . . constituted an offense under the laws of [that] state. For this reason alone, regardless of any other infirmity which may be imputed to the information, it is fatally defective in charging appellant with the crime defined and created by [the aiding and abetting statute].”

Id. at 933. Thus, Alabama law cannot reach Plaintiff’s proposed support for abortions that are lawful in the states where they occur. There is no conspiracy or aiding and abetting liability because there is no criminal offense—a necessary element of those two crimes.

⁷ This statute is not in effect today.

B. Applying the Alabama Abortion Ban to Criminalize Abortion in a State Where it Is Lawful Would Violate the Due Process Clause and Foundational Principles of Sovereignty and Comity.

If this Court determines that Alabama’s Abortion Ban prohibits out-of-state lawful abortion care, then Alabama’s Abortion Ban is unconstitutional under the Due Process Clause and foundational principles of sovereignty and comity. “To punish a person because he has done what the law plainly allows him to do is a due process violation ‘of the most basic sort.’” *United States v. Goodwin*, 457 U.S. 368, 372 (1982) (internal citation omitted). Courts have long upheld the rule that a state cannot prosecute a person “for doing within the territorial limits of [another state] an act which that state had specially authorized him to do.” *Nielsen v. Oregon*, 212 U.S. 315, 321 (1909). Acts that are “done within the territorial limits of [one state], under authority and license from that state . . . cannot be prosecuted and punished by [a different state].” *Id.*

There are no facts that must be resolved to decide whether Alabama can apply its Abortion Ban extraterritorially—this is a purely legal inquiry. Here, Defendant can only punish helpers for aiding or abetting or conspiring to commit *a violation of Alabama’s Abortion Ban*. If the Alabama Abortion Ban criminalizes out-of-state abortions, the Abortion Ban would constitute an extraterritorial application of Alabama’s laws. Alabama would be prosecuting something another state plainly allows: obtaining lawful abortion care. Alabama cannot punish lawful conduct, nor can it impose penalties “in order to deter conduct that is lawful in other jurisdictions.”

BMW of N. America, Inc. v. Gore, 517 U.S. 559, 573 (1996) (holding that lawful out-of-state conduct could not be considered by the court when awarding punitive damages in a state that prohibited that same conduct).

Additionally, applying the Alabama Abortion Ban to abortions in other states where abortion is legal violates the “original and historical understandings of the Constitution’s structure and the principles of ‘sovereignty and comity’ it embraces.” *Nat’l Pork Producers Council v. Ross*, 143 S. Ct. 1142, 1156 (2023) (citing *BMW of North America, Inc.*, 517 U.S. at 572). In *National Pork Producers Council v. Ross*, the Court found that a state can require those who sell pork within California to follow certain production requirements. *Id.* at 1150. In its holding, the Court reinforced the principles of “sovereignty and comity” within the Constitution. *Id.* at 1156–57. Furthermore,

[I]t would be impossible to permit the statutes of [a State] to operate beyond the jurisdiction of that State . . . without throwing down the constitutional barriers by which all the States are restricted within the orbits of their lawful authority and upon the preservation of which the Government under the Constitution depends.

New York Life Ins. Co. v. Head, 234 U.S. 149, 161 (1914). It is an essential feature of American federalism that people can travel among the states and avail themselves of the laws of the state they are visiting. This is what makes the country a cohesive nation of states while respecting the sovereignty of each state.

Another “basic principle of federalism is that each State may make its own reasoned judgment about what conduct is permitted or proscribed within its borders, and each State alone can determine what measure of punishment, if any, to impose on a defendant who acts within its jurisdiction.” *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 422 (2003). The majority in *Dobbs* reinforced this principle when returning the issue of the abortion to the states: “[T]he people of the various States may evaluate those interests differently.” *Dobbs*, 142 S. Ct. at 2257.

Thus, Alabama may not impose its policy preferences on other states that have chosen to allow abortion within their borders. “Alabama does not have the right to insist that its view of” abortion be enforced “with respect to conduct occurring entirely in another state, particularly where Alabama’s policy choices conflict with those of the other state.” *DJR Assocs. LLC v. Hammonds*, 241 F. Supp. 3d 1208, 1233 (N.D. Ala. 2017); *see also Nielsen*, 212 U.S. at 321 (“[O]ne state cannot enforce its opinion against that of the other; at least, as to an act done within the limits of that other state.”).

It is axiomatic that each state’s right to set policy preferences and exercise its police powers extends only as far as its own jurisdiction. In *Bigelow v. Virginia*, for example, the Supreme Court overturned a conviction of a newspaper editor under a Virginia statute that forbid the advertisement of abortion. The Virginia newspaper editor had published information about how to obtain a legal abortion in New York. In determining that this conviction could not stand, the Court emphasized that a “State does not acquire power or supervision over the internal affairs of another State merely

because the welfare and health of its own citizens may be affected when they travel to that State.” *Bigelow v. Virginia*, 421 U.S. 809, 824 (1975). A state cannot bar the dissemination of information about an activity that is legal in another state, even “under the guise of exercising internal police powers.” *Id.* at 824–25. The same is true here: Plaintiff is seeking to support abortions taking place in another state, which are obviously “activities that [Alabama’s] police powers do not reach.” *Id.* at 828.

Because a conviction of conspiracy under Alabama Code §§ 13A-4-3 and 13A-4-4 or aiding and abetting under Alabama Code §13A-2-23 requires efforts to support a *criminal* offense, if the underlying criminal offense is unconstitutional, it follows that a conviction of conspiracy to commit or aiding and abetting an unconstitutional offense would also be unconstitutional. In sum, if the statutes are interpreted to cover Plaintiff’s activities, the extraterritorial application of Alabama’s laws would violate the Due Process Clause and principles of state sovereignty and comity.

C. Defendant’s Threats Violate Helpers’ Rights to Free Expression and Association Under the First Amendment.

As explained above, Plaintiff’s support for out-of-state lawful abortion care does not violate Alabama law. *See supra* at 12–14. Even if this Court disagrees, Defendant may not prosecute Plaintiff because doing so would violate the First Amendment rights of Plaintiff and other Alabamians. “[A]bove all else, 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 Chic. v. Mosley*, 408 U.S. 92, 95 (1972).⁸ On their face, Defendant’s threats blatantly target expression and association because of the messages they convey and the perspectives they embrace. As further explained below, Plaintiff is entitled to summary judgment on its First Amendment claims because Defendant’s threats impermissibly seek to criminalize speech, conduct, and association on the basis of their content and viewpoint, and Defendant’s asserted interests cannot satisfy strict scrutiny.

1. Defendant’s Threats are Presumptively Unconstitutional Because They Are Content- and Viewpoint-Based Restrictions on Speech.

The First Amendment “bars the government from dictating what we see or read or speak or hear.” *Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 245 (2002). It protects the right of all people to make their own decisions about “the ideas and beliefs deserving of expression, consideration, and adherence,” *Turner Broadcasting Sys., Inc. v. F.C.C.*, 512 U.S. 622, 641 (1994), even when those ideas and beliefs are unpopular. *See, e.g., 303 Creative LLC v. Elenis*, 143 S. Ct. 2298, 2308 (2023).

a. Like all Helpers, Plaintiff Engages in Both Speech and Expressive Conduct to Support People in Need.

Although the First Amendment uses the term “speech,” constitutional protection “does not end at the spoken or written word.” *Texas v. Johnson*, 491 U.S. 397, 404

⁸ The Due Process Clause of the Fourteenth Amendment incorporates the rights protected by the First Amendment and prohibits state governments from violating them. *See Grosjean v. Am. Press Co.*, 297 U.S. 233, 243–44 (1936).

(1989). In addition to speech, the First Amendment also protects conduct that is “sufficiently expressive.” *See id.*; *Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale*, 901 F.3d 1235, 1240 (11th Cir. 2018) (hereinafter “*FLFNB*”).

As a matter of law, Defendant’s threats are infringing on Plaintiff’s right to engage in pure speech related to lawful out-of-state abortion care. There can be no genuine dispute that Plaintiff’s abortion fund wishes to provide information to pregnant Alabamians about lawful out-of-state abortion care, including referrals, guidance, and moral support. *See, e.g.*, Fountain Decl. ¶¶ 15; McLain Decl. ¶¶ 7, 29. This type of communication clearly constitutes “pure speech” that indisputably qualifies for First Amendment protection. *See 303 Creative LLC*, 143 S. Ct. at 2312 (“All manner of speech—from ‘pictures, films, paintings, drawings, and engravings,’ to ‘oral utterance and the printed word’—qualify for the First Amendment’s protections.” (quoting *Kaplan v. California*, 413 U.S. 115, 119–20 (1973))).

Defendant’s threats prevent Plaintiff from engaging in expressive conduct. The Supreme Court has announced a two-part test to determine whether conduct is protected by the First Amendment: (1) whether the speaker has “[a]n intent to convey a particularized message,” and (2) whether “in the surrounding circumstances the likelihood was great that the message would be understood by those who viewed it.” *Spence v. State of Wash.*, 418 U.S. 405, 410–11 (1974). “[I]n determining whether conduct is expressive, we ask whether the reasonable person would interpret it as *some*

sort of message, not whether an observer would necessarily infer a *specific* message.” *Holloman ex rel. Holloman v. Harland*, 370 F.3d 1252, 1270 (11th Cir. 2004) (emphasis in original); *see also Stewart v. Baldwin Cnty. Bd. of Educ.*, 908 F.2d 1499, 1501, 1505 (11th Cir. 1990) (a school employee’s “quiet and non-disruptive” early departure from a mandatory meeting was expressive).

As a helper that provides support to people seeking healthcare, Plaintiff is necessarily engaged in expressive conduct. *See, e.g., FLFNB*, 901 F.3d at 1240–41 (explaining that providing access to a necessary human right is a form of expressive conduct). Plaintiff intends to convey a message of solidarity, love, and support when it helps pregnant Alabamians access lawful out-of-state abortion care. *See, e.g., Fountain Decl.* ¶¶ 10–13, 18–20; *McLain Decl.* ¶¶ 11–14, 29–30, 32. Plaintiff is a mission-driven organization that envisions a world where all people can access reproductive healthcare, regardless of their income level or place of residence. *See Fountain Decl.* ¶ 6. There can be no dispute that Plaintiff’s abortion fund seeks to advance the organization’s mission and message by helping community members afford abortion care and reducing barriers that limit access to care. *See Fountain Decl.* ¶ 11–12. Further, as a previous funder of abortion, Plaintiff seeks to contribute financially to pregnant Alabamians’ out-of-state abortions and provide logistical support for travel, childcare, lodging, and other related needs. *See McLain Decl.* ¶¶ 32–33. Courts have repeatedly recognized that donating money to a political, charitable, or social cause qualifies as expressive conduct. *See, e.g., McCutcheon v.*

Fed. Election Comm'n, 572 U.S. 185, 191–92 (2014) (“[T]he right to participate in democracy through political contributions is protected by the First Amendment.”); *Coral Ridge Ministries Media, Inc. v. Amazon.com, Inc.*, 6 F.4th 1247, 1254 (11th Cir. 2021) (holding that it would violate the First Amendment to compel online retailer to provide charitable funds to Christian ministry and media corporation).

In addition to funding abortions, Plaintiff engages in other expressive conduct that unquestionably communicates a message about abortion access. The context and circumstances surrounding abortion care in Alabama demonstrate that Plaintiff’s desired activities constitute expressive conduct. *See, e.g.*, White Decl. ¶¶ 16–20. *FLFNB* is particularly instructive. In that case, the Eleventh Circuit held that an organization that hosted food-sharing events in a public space was engaged in expressive conduct. 901 F.3d at 1240–41. The court’s decision emphasized that “the context in which a symbol is used for purposes of expression is important, for the context may give meaning to the symbol.” *Id.* at 1241 (citing *Spence*, 418 U.S. at 410). By distributing food in a public park, sharing information and literature, and hosting public events, *FLFNB* intentionally communicated a message “that all persons are equal, regardless of socio-economic status, and that everyone should have access to food as a human right.” *Id.* at 1240–41. The court observed that “the treatment of the City’s homeless population is an issue of concern in the community,” *id.* at 1242, which added essential context for a reasonable observer to understand that “*FLFNB*’s food sharing sought to convey some message.” *Id.* at 1243.

Like FLFNB, Plaintiff’s abortion fund helps members of the community access a critical human need: healthcare. Just as food and lodging for the homeless population was an issue of public concern in *FLFNB*, access to reproductive healthcare in Alabama is unquestionably a topic of rapid change and significance to the community. *See, e.g.*, White Decl. ¶¶ 16, 20, 25, 26, 27. The context illustrates that abortion care is inaccessible for many pregnant Alabamians due to financial limitations, political restrictions, and geography. *See* White Decl. ¶¶ 20–27.

Against this backdrop, Plaintiff necessarily communicates an important message about the injustice of barriers to reproductive healthcare. *See, e.g.*, Fountain Decl. ¶ 18. Plaintiff seeks to provide funding and logistical support for lawful out-of-state abortions during a critical moment in the struggle for reproductive justice. *See, e.g.*, *Johnson*, 491 U.S. at 406 (holding that timing of flag burning, which “coincided with the convening of the Republican Party,” contributed to conclusion that it was expressive conduct); *Spence*, 418 U.S. at 410 (concluding that conduct was expressive when it was “roughly simultaneous with and concededly triggered by the Cambodian incursion and the Kent State tragedy, also issues of great public moment”); White Decl. ¶¶ 16, 20–24. The expressive nature of Plaintiff’s conduct does not depend on the resolution of facts—it is self-evident from the context surrounding abortion access in Alabama and the historical role of helpers in the struggle for civil rights. *See, e.g.*, White Decl. ¶¶ 16, 20–24; *see also FLFNB*, 901 F.3d at 1240–42; *Holloman*, 370 F.3d

at 1270 (explaining that conduct is expressive if an objective, reasonable observer would interpret it as “*some* sort of message”).

For these reasons, Plaintiff’s activities are expressive, representing pure speech and expressive conduct, and are therefore protected by the First Amendment.

b. Defendant’s Threats Are Content- and Viewpoint-Based Because They Exclusively Target Speech and Expressive Conduct About Lawful, Out-of-State Abortion Care.

By threatening to prosecute Plaintiff for supporting lawful abortion care, Defendant targets Plaintiff’s speech on the basis of its content and viewpoint. Content-based laws “target speech based on its communicative content,” while viewpoint-based laws prohibit speech based on the “particular views taken by speakers on a subject.” *Speech First, Inc. v. Cartwright*, 32 F.4th 1110, 1125–26 (11th Cir. 2022). Laws that target speech based on its communicative content “are presumptively unconstitutional.” *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015).

“Viewpoint discrimination is . . . an egregious form of content discrimination.” *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995). “The Supreme Court has reiterated time and again—and increasingly of late—the ‘bedrock First Amendment principle’ that ‘[s]peech may not be banned on the ground that it expresses ideas that offend.’” *Speech First, Inc.*, 32 F.4th at 1126 (citing *Matal v. Tam*, 137 S. Ct. 1744, 1751 (2017)).

Here, there can be no dispute that Defendant’s threats prohibit speech based on the message it communicates and the goals it advances. Defendant’s threats specifically target abortion helpers that “promot[e] themselves” as funders of out-of-state abortions and use funds to “facilitate” out-of-state abortions. *See* Suelzle Decl. ¶¶ 6. To determine if a speaker violated these restrictions, Defendant would have to examine the content of Plaintiff’s message to pregnant Alabamians, abortion supporters, volunteers, and members of the public to decide whether it was promoting and facilitating out-of-state abortions. *See Reed*, 576 U.S. at 164 (explaining that a restriction is content-based if its enforcement depends “entirely on the communicative content” of the speech); *see also Otto v. City of Boca Raton*, 981 F.3d 854, 859 (11th Cir. 2020) (holding that a ban on conversion therapy was content-based because it prohibited certain therapy based on “the content of the words used in that therapy”); *Wollschlaeger v. Governor of Fla.*, 848 F.3d 1293, 1307–08 (11th Cir. 2017) (holding that law was content-based because it restricted doctors from asking patients about firearm ownership but did not apply to other types of doctor-patient communications).

Defendant’s threats also prohibit speech based on the viewpoint it advances. By threatening to prosecute people who support and fund lawful out-of-state abortions, Defendant targets speech that expresses the view that abortion care should be accessible. Like the restriction on conversion therapy in *Otto*, Defendant’s threats seek to “codify a particular viewpoint”—that abortion care should be inaccessible to pregnant Alabamians—and punish abortion helpers like Plaintiff for “advancing any

other perspective.” 981 F.3d at 864 (holding that restriction on conversion therapy was both content- and viewpoint-based). Further, Defendant’s threats silence Plaintiff and other abortion helpers *only* when they speak in support of lawful out-of-state abortion. *See Planned Parenthood Greater N.W. v. Labrador*, No. 23-cv-001420, 2023 WL 4864962, at *22 (D. Idaho July 31, 2023) (holding that threats to prosecute healthcare providers for referring people for out-of-state abortion care were content- and viewpoint-based restrictions because they silence healthcare providers “on a single topic—abortion,” while permitting them to “provide information and referrals about out-of-state resources like anti-abortion counseling centers or prenatal care”).

On their face, Defendant’s threats prevent Plaintiff and other abortion helpers from speaking about a specific issue—lawful abortion care in other states—without disturbing their ability to speak about a host of other issues and viewpoints. As a result, Defendant’s threats are both viewpoint- and content-based.

2. Defendant’s Threats Violate Plaintiff’s Right to Associate with Like-Minded Abortion Funds, Supporters, and Pregnant Alabamians.

Defendant’s threats of prosecution also violate Plaintiff’s First Amendment right to expressive association. The Supreme Court has “long understood as implicit in the right to engage in activities protected by the First Amendment a corresponding right to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends.” *Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984). Indeed, “[t]he Constitution guarantees freedom of association of this kind as

an indispensable means of preserving other individual liberties.” *Id.* at 618. Restrictions on the right to associate can be sustained only if they satisfy strict scrutiny. *Id.* at 626 (explaining that laws infringing expressive association must “further[] compelling state interests” and be “the least restrictive means of achieving” those interests); *see also Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (2000).

Laws unconstitutionally restrict the right to associate when they punish individuals based on the company they keep and the goals and values they share. In *Elrod v. Burns*, the Supreme Court held that it was unconstitutional for a sheriff’s office to deny or grant public benefits, including public employment, on the basis of an individual’s affiliation with a political party. 427 U.S. 347, 357–59 (1976). The Court explained that threatening dismissal for an individual’s failure to support a specific political party “unquestionably inhibits protected belief and association,” penalizing people for choosing to associate with a different political party or support another party’s goals. *Id.* at 359. In striking down the political patronage system in *Elrod*, the Court recognized that the right to associate forbids the government from forcing people to associate *and* requires the government to permit individuals to choose their own associations and advance favored goals together. *Id.* at 357; *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460 (1958) (“Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association.”).

On their face, Defendant’s threats prevent Plaintiff and other abortion helpers from associating with pregnant Alabamians for the purpose of helping them travel to other states for lawful abortion care. *See* Suelzle Decl. ¶ 6. Like all helpers, Plaintiff associates with others in order to help them access their rights. *See, e.g.,* McLain Decl. ¶¶ 7, 24, 29; Fountain Decl. ¶¶ 18, 26. By threatening to prosecute helpers like Plaintiff for holding themselves out as funders of out-of-state abortion, Defendant’s threats impede Plaintiff’s ability to advance its goals in collaboration with others—including pregnant Alabamians, other abortion funds, and abortion advocacy groups. *See, e.g., Americans for Prosperity Foundation v. Bonta*, 141 S. Ct. 2373, 2387, 2388 (2021) (holding that a regulation requiring tax-exempt charities to disclose the names and addresses of their major donors unconstitutionally infringed on expressive association because it “indiscriminately sweep[s] up the information of *every* major donor with reason to remain anonymous”); *see also Healy v. James*, 408 U.S. 169, 181 (1972) (holding that a college’s refusal to officially recognize a student political organization created an “impediment to free association” that limited “the organization’s ability to participate in the intellectual give and take of campus debate”).

There can be no dispute that Defendant’s threats chill expressive association by forbidding collaboration and support in favor of lawful out-of-state abortion care. Thus, Defendant’s threats violate Plaintiff’s right to associate under the First Amendment.

3. Defendant’s Threats Cannot Survive Strict Scrutiny.

Because Defendant’s threats restrict Plaintiff’s speech, expressive conduct, and association based on their message and viewpoint, they can be justified only by “compelling state interests, unrelated to the suppression of ideas.” *Roberts*, 468 U.S. at 623; *see also Holder v. Humanitarian Law Project*, 561 U.S. 1, 27–28 (2010) (holding that state action targeting expressive conduct on the basis of its message is subject to strict scrutiny).⁹ There is no justification for Defendant’s threats that can meet this demanding standard.

First, as a matter of law, the State has no interest—much less a compelling one—in punishing a person for supporting or associating to advance *lawful* out-of-state conduct. *See, e.g., Nielsen*, 212 U.S. at 321 (holding that a state cannot prosecute someone “for doing within the territorial limits of [another state] an act which that [separate] state had specifically authorized him to do”); *see also supra* at 12–14. Although courts have acknowledged that the crime of conspiracy inherently targets speech, the justifications for the constitutional exception permitting states to prosecute conspiracy evaporate when the speech does not further conduct that is criminal. *See Dennis v. United States*, 341 U.S. 494, 575 (U.S. 1951) (Jackson, J., concurring)

⁹ In *Otto*, the Eleventh Circuit suggested, but did not conclusively determine, that viewpoint-based speech restrictions are per se unconstitutional. 981 F.3d at 864; *see also Minn. Voters All. v. Mansky*, 138 S. Ct. 1876, 1885 (2018) (“[R]estrictions based on content must satisfy strict scrutiny, and those based on viewpoint are prohibited.”).

(explaining that a state may not “punish conspiracy to advocate something, the doing of which it may not punish”).

Second, Defendant has no “interest in regulating” what its residents “may hear or read about” lawful, out-of-state abortion. *See Bigelow*, 421 U.S. at 827. Alabama has no interest in “shielding its citizens from information about activities outside [its] borders.” *Id.* at 827–28. The First Amendment does not permit the government to “calibrate the propriety and utility of speech on certain topics.” *Otto*, 981 F.3d at 868. Moreover, even if Defendant identifies a compelling interest, he must prove that his threats “further[]” that compelling interest and are “narrowly tailored to that end.” *Reed*, 576 U.S. at 171. Defendant’s disagreement with other state’s abortion laws does not justify his threats to prosecute all speech and association related to funding and supporting out-of-state abortions. Even if these were compelling interests, Defendant’s threats go far beyond expressing disagreement with Plaintiff’s activities: instead, they attempt to “shield[]” Alabamians “from information about activities outside [Alabama’s] borders, activities that [Alabama’s] police powers do not reach.” *Bigelow*, 421 U.S. at 827–28; *see also Rutan v. Republican Party of Ill.*, 497 U.S. 62, 75 (1990) (explaining that the First Amendment prohibits the government from forcing people to “conform their beliefs and associations to some state-selected orthodoxy”).

For these reasons, Defendant’s threats cannot survive strict scrutiny, and Plaintiff is entitled to summary judgment on its free expression and association claims.

D. Alabama Code § 13A-4-4 is Unconstitutionally Overbroad.

Defendant's threats invoked Alabama's extraterritorial conspiracy statute, Alabama Code § 13A-4-4. If construed to permit the prosecution of lawful, out-of-state conduct, that statute criminalizes a substantial number of constitutional acts "judged in relation to the statute's plainly legitimate sweep." *Bonta*, 141 S. Ct. at 2387. Thus, it is unconstitutionally overbroad under the First Amendment.

"[A] party [may] challenge an ordinance under the overbreadth doctrine in cases where every application creates an impermissible risk of suppression of ideas" *Catron v. City of St. Petersburg*, 658 F.3d 1260, 1269 (11th Cir. 2011). "The first step in overbreadth analysis is to construe the challenged statute; it is impossible to determine whether a statute reaches too far without first knowing what the statute covers." *United States v. Williams*, 553 U.S. 285, 293 (2008). The second step in the overbreadth analysis is to determine "whether the statute, as we have construed it, criminalizes a substantial amount of protected expressive activity." *Henry v. Attorney General*, 45 F.4th 1272, 1290 (11th Cir. 2022) (citing *Williams*, 553 U.S. at 297). Plaintiffs may pursue an overbreadth claim even if their own speech can be constitutionally prohibited. *See Broadrick v. Oklahoma*, 413 U.S. 601, 612 (1973); *Bd. of Airport Comm'rs of City of Los Angeles v. Jews for Jesus, Inc.*, 482 U.S. 569, 574 (1987). To succeed on an overbreadth claim, a plaintiff "must demonstrate from the text" of the statute "and from actual fact that a substantial number of instances exist in

which the [statute] cannot be applied constitutionally.” *New York State Club Ass’n, Inc. v. City of New York*, 487 U.S. 1, 14 (1988).

If construed contrary to *Thompson*, *see supra* at 14–15, Alabama Code § 13A-4-4 would extend to any agreement to commit an act that would be criminal in Alabama, regardless of whether the agreed-upon act is a crime in the state where it is committed. As a result, the statute on its face criminalizes agreements without regard to the legality of the underlying action—a blatant violation of the First Amendment.

Under this construction, Alabama Code § 13A-4-4 criminalizes a substantial amount of protected expressive activity because it brings within its sweep expression about lawful activity. It is well-established that conspiracy prosecutions necessarily target speech and association. *See Dennis*, 341 U.S. at 575 (Jackson, J., concurring). Although courts have announced an exception to the First Amendment when parties agree to engage in illegal conduct, *see Brown v. Hartlage*, 456 U.S. 45, 55 (1982), the justification for that exception dissolves if the agreed-upon act is *not* illegal. *See Dennis*, 341 U.S. at 575 (Jackson, J., concurring) (explaining that the state may not “punish conspiracy to advocate something, the doing of which it may not punish”). Simply put, one cannot be guilty of “conspiring” to commit a lawful act.

Here, if construed contrary to *Thompson*, there is nothing in the statute prohibiting Alabama from prosecuting agreements to commit acts that are *lawful* in the state where they are committed. The amount of constitutionally protected expression

that the statute would bring within its sweep is striking: virtually any agreement to engage in lawful out-of-state conduct, coupled with an overt act, could be criminalized. Alabama could punish any expression or association that furthers legal out-of-state conduct, just because it disagrees with the message or object of the agreement.

Courts have held that a statute is overbroad when, by its plain terms, it contains no limiting principle to narrow the conduct that is prohibited. In *Board of Airport Commissioners of City of Los Angeles*, for example, the Supreme Court struck down a law that banned all “First Amendment activities” in a specific part of Los Angeles International Airport. 482 U.S. at 574–75. The Court held that “the words of the resolution simply leave no room for a narrowing construction,” and expressly applied to protected speech. *Id.* at 575. In that case, “it [was] difficult to imagine that the [law] could be limited by anything less than a series of adjudications, and the chilling effect of the resolution on protected speech in the meantime would make such a case-by-case adjudication intolerable.” *Id.* at 575–76. Similarly, in *FF Cosmetics FL, Inc. v. City of Miami Beach*, the Eleventh Circuit held that an ordinance restricting stores from distributing “any handbill that conveys any information about any good or service provided by a business” was unconstitutionally overbroad. 866 F.3d 1290, 1304 (11th Cir. 2017). The court held that the ordinance “burdens substantially more speech than necessary to further the City’s interests,” because it applies to non-commercial handbilling and the distribution of fliers and information about public issues. *Id.*

Alabama Code § 13A-4-4 suffers from the same defects as the handbilling ordinance in *FF Cosmetics* and the airport speech prohibition in *Board of Airport Commissioners of City of Los Angeles*. Even if Alabama has a compelling interest in prosecuting out-of-state *unlawful* activities, Alabama Code § 13A-4-4 unconstitutionally sweeps in protected expression and association about *lawful* out-of-state activities, allowing Alabama to punish any speech, agreement, or association with which it disagrees. Because the extraterritorial conspiracy statute has an “impermissible chilling effect on protected speech,” *id.* at 1302, Plaintiff is entitled to summary judgment on its claim that Alabama Code § 13A-4-4 is unconstitutionally overbroad.

E. Defendant’s Threats Violate Plaintiff’s and Pregnant Alabamians’ Right to Travel

Whether or not Alabama’s laws can be read to prohibit support for lawful out-of-state abortion care, *see supra* at 12–14, prosecuting Plaintiff for violating Alabama law would impermissibly violate Plaintiff and pregnant Alabamians’ constitutional right to travel. The U.S. Supreme Court has firmly established and repeatedly recognized a right to travel. *Zobel v. Williams*, 457 U.S. 55, 67 (1982) (Brennan, J., concurring); *Shapiro v. Thompson*, 394 U.S. 618, 629 (1969), overruled on other grounds by *Edelman v. Jordan*, 415 U.S. 651 (1974). It is a right that ensures people can enter and leave any state. *Saenz v. Roe*, 526 U.S. 489, 500 (1999). The right to travel is “so elementary” that it inherently accompanies the Union that the Constitution established. *United States v. Guest*, 383 U.S. 745, 757–58 (1966). How else could a

loose confederation of states be transformed into one nation? *See Zobel*, 457 U.S. at 67 (Brennan, J., concurring); *Attorney General of New York v. Soto-Lopez*, 476 U.S. 898, 902 (1986) (noting “the important role [the right to travel] has played in transforming many States into a single Nation”); *Crandall v. Nevada*, 73 U.S. 35, 43 (1867) (“[T]he people of these United States constitute one nation.”).

Defendant’s threats convey to Plaintiff, and the pregnant people in Alabama that it serves, that if Plaintiff helps pregnant people travel to a state where abortion is legal, Plaintiff and its employees and volunteers could be prosecuted and face up to a life sentence in prison. When California made it illegal for helpers to bring indigent people into the state, the U.S. Supreme Court invalidated the law. *Edwards v. California*, 314 U.S. 160, 166 (1941). When a Nevada law taxed people leaving the state, the U.S. Supreme Court overturned it. *Crandall*, 73 U.S. at 49. And when the Ku Klux Klan inflicted violence in Georgia meant to stop Black people from using highways to travel between states, the U.S. Supreme Court declared this violence a violation of the right to travel. *Guest*, 383 U.S. at 760. Plaintiff’s right to travel claim can be resolved by applying well-established constitutional principles. There are no issues of fact that prevent this Court from entering summary judgment in Plaintiff’s favor.

1. The Predominant Purpose of Defendant’s Threats of Prosecution Is to Prevent the Exercise of the Right to Interstate Travel and to Oppress Those Who Exercise That Right.

A state action implicates the right to travel when impeding travel is its primary objective. *Soto-Lopez*, 476 U.S. at 903; *see also Guest*, 383 U.S. at 760. When the

government infringes upon the right to travel, the government's actions will be unlawful. *Shapiro*, 394 U.S. at 634. Three cases—*Edwards*, *Crandall*, and *Guest*—make abundantly clear that the right to travel is implicated here.

Edwards shows why Plaintiff—a helper seeking to assist in the exercise of the right to travel—has suffered a constitutional violation. Fred Edwards took a trip in late December 1939 from Texas to California to help his brother-in-law start a new life. *Edwards*, 314 U.S. at 171. His brother-in-law had \$20 to his name and, because of his indigency, he believed California could offer him and his family new opportunities. *Id.* At the time, California law criminalized helpers like Mr. Edwards, specifically making it unlawful to transport indigent people into the state. *Id.* The trial court sentenced Mr. Edwards to six months in the county jail for coming to the aid of his brother-in-law. *Id.* The U.S. Supreme Court ultimately found that no single state could “isolate itself” by prohibiting indigent people from entering and held that fundamental constitutional rights were at play—rights we now call “the right to travel.” *Id.* at 173. The Court was not unsympathetic to the “grave and perplexing social and economic dislocation” that led California to seek to use its police power to restrict travel. *Id.* However, the state's interests in exercising its police power could not overcome the countervailing importance of preserving the free movement of people across state lines, and the Court ultimately found the restriction impermissible. *Id.* at 173.

The similarities between *Edwards* and this case are striking. Like Mr. Edwards, Plaintiff is a helper seeking to transport people who do not have the funds to travel to another state. *See, e.g.*, Fountain Decl. ¶ 20. Like Mr. Edwards, Plaintiff is facing potential criminal liability if it aids in another’s travel. *See, e.g.*, Fountain Decl. ¶ 24; McLain Decl. ¶¶ 23-24. And like Mr. Edwards, Yellowhammer Fund is being deprived of the fundamental right to move freely between states while being faced with a state’s efforts to isolate itself and its residents from other states in the Union. *See* Fountain Decl. ¶¶ 16, 26.

Similarly, *Crandall* also establishes that Plaintiff is a proper party and that Defendant’s threats violate the constitutional right to travel. In 1865, Nevada enacted a law that levied a tax of one dollar upon any person leaving the state by railroad, stagecoach, or other vehicle for hire. *Crandall*, 73 U.S. at 35–39. Nevada argued that this tax was “not a tax upon the passenger, but upon the business of the carrier who transports him”—an argument rejected by the U.S. Supreme Court. *Id.* at 39. The Court found Nevada’s actions in conflict with the Constitution, discussing the havoc that would befall the nation if the government could place burdens on the right to leave a state. “The people of these United States constitute one nation. They have a government in which all of them are deeply interested.” *Id.* at 43. The Court explained that it is against the principles of our nation to erect barriers to leaving a state, as such a precedent would interfere with the activities of national citizenship. *Id.* at 43–44.

“[N]o power can exist in a State to obstruct this right that would not enable it to defeat the purposes for which the government was established.” *Id.* at 44.

Crandall guides this case for two additional reasons. First, Mr. Crandall was not a passenger but the agent for a stagecoach. *Id.* at 36. Like Mr. Edwards, he was able to get judicial relief even though the right to travel violated by the law belonged to the stagecoach passengers traveling out of Nevada. *Crandall* also is instructive because the infringement on the right was merely a one-dollar fee, where in the present case, the criminal penalty is one of the most extreme available under Alabama law. Here, Defendant is threatening a sentence up to life in prison for aiding in travel. *See Suelzle Decl.* ¶ 6.

Finally, *Guest* demonstrates that the right to travel is infringed if the predominant purpose of the challenged act is to “impede or prevent the exercise of the right of interstate travel, or to oppress a person because of his exercise of that right.”¹⁰ *Guest*, 383 U.S. at 760. *Guest* arises from the Ku Klux Klan shooting of Lt. Col. Lemuel Penn in Athens, Georgia, on a highway while he was driving back to

¹⁰ Plaintiff moves for summary judgment here on a theory that the primary objective of the Defendant’s threats is to impede or prevent the right to interstate travel or to oppress a person because of his exercise of that right. *Soto-Lopez* also allows Plaintiff to establish a violation through additional theories. 476 U.S. at 903. Plaintiff recognizes that proceeding on those alternative theories may require reliance upon issues of fact, and therefore, this summary judgment motion only proceeds on “primary objective grounds.” By doing so, Plaintiff does not waive its right to present evidence in support of the additional theories if summary judgment is not granted.

Washington after completion of reserve military duty at Fort Benning, Georgia, and the rash of racial motivated terror inflicted on Athens around the time of the shooting. *Id.*; see also *Myers v. United States*, 377 F.2d 412, 416 (5th Cir. 1967) (describing facts of the murder that were the basis of *Guest*).¹¹ After a local jury failed to convict the suspects of murder, the federal government sought to prosecute the men for conspiring to deprive Black people of their constitutional rights, including the right to travel. *Guest*, 383 U.S. 747 n.1. Initially the district court dismissed the indictment. *Id.* at 748.

On appeal, the U.S. Supreme Court had to determine whether the Department of Justice could indict under 18 U.S.C. § 241. *Id.* at 746–47. *Guest*, one of the first cases argued by Thurgood Marshall as Solicitor General, is primarily about the Court’s decision to extend the protection of the Fourteenth Amendment to citizens who suffer

¹¹ During the Spring and Summer of 1964, Athens, Georgia, had been plagued with violence arising from a group of Ku Klux Klansmen and the complicity of law enforcement in their violence. *Myers*, 377 F.2d at 414–16 (discussing law enforcement’s frequent presence when the Ku Klux Klan acted). In the backdrop, young Black residents were picketing The Varsity drive-in restaurant in Athens because the business refused to serve Black residents. *Id.* at 414–15. A group of Klansmen, often with the same few actors, traversed the town with weapons, beat Black men, shot into homes in Black residential neighborhoods costing a man his eye and a 13-year-old girl her lip, and sought to scare Black people with out-of-state license plates off the interstate highways through a rash of violence. *Id.* at 414–16. Around 5 a.m. on July 11, 1964, Lt. Col. Lemuel Penn and two other Black army officers were driving to Washington D.C. from Fort Benning, Georgia, after completing summer training duties. *Id.* at 416. They stopped in Athens, Georgia, where Lt. Col. Penn took the wheel. About 20 miles outside of town, a light-colored car approached the three men’s vehicle. *Id.* Two shotgun blasts were fired, one of these going through a rear window and missing the occupants. *Id.* The other blast smashed a hole in the window near Lt. Col. Penn—a decorated veteran of World War II, an assistant superintendent of schools in Washinton D.C., a husband and a father of three—striking his head and killing him instantly. *Id.*; see also Moderated by Manley F. Brown, The Honorable Marc T. Treadwell, *The United States Attorney's Office Middle District of Georgia: Gary B. Blasingame, Manley F. Brown, Joseph H. Davis, and Joseph W. Popper, Jr.*, 22 J.S. Legal Hist. 73, 127 n. 46 (2014). None of these facts are described in the text of *Guest* but provide the context of the case.

a deprivation of their Constitutional rights at the hands of private actors.¹² But the case is rooted in the constitutional right to travel. *Id.* at 757. The Supreme Court stated that “[t]he constitutional right to travel from one State to another, and necessarily to use the highways and other instrumentalities of interstate commerce in doing so, occupies a position fundamental to the concept of our Federal Union.” *Id.* It continued:

Although the Articles of Confederation provided that ‘the people of each State shall have free ingress and regress to and from any other State,’ that right finds no explicit mention in the Constitution. The reason, it has been suggested, is that a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created. In any event, freedom to travel throughout the United States has long been recognized as a basic right under the Constitution. . . . Although there have been recurring differences in emphasis within the Court as to the source of the constitutional right of interstate travel, there is no need here to canvass those differences further. All have agreed that the right exists.

Id. at 758–59 (internal citations and footnotes omitted). The Court allowed the indictment, explaining:

[I]f the predominant purpose of the conspiracy is to impede or prevent the exercise of the right to interstate travel, or to oppress a person because of his exercise of that right, then, whether or not motivated by racial discrimination, the conspiracy becomes a proper object of the federal law under which the indictment in this case was brought.

¹² Peggy Cooper Davis et. al., *The Persistence of the Confederate Narrative*, 84 *Tenn. L. Rev.* 301, 342 (2017).

Guest, 383 U.S. at 760. Since then, the “predominant purpose” or “primary objective” test, has been one way a party can show infringement of the right to travel. *See Soto-Lopez*, 476 U.S. at 903.

Here, the predominant purpose of the Defendant’s threats of prosecution are to “impede or prevent the exercise of the right to interstate travel” and to “oppress a person because of his exercise of that right.” One need only look to the Defendant’s statements for proof of their purpose. He specifically acknowledged his inability to prosecute the pregnant person for exercising the right. Suelzle Decl. ¶ 6 (“You know there is nothing about that law that restricts any individual from driving across state lines and, uh, seeking an abortion, uh, in another place . . .”). But he went on to explain how he would stop that travel by prosecuting abortion funds. *Id.* (“[H]owever, I would say that if any individual held themselves out, uh, as a, as an entity or a group that is using funds, that they are able to raise, uh, to be able to facilitate those [sic] those visits then that, uh, is something we are going to look at closely.”). Defendant is threatening enforcement specifically to prevent organizations and individuals like Plaintiff from transporting people to other states, just as in *Edwards* and *Crandall*. And, like in *Guest*, his purpose in making this threat is to impede travel. Further, *Guest* makes clear that “actions” (i.e., the unspeakable violence Black Georgians’ faced), not just laws, can violate the right to travel. Here, like the actions in *Guest*, Defendant’s threats are life-destroying, as Defendant is threatening a sentence of life in prison without the possibility of parole.

2. Plaintiff Has Third-Party Standing to Vindicate the Right to Travel for Those it Serves.

Edwards and *Crandall* make clear that Plaintiff can bring this claim on its own behalf. However, Plaintiff also has third-party standing to vindicate the right to travel on behalf of those it serves. Third-party standing is a prudential doctrine, not a constitutional requirement, and the rule disfavoring it “is hardly absolute.” *June Med. Servs. L.L.C. v. Russo*, 140 S. Ct. 2103, 2117–18 (2020) (plurality opinion); *accord id.* at 2139 n.4 (Roberts, C.J., concurring). The Supreme Court has, for example, permitted third-party standing in cases where a litigant has Article III standing to challenge the constitutionality of a law, policy, or action, and the “rights of third parties . . . would be ‘diluted or adversely affected’ should [its] constitutional challenge fail.” *Carey v. Pop. Servs. Int’l*, 431 U.S. 678, 684 (1977) (quoting *Craig v. Boren*, 429 U.S. 190, 195 (1976)). Such cases have entailed a variety of fact patterns and interests. *See, e.g., Powers v. Ohio*, 499 U.S. 400, 415 (1991) (holding that a criminal defendant had third-party standing to assert the rights of potential jurors excluded from jury service); *Carey*, 431 U.S. at 683–84 (holding that a company selling non-medical contraceptives had third-party standing to assert the rights of potential customers, including minors); *Craig*, 429 U.S. at 194 (holding that a beer vendor had third-party standing to assert the rights of potential customers); *Griswold v. Connecticut*, 381 U.S. 479, 481 (1965) (holding that healthcare providers had third-party standing to assert the rights of patients seeking to use contraception); *Barrows v. Jackson*, 346 U.S. 249, 258 (1953)

(holding that white property owners had third-party standing to assert the rights of potential Black purchasers).

Here, Plaintiff satisfies the requirements for third-party standing because it has suffered an injury-in-fact, there is a sufficiently close relationship between Plaintiff and the pregnant people it supports, and there is a hindrance to the ability of pregnant Alabamians to protect their own rights. *Kowalski v. Tesmer*, 543 U.S. 125, 129–30 (2004).

First, Plaintiff is suffering injury-in-fact that is caused by Defendant’s threatened prosecution, and Plaintiff’s injury would be redressed by a judgment declaring that Defendant’s threatened prosecution infringes upon its right to travel. *Cf. Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–67 (2014) (explaining that, when a plaintiff seeks to engage in conduct that is proscribed by statute, a credible threat of enforcement gives rise to injury-in-fact).

Second, Plaintiff has a close relationship with pregnant Alabamians currently seeking to travel out of state for lawful abortion care. Plaintiff plays a crucial role in enabling its clients to travel. McLain Decl. ¶ 18. There are people presently in need of Plaintiff’s services, and it regularly receives requests from pregnant people who cannot travel without Plaintiff’s financial and logistical assistance. *Id.*, ¶¶ 26, 29. Additionally, Plaintiff’s and pregnant people’s interests are aligned. *See Young Apartments, Inc. v. Town of Jupiter, FL*, 529 F.3d 1027, 1042 (11th Cir. 2008) (holding that a landlord had

third-party standing to assert the equal protection rights of its tenants). In fact, their interests are one and the same: Plaintiff's mission is to provide abortion funding and travel support to those who wish to obtain a lawful abortion, which gives Plaintiff a direct interest in protecting pregnant people's right to travel. Fountain Decl. ¶ 30. Plus, Defendant is effectively targeting pregnant people by threatening criminal prosecution against helpers such that it would be "difficult (if not impossible)" for Plaintiff to vindicate its own rights without implicating the right to travel of pregnant people in need of support. *Id.* at 1043; *see also June Med. Servs. L.L.C.*, 140 S. Ct. at 2119 ("[T]he 'threatened imposition of governmental sanctions' . . . eliminates any risk that [Plaintiff's] claims are abstract or hypothetical.").

Third, pregnant people in Alabama face significant hindrances to asserting the right to travel on their own behalf. Pregnant people seeking lawful abortion are likely to face hostility from the community if they draw attention to their desire to obtain an abortion and are "reluctant to raise such claims for fear of provoking additional policing measures" or other legal risks. *Young Apartments, Inc.*, 529 F.3d at 1044. Plaintiff also has observed its clients' fear of being wrongfully criminalized for obtaining an abortion out of state and their desire for privacy. *See McLain Decl.* ¶ 24. A pregnant person may be chilled from asserting their own right to travel by the publicity of a court suit, *Singleton v. Wulff*, 428 U.S. 106, 117 (1976), and someone seeking to travel also faces the imminent mootness of their claim. *Id.* ("Only a few months, at the most, after the maturing of the decision . . . her right thereto will have

been irrevocably lost.”). In contrast, Plaintiff is “uniquely positioned” to assert claims on behalf of its clients. *See Young Apartments, Inc.*, 529 F.3d at 1044. As a funder of out-of-state abortions, Plaintiff is the subject of Defendant’s threatened prosecution and has suffered significant injury to its organizational mission such that “it has strong incentives to pursue” the right to travel claim on its clients’ behalf. *Id.* As a result, Plaintiff is the “obvious claimant” because it is the party upon which the threatened statutes would impose “legal duties and disabilities.” *June Med. Servs. L.L.C.*, 140 S. Ct. at 2119; *id.* at 2139 n.4 (Roberts, C.J., concurring).

Accordingly, Plaintiff may assert pregnant Alabamians’ constitutional right to travel.

CONCLUSION

For the reasons set forth above, this Court should grant Plaintiff’s motion for summary judgment in its entirety.

Dated: August 28, 2023

Respectfully submitted,

/s/ Jamila Johnson

Jamila Johnson*

Allison Zimmer*

THE LAWYERING PROJECT

3157 Gentilly Blvd. #2231

New Orleans, LA 70122

(347) 706-4981 (JJ)

(347) 515-6074 (AZ)

jjohnson@lawyeringproject.org

azimmer@lawyeringproject.org

Paige Suelzle*
THE LAWYERING PROJECT
2501 SW Trenton Street #1097
Seattle, WA 98106
(347) 515-6073
psuelzle@lawyeringproject.org

Ashley Light, ASB 1059-F69L
SOUTHERN POVERTY LAW
CENTER
400 Washington Ave
Montgomery, AL 36104
(334) 746-1530
ashley.light@splcenter.org

Krista Dolan*
SOUTHERN POVERTY LAW
CENTER
106 East College Avenue, #M
Tallahassee, FL 32301
(850) 521-3000
Krista.dolan@splcenter.org

*Admitted *pro hac vice*

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

CERTIFICATE OF SERVICE

I, Jamila Johnson, do hereby Certify that a true and correct copy of the foregoing has been furnished by ECF electronic service, on this 28th day of August 2023, to counsel of record for Defendant Steve Marshall.

Date: August 28, 2023

/s/ Jamila Johnson
Jamila Johnson

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

YELLOWHAMMER FUND, on)	
behalf of itself and its clients.)	CASE NO. 2:23-cv-00450-MHT
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	
)	
ATTORNEY GENERAL OF)	
ALABAMA STEVE MARSHALL,)	
in his official capacity)	
)	
Defendant.)	
)	
WEST ALABAMA WOMEN’S)	
CENTER, on behalf of themselves)	
and their staff; et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STEVE MARSHALL, in his official)	
capacity as Alabama Attorney)	
General,)	
)	
Defendant.)	

**DECLARATION OF JENICE FOUNTAIN IN SUPPORT OF PLAINTIFF’S
MOTION FOR SUMMARY JUDGMENT**

I, JENICE FOUNTAIN, hereby declare under penalty of perjury that the following statements are true and correct:

1. I am the Executive Director of Yellowhammer Fund, a nonprofit organization incorporated under the laws of Alabama. Yellowhammer Fund is a

registered 501(c)(3) organization that provides support to pregnant people and their families in Alabama, Mississippi, and the Florida Panhandle. Our goal is to ensure that all people have access to the resources they need to make decisions about their bodies, families, and futures.

2. I am a resident of Birmingham and have lived in Alabama for 31 years. I have worked for Yellowhammer Fund since 2020. I have been in my current position with Yellowhammer Fund since June 2022. Previously, I served as a Family Justice Organizer with Yellowhammer Fund beginning in 2021.

3. As Executive Director, I am responsible for managing the organization's projects to ensure that we are fulfilling our mission. Additionally, I supervise staff members and serve as the primary liaison with our organization's Board of Directors and funders.

4. I am also the founder of Margins: Women Helping Black Women, which is an Alabama-based community aid organization that addresses the reproductive, financial, and material needs of low-income Black mothers and their children.

5. I provide the following testimony based on my personal knowledge.

Yellowhammer Fund Seeks to Destigmatize Abortion Care and Communicate a Message of Love and Solidarity to All Pregnant People

6. Yellowhammer Fund is a reproductive justice organization. Reproductive justice organizations are typically Black-led organizations that believe

all people have the right to decide whether to have children, the right to decide when to have children, and the right to parent the children they have in safe and healthy environments. We are committed to ensuring access to reproductive health care for all members of our community, regardless of race, income, location, age, gender, sexuality, disability, number of children, or status as a citizen.

7. Our organization was initially founded in 2017 in Tuscaloosa as an abortion fund. In this capacity, we provided financial and logistical support to pregnant Alabamians seeking abortion care both within and outside of Alabama, as well as people from other states seeking abortion care in Alabama.

8. Today, we continue to work to meet the needs of our community in Alabama by providing education, mutual aid, policy advocacy, and other support to parenting and pregnant people and their families. We have seven full-time employees and approximately twenty regular volunteers. Among other things, our volunteers attend events on behalf of Yellowhammer Fund, speak to community members about our mission, and distribute supplies.

9. Yellowhammer Fund's services are divided into two programs. First, our reproductive health services program provides free emergency contraception by mail, safer-sex kits, accurate and comprehensive sex education materials and information, pregnancy tests, and referrals for a wide range of sexual and reproductive health care. Second, our Family Justice Program provides basic

necessities to families, including diapers, food supplies, school supplies, period products, Plan B, cleaning supplies, hygiene products, and other items, regardless of their location or income level.

10. Additionally, Yellowhammer Fund engages in abortion advocacy, with the goal of educating the community about policy proposals and legislation that could impact access to abortion and other forms of reproductive healthcare for pregnant people in Alabama. During June and July 2023, we launched a Reproductive Justice Bus Tour across the state of Alabama to recognize the anniversary of the fall of *Roe v. Wade* and the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*. Throughout the tour, we distributed emergency contraception, condoms, pregnancy tests, diapers, and other supplies to communities across the state, spread awareness about our work and programs, and advocated for policies and laws that will increase access to reproductive healthcare. If not for Defendant's threats, we would have also used our bus tour to speak about our abortion fund and practical support activities and share information about the availability of lawful out-of-state abortion care. We would have provided information about our fund and shared the names of clinics in states where abortion is legal. Providing this information is critical to our mission of sharing resources with our community members about reproductive healthcare. The absence of this

information, as a result of Defendant's threats of prosecution, diluted the value of our bus tour and hampered our ability to achieve our mission.

11. Yellowhammer Fund envisions a society in which reproductive decisions can be made free from coercion, shame, or state interference. By providing material assistance, education, and mutual aid to pregnant and parenting Alabamians and their families, we send an important message to our community about individual dignity and each person's innate ability to make the decisions that are best for themselves and their families. We also seek to communicate to funding recipients, volunteers, employees, supporters, other abortion advocacy groups, and the general public the belief that all people deserve access to the resources necessary to make the decisions that are right for them.

12. We believe that abortion should be accessible. Our work sends a strong message that abortion should be destigmatized, that it is a necessary form of reproductive healthcare, and that it is critical to individual liberty and bodily autonomy.

13. Because Black, Indigenous, and other people of color are disproportionately impacted by abortion restrictions across Alabama, Yellowhammer Fund is also committed to increasing reproductive healthcare equity. Alabama has one of the highest maternal mortality rates in the country, and Black women in Alabama are more likely to experience pregnancy-related death and illness than their white

peers. In contrast to childbirth and pregnancy, abortion is extremely safe. Yellowhammer Fund believes that it is important to recognize the risk of pregnancy because it demonstrates the true costs of abortion bans. We strongly believe that access to reproductive healthcare, including abortion, is a racial justice issue and is crucial for improving maternal mortality rates in the Black community. Our work is grounded in the fight for racial equity. By providing support services to pregnant and parenting Alabamians, we seek to communicate that the Black community in Alabama deserves support to make their own decisions about their bodies, families, and futures.

Before *Dobbs* and the Attorney General’s Threats, the Abortion Fund was a Core Component of Yellowhammer’s Mission

14. Yellowhammer Fund was founded to meet a critical need in our community: the inaccessibility of abortion care for many pregnant Alabamians. When the organization was founded, the abortion fund was our only program. The fund provided financial support to pregnant people who were seeking abortion care. From 2017 to June 2022, when the U.S. Supreme Court decided *Dobbs*, most of the fund’s clients were Alabamians who needed support to pay for abortions in Alabama. However, we also supported Alabamians who needed to travel to other states for abortion care, and residents of neighboring states—including Louisiana and Mississippi—who traveled to Alabama to access abortion care.

15. In addition to providing funding to help pay for the cost of abortions, Yellowhammer Fund's abortion fund also provided practical support to help pregnant people with other needs, including lodging, travel costs, food, and childcare. The abortion fund also provided information to pregnant people seeking abortion care, including information about types of abortion care, referrals to providers, and guidance and moral support.

16. Yellowhammer Fund's abortion fund worked to remove all barriers that stood in the way of our community members' ability to access abortion care. This meant that we regularly asked our community members what they needed and adapted our services and offerings to be responsive to their needs, including providing transportation, technology support, and language assistance. Transportation was often a significant barrier for our clients. Yellowhammer Fund staff and volunteers provided direct transportation for pregnant people who needed assistance traveling to their abortion appointments. Before *Dobbs*, I personally drove pregnant people to their abortion appointments in order to ensure that they were able to access care, and, on occasion, I personally drove pregnant people across state lines for abortion care.

17. Our fund also worked in collaboration with other abortion funds and abortion advocacy groups in Alabama and beyond. We worked together to ensure that anyone seeking an abortion had the resources and support they needed. We

regularly communicated with other funds and abortion advocacy groups to achieve our goals. We associated with abortion providers in Alabama to raise awareness about the fund's services and ensure that any pregnant person seeking abortion care could access them if needed.

18. Even as Yellowhammer Fund's programs evolved and grew, the abortion fund remained a core part of our mission. When we started the fund, we recognized that too many Alabamians—especially Black, Indigenous, and other people of color—were forced to carry pregnancies to term or delay abortion care because of financial and logistical barriers to accessing abortion care. The goal of the abortion fund was to eliminate those barriers so that people could access the care they needed. Additionally, by seeking to close barriers to abortion access, the fund communicated a message that barriers to healthcare are unnecessary and unjust. The fund also communicated to funding recipients that their reproductive healthcare decisions were valid, worthy, and deserving of respect. Through our work, the fund envisioned a society where no one would be prevented from accessing necessary medical care because of financial restrictions or residence.

19. By making abortion care more accessible for people in Alabama, the abortion fund helped to ensure that pregnant Alabamians had the resources and support they needed to make decisions that were best for themselves and their families.

20. Many of the people we served through the fund were people of color and low-income people from marginalized communities. Many of them already had children and were unable to care for more children. Our callers were also victims of intimate partner violence and many had unstable housing situations. Our callers were fearful of retaliation for accessing abortion care and they came to us for trustworthy and private support. The fund promoted the dignity of all people by reducing the stress of accessing necessary healthcare. Additionally, it sent a message of love and solidarity by upholding the rights and humanity of those who are most marginalized in our community.

The Attorney General's Threats Have Frustrated Yellowhammer Fund's Mission

21. Immediately after *Dobbs*, Alabama banned abortion with very limited exceptions. Yellowhammer Fund temporarily stopped operating our abortion fund that day.

22. Soon after *Dobbs*, I learned that Attorney General Steve Marshall threatened to prosecute abortion funds and advocacy organizations for helping Alabamians access abortion care in states where it is legal.

23. At the time of the Attorney General's threats, Yellowhammer Fund was based in Tuscaloosa. Because he mentioned groups that work in Tuscaloosa and Yellowhammer Fund was the only abortion fund based in Tuscaloosa, I understood the attorney general's threats to be specifically directed at Yellowhammer Fund.

24. Because the attorney general's threats continue to make us fearful of criminal prosecution, we have not resumed providing funds and logistical support to abortion seekers. Even though I believe that providing support to pregnant Alabamians traveling to other states for abortion care is a constitutionally protected activity, I am fearful of criminal prosecution against me, my staff, and my volunteers. Yellowhammer Fund will not resume providing abortion funding and support for out-of-state abortions until we can be assured that we will not face criminal prosecution for doing so.

25. Since the attorney general's threats, we have also stopped collaborating with other abortion funds and abortion advocacy groups because we are fearful that our association will be criminalized.

26. The attorney general's threats also forced Yellowhammer Fund to abandon our plans to expand the fund. Before the threats, we planned to hire new staff to help with transportation to states where abortion care is legal. When we were forced to close our fund, we had to cancel those plans.

27. Additionally, we had to make the difficult decision to eliminate the position of Healthcare Access Director. Previously, that role helped connect community members to abortion care by making referrals, connecting them with funding, and providing logistical and practical support. When we stopped operating our fund, we had to eliminate that position.

28. I know that the need for our abortion fund has only grown since the Defendant's threats. Yellowhammer Fund continues to receive calls from pregnant Alabamians seeking support. Because we no longer provide these services, we are forced to tell callers that we cannot help them.

29. We have waited for the attorney general to disavow his threats towards Yellowhammer Fund but he has not done so. As a result, we continue to fear prosecution and have not resumed the operations of our fund. We are also concerned that even sharing information about lawful abortion care and the states where abortion is legal could subject us to prosecution.

30. If we could be assured that providing assistance to help pregnant people in Alabama leave the state in search of lawful abortion health care could be done without prosecution, we would resume funding and providing support to pregnant Alabamians seeking abortion care in other states. Resuming the abortion fund's operations would allow us to continue our work destigmatizing abortion care and advancing the liberty and autonomy of our community members.

31. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 8/25/2023

A handwritten signature in black ink, appearing to read "Jenice Fountain", written over a horizontal line.

Jenice Fountain

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

YELLOWHAMMER FUND, on)	
behalf of itself and its clients.)	CASE NO. 2:23-cv-00450-MHT
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	
)	
ATTORNEY GENERAL OF)	
ALABAMA STEVE MARSHALL,)	
in his official capacity)	
)	
Defendant.)	
)	
WEST ALABAMA WOMEN’S)	
CENTER, on behalf of themselves)	
and their staff; et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STEVE MARSHALL, in his official)	
capacity as Alabama Attorney)	
General,)	
)	
Defendant.)	

**DECLARATION OF KARI WHITE, PH.D. M.P.H., IN SUPPORT OF
PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

KARI WHITE, PH.D. M.P.H., hereby declares under penalty of perjury that the following statements are true and correct:

1. I am a public health researcher focusing on the impacts of health policies that affect access to reproductive healthcare and health outcomes, with a particular focus on states in the South, including Alabama. I was engaged in this matter to help the Court understand the reproductive health environment, specifically with regard to abortion care, for pregnant people in Alabama.

2. I was asked to opine on the reproductive healthcare landscape in Alabama since the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, with a specific focus on the availability and incidence of abortion care and the risks of pregnancy and childbirth.

3. In reaching my opinion, I relied upon data about the number of abortions obtained before and after *Dobbs*, Alabama demographic information, health outcomes data and research, geographic analysis of abortion clinics across the country, and public health literature about access to health care and health outcomes.

My Professional Background and Qualifications

4. I earned a Master of Public Health degree from Tulane University School of Public Health in New Orleans, Louisiana, and a Ph.D. in sociology with a specialization in demography from the University of Texas at Austin ("UT Austin"). The study of public health looks at factors that affect the health of a population or certain groups within a population, with a focus on the social determinants of

health. The study of demography looks at factors that contribute to population change, including mortality, fertility, and immigration.

5. I am currently an Associate Professor of Social Work and Sociology at UT Austin.

6. I also serve as the Principal Investigator of the Texas Policy Evaluation Project (“TxPEP”), a collaborative group of university-based investigators who evaluate the impact of legislation in Texas related to women’s reproductive health. Based at UT Austin’s Population Research Center, the project began in 2011. Its mission is to conduct methodologically principled research and communicate the results to a broad audience through peer-reviewed scientific publications, research briefs, and other materials.

7. Prior to joining the faculty of UT Austin, I served as an Associate Professor at the University of Alabama at Birmingham’s School of Public Health from 2011 to 2019. While there, I taught in the Department of Health Care Organization and Policy.

8. My training and professional experience in public health have centered on reproductive health behaviors, public health policies, and the delivery and provision of reproductive health services.

9. My research focuses on family planning and reproductive healthcare. Specifically, my research has examined contraceptive and other family planning

services provided at publicly funded clinics, access to abortion, and vasectomy access. I also have studied postpartum contraceptive use. I lecture on reproductive health policy, family planning, and immigrant health.

10. I have authored more than 100 peer-reviewed articles, and I serve as a reviewer for several respected journals, including the Journal of the American Medical Association (JAMA), American Journal of Public Health, Obstetrics and Gynecology, Contraception, and Perspectives on Sexual and Reproductive Health. Among other things, my publications have addressed Medicaid postpartum sterilization, post-abortion contraception preferences, and travel for abortion services in Alabama. A list of these publications is attached within my C.V. at **Exhibit 1**.

11. During my career, I have focused my research on reproductive healthcare in the Deep South. My work has included research projects in Alabama, Georgia, Mississippi, Louisiana, and Texas, among other states. This background has provided me with a deep understanding of the abortion service provision environment in the Deep South.

12. I have published eight peer-reviewed articles that focus on reproductive healthcare in Alabama. In 2017, I published a study on abortion access in Alabama that explored the impact of travel distance to clinic locations and delays in accessing abortion care. My study found that lower income people in Alabama were more

likely to experience longer intervals between their initial consultation appointment and their abortion appointments than patients with higher incomes.¹

13. I have also published research on the role of abortion funds in navigating access to abortion care for patients with limited abortion care options in their states of residence.

14. I am a member of the American Public Health Association, the Population Association of America, and the Society of Family Planning.

15. The following testimony is based on my personal knowledge, professional experience, original research, and knowledge of the relevant professional literature.

Impact of *Dobbs* on Abortion Access in Alabama

16. Based on my assessment of state and national abortion numbers, the geographic location of abortion clinics in the South, as well as data from professional organizations studying abortion, it is my expert opinion that abortion has become increasingly inaccessible for many pregnant Alabamians since the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*.

¹ K. White, J.M. Turan, and D. Grossman, *Travel for abortion services in Alabama and delays obtaining care*, *Women's Health Issues* 27(5): 523-529 (2017).

17. Even before *Dobbs*, abortion clinics were few and difficult for patients to access. In 2021, there were five abortion clinics in Alabama. By June 2022, that number had been reduced to three clinics.²

18. According to data from the Alabama Department of Health, at least 1,800 Alabamians traveled out of state to obtain needed abortion care in 2021. That figure represents about 22% of all abortions, or over 1 in 5 abortions, that Alabamians received in that year.³

19. Before *Dobbs*, Alabamians were required to travel approximately 34 miles, on average, to the closest abortion clinic.⁴

20. Today, sixteen states, including Alabama, ban or restrict abortion care at or before six weeks since a pregnant person's last menstrual period.⁵ Many of the states closest to Alabama, including Mississippi, Louisiana, Tennessee, Arkansas, and Georgia, are among those that severely restrict abortion in most circumstances.⁶ Access to abortion care in the South is constantly changing as other states in the

² Maddison Booth & Todd Stacy, *Post-Dobbs, Alabama providers examine abortion law*, Alabama Daily News (July 7, 2022), <https://aldailynews.com/post-dobbs-alabama-providers-examine-abortion-law/>.

³ *Induced Termination of Pregnancy Statistics*, Alabama Center for Health Statistics, Alabama Department of Public Health, at 1 (2021).

⁴ See Abortion Access Dashboard, Data and Methodology, <https://about-the-abortion-access-dashboard-analysis-1.hub.arcgis.com/> (last visited Aug. 9, 2023).

⁵ See *Tracking Abortion Bans Across the Country*, <https://www.nytimes.com/interactive/2022/us/abortion-laws-roe-v-wade.html> (last visited Aug. 9, 2023).

⁶ *Id.*

region continue to pass new abortion restrictions and these restrictions are challenged in court.

21. Since *Dobbs*, Alabamians must travel significant distances to obtain abortion care unless they qualify for a very narrow exception in Alabama's abortion ban. Today, the average distance that Alabamians must travel for abortion care is 160 miles.⁷ For Alabamians that reside in certain counties that are furthest from states where abortion is accessible, the closest abortion clinic may be as far as 270 miles in each direction.⁸ These distances are consistent with a national trends, where people across the country now must travel significantly further to access abortion care than they did before *Dobbs*.⁹

22. Nationally, the inaccessibility of abortion since *Dobbs* has led to many thousands of pregnant people being unable to obtain an abortion from a clinician.¹⁰ These impacts are disproportionately experienced by Black, Indigenous, and other people of color, who now face the longest travel times to the closest abortion

⁷ See Abortion Access Dashboard, States Data, <https://about-the-abortion-access-dashboard-analysis-1.hub.arcgis.com/> (last visited Aug. 9, 2023).

⁸ See Abortion Access Dashboard, Counties Data, <https://about-the-abortion-access-dashboard-analysis-1.hub.arcgis.com/> (last visited Aug. 9, 2023).

⁹ See Abortion Access Dashboard, States Data, <https://about-the-abortion-access-dashboard-analysis-1.hub.arcgis.com/> (last visited Aug. 9, 2023).

¹⁰ #WeCount Report April 2022-March 2023, Society of Family Planning, at 6 (June 15, 2023), https://societyfp.org/wp-content/uploads/2023/06/WeCountReport_6.12.23.pdf (reporting that 25,640 fewer abortions were obtained from a clinician between July 2022 and March 2023 compared to the pre-*Dobbs* period).

facility.¹¹ Those who reside in states that ban abortion and seek out-of-state abortion care are more likely to be Black than those who reside in states where abortion is lawful.¹² Even before *Dobbs*, residents of states that have now banned abortion were more likely to travel out-of-state for abortion care than their peers in states where abortion is legal, and those residents were more likely to be Black.¹³

23. Before *Dobbs*, Black pregnant people disproportionately accessed abortion care in Alabama. In 2021, Black Alabamians comprised 67 percent of the state's abortion patients while only comprising around 27 percent of the Alabama population.¹⁴ And most abortion patients in Alabama in 2021 had previously given birth to at least one child.¹⁵

¹¹ See Guttmacher Institute, <https://www.guttmacher.org/article/2023/04/characteristics-abortion-patients-protected-and-restricted-states-accessing-clinic>; Rachel K. Jones & Doris W. Chiu, *Characteristics of Abortion Patients in Protected and Restricted States Accessing Clinic-Based Care 12 Months Prior to the Elimination of the Federal Constitutional Right to Abortion in the United States* (Apr. 11, 2023), <https://doi.org/10.1363/psrh.12224>.

¹² *Id.*

¹³ *Id.*

¹⁴ *Induced Termination of Pregnancy Statistics*, Alabama Center for Health Statistics, Alabama Department of Health, at 1 (2021), https://www.alabamapublichealth.gov/healthstats/assets/2021_itop_annual_report.pdf (reporting that 5,581 of Alabama residents obtaining an abortion were Black, compared to 8,294 total abortions in 2021); U.S. Census Bureau, <https://www.census.gov/quickfacts/fact/table/AL,US/RHI225222>.

¹⁵ *Induced Termination of Pregnancy Statistics*, Alabama Center for Health Statistics, Alabama Department of Health, at 2 (2021), https://www.alabamapublichealth.gov/healthstats/assets/2021_itop_annual_report.pdf.

24. Along with Kentucky, Alabama has the sixth largest percentage of residents living in poverty among all states in the country.¹⁶ In Alabama today, there are more than 800,000 people, including 250,000 children, living below the poverty line.¹⁷ Since there are such high levels of poverty among Alabama residents, it is going to be difficult for people to get sufficient resources required to travel and pay for abortion care, and therefore they need the financial assistance that abortion funds and practical support organizations provide.

25. Based on my research, interviews with patients who live in states with limited access to abortion care and the abortion funds and practical support organizations that support them, and the relevant literature, it is my expert opinion that abortion funds play an important role connecting patients in states with restricted abortion access to abortion care in states where abortion is lawful. Since *Dobbs*, abortion funds must help patients navigate their way to care by supporting travel, funding for their abortion, and other needs.

26. Based on my research with abortion funds and patients who live in states with limited abortion access, it is also my opinion that *Dobbs* has increased the challenges faced by patients and by the funds and organizations that support

¹⁶ See U.S. Department of Agriculture, https://data.ers.usda.gov/reports.aspx?ID=17826#Pdc43fdb6c80441dc945ff17e42ec00aa_3_229iT3.

¹⁷ *Id.*

them. Since *Dobbs*, patients must travel further to access care and the time and resources involved with accessing care is significantly greater than it was before *Dobbs*.¹⁸

27. Studies have shown that people who seek but are unable to obtain an abortion are more likely to have diminished educational and job prospects, greater economic insecurity, and poorer health outcomes than those who obtained an abortion.¹⁹

Childbirth Risks

28. The United States has a higher rate of maternal mortality than any other developed nation, and that rate has increased in recent years.²⁰ Alabama has the third highest maternal mortality rate in the country, at 36.4 deaths per 100,000 live births.²¹

¹⁸ See Abortion Access Dashboard, States Data, <https://about-the-abortion-access-dashboard-analysis-1.hub.arcgis.com/> (last visited Aug. 9, 2023)

¹⁹ Sarah Miller, Laura Wherry, & Diana Greene Foster, *The Economic Consequences of Being Denied an Abortion* <http://www.nber.org/papers/w26662.pdf>; Diane Greene Foster et al., *Socioeconomic Outcomes of Women Who Receive and Women Who Are Denied Wanted Abortions in the United States*, 108 AM. J. PUB. HEALTH 407 (2018) <https://doi.org/10.2105/AJPH.2017.304247>; Caitlin Gerdts et al., *Side Effects, Physical Health Consequences, and Mortality Associated with Abortion and Birth after an Unwanted Pregnancy*, 26 WOMEN'S HEALTH ISSUES 55 (2016), <https://doi.org/10.1016/j.whi.2015.10.001>; Lauren J. Ralph, et al., *Self-reported Physical Health of Women Who Did and Did Not Terminate Pregnancy After Seeking Abortion Services: A Cohort Study*, 171 ANNALS INTERN MED. 238 (2019), ;171(4), <https://doi.org/10.7326/M18-1666>.

²⁰ See generally Roosa Tikkanen et al., *Maternal Mortality and Maternity Care in the United States Compared to 10 Other Developed Countries*, Commonwealth Fund, Nov. 2020, <https://doi.org/10.26099/411v-9255>.

²¹ See Alabama Dep't of Public Health, Bureau of Family Health Services, *2020 Maternal Morality Review*, at 6, https://www.alabamapublichealth.gov/perinatal/assets/2020_final_annual_mmr.pdf.

29. Carrying a pregnancy to term is especially dangerous for certain populations. Pregnancy-related deaths disparately impact communities of color. The maternal mortality rate among Black women in the United States is particularly high. According to a 2021 report, the maternal mortality rate for non-Hispanic Black women is 2.6 times higher than the rate for non-Hispanic white women.²² Specifically, the maternal mortality rate in 2021 was 26.6 deaths per 100,000 live births for non-Hispanic white women, while the maternal mortality rate for Black women was 69.9 deaths per 100,000 live births.²³

30. Generally, the rate of maternal mortality is significantly higher—especially for Black women—in states that severely restrict abortion as opposed to states where abortion is lawful.²⁴ The maternal mortality rate is 62% higher in states that restrict abortion access than states where abortion is lawful.²⁵ Additionally, states that restrict abortion access have fewer maternal care providers than states

²² Centers for Disease Control & Prevention, *Maternal Mortality Rates in the United States, 2021*, <https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2021/maternal-mortality-rates-2021.htm>.

²³ *Id.*

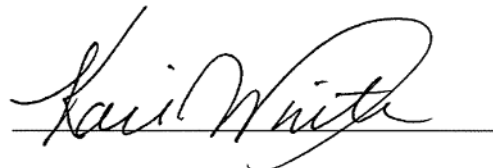
²⁴ See Commonwealth Fund, *The U.S. Maternal Health Divide: The Limited Maternal Health Services and Worse Outcomes of States Proposing New Abortion Restrictions*, <https://www.commonwealthfund.org/publications/issue-briefs/2022/dec/us-maternal-health-divide-limited-services-worse-outcomes>.

²⁵ *Id.* (documenting 28.8 per 100,000 births in restrictive states compared to 17.8 per 100,000 births in states that allow abortion.)

with abortion access.²⁶

31. Many Alabama counties are considered maternity care deserts, meaning that people who reside in those counties do not have access to birthing facilities or maternity care providers.²⁷ 28% of women in Alabama have no birthing hospital within 30 minutes of their residence, compared with just 10% of women nationally.²⁸ In some Alabama counties, especially those in the Black Belt of Alabama, the distance to the nearest birthing hospital or maternity care provider can be up to 70 minutes each way.²⁹ As the March of Dimes has explained “the farther a woman travels to receive maternity care, the greater the risk of maternal morbidity and adverse infant outcomes, such as stillbirth and NICU [Neonatal Intensive Care Unit] admission.”³⁰

Signed this 21 day of August, 2023.



Kari White, Ph.D, M.P.H.

²⁶ *Id.*

²⁷ March of Dimes, *Where You Live Matters: Maternity Care Access in Alabama*, <https://www.marchofdimes.org/peristats/reports/alabama/maternity-care-deserts>.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

EXHIBIT 1

KARI WHITE

Office Address

University of Texas at Austin
Steve Hicks School of Social Work, 3.106D
Department of Sociology, RLP 2.620E
Austin, TX 78712
Phone: (512) 232-5742; (512) 471-2499
Email: kariwhite@utexas.edu

Mailing Address

1925 San Jacinto Blvd
Stop D3500
Austin, TX 78712

EDUCATION

Doctor of Philosophy, Sociology

Concentration: Demography May 2011
University of Texas at Austin, Austin, TX
Dissertation: Determinants of fertility across context: a comparison of Mexican and Turkish immigrant women

Master of Public Health, International Health and Development

May 2003
Tulane University School of Public Health, New Orleans, LA

Master of Arts, Latin American Studies

Dec 2001
University of Arizona, Tucson, AZ

Bachelor of Arts, Psychology, Summa Cum Laude

May 1998
University of New Mexico, Albuquerque, NM

FACULTY APPOINTMENTS

Associate Professor with tenure

Aug 2019 - present
Steve Hicks School of Social Work, University of Texas at Austin, Austin, TX
Department of Sociology, University of Texas at Austin (joint appointment)

Faculty Research Associate

Aug 2019 - present
Population Research Center, University of Texas at Austin, Austin TX

Adjunct Associate Professor

Aug 2019 - present
Health Care Organization & Policy, University of Alabama at Birmingham, Birmingham, AL

Associate Professor with tenure

Oct 2017 – Aug 2019
Health Care Organization & Policy, University of Alabama at Birmingham, Birmingham, AL

Assistant Professor

July 2011 – Sept 2017
Health Care Organization & Policy, University of Alabama at Birmingham, Birmingham, AL

Associate Scholar

July 2011 - Aug 2019
Lister Hill Center for Health Policy, University of Alabama at Birmingham, Birmingham, AL

Associate Scientist

June 2014 - Aug 2019
Minority Health & Health Disparities Research Center, University of Alabama at Birmingham, Birmingham, AL

PROFESSIONAL MEMBERSHIPS

Society of Family Planning
Population Association of America
American Public Health Association

Kari White

FELLOWSHIPS/AWARDS/DISTINCTIONS

Early Achievement Award, <i>Population Association of America</i>	2020
Loan Repayment Program, <i>National Institutes of Health, Health Disparities Research</i>	2014 - 2016
Pre-doctoral Fellow, <i>National Institute of Child Health and Human Development</i>	2007 - 2010
Doug Forbes Research Award, <i>University of Texas at Austin, Population Research Center</i>	2008
Summer Language Scholar, <i>Institute for Turkish Studies</i>	2007
Critical Languages Scholar – Turkish, <i>US Department of State</i>	2007
Turkish Language Scholar, <i>University of Texas at Austin, Center for Middle Eastern Studies</i>	2006
Health Leadership Fellow, <i>Connecticut Health Foundation</i>	2005 - 2006
Tinker Foundation Award, <i>Tulane University, Center for Latin American Studies</i>	2002
Tinker Foundation Award, <i>University of Arizona, Center for Latin American Studies</i>	2000
Phi Beta Kappa, Phi Kappa Phi, Golden Key National Honors Society	1997

RESEARCH**Current Grants**

Grant #5574 Principal Investigator, Texas Policy Evaluation Project Private non-profit foundation	Sept 2019 – Aug 2023
Grant # G-21-2122854 Principal Investigator, Texas Policy Evaluation Project Collaborative for Gender + Reproductive Equity	Sept 2021 – Aug 2025
Grant 2022, Cycle 1 Principal Investigator, Texas Policy Evaluation Project Jacob & Therese Hershey Foundation	June 2022 – May 2024
Grant #2022-74184 Principal Investigator, Mitigating approaches to Support Long-term Abortion care Access David and Lucile Packard Foundation	Sept 2022 – Aug 2024
Grant R01 HD098127-01A1 Co-Investigator, Multilevel factors affecting postpartum sterilization National Institute of Child Health and Human Development (K. Arora, PI)	May 2020 – Jan 2024
Grant #A2255A1 Co-Investigator, Creating evidence and consensus in support of over-the-counter mifepristone-misoprostol Society of Family Planning (D. Grossman and N. Kapp, PIs)	Oct 2018 – Dec 2023

Previous Grants

Contract #202102641 Principal Investigator, Sexual & Reproductive Healthcare Landscape Analysis Every Body Texas	Oct 2021 – Aug 2022
Grant #2018-67490 Principal Investigator, Mississippi Women’s Health Experiences & Options Study David and Lucile Packard Foundation	Aug 2018 – Jun 2022
Pilot grant, Level II Principal Investigator, Piloting online recruitment and retention for men considering vasectomy UT Austin, Population Research Center	Jan 2021 – Dec 2021

Kari White

Grant #5255 Co-Director Research Core, Co-Investigator, Center for Reproductive Health Research in the Southeast Private non-profit foundation (K. Hall, PI)	Aug 2017 – Jul 2020
Grant # 5379 Co-Investigator, Louisiana Admitting Privileges Project Private non-profit foundation (S. Roberts, PI)	Apr 2019 – Jul 2020
K01 HD079563-01A1 Principal Investigator, Factors influencing vasectomy use National Institute of Child Health and Human Development	Dec 2014 – Aug 2019
Grant #2017-66910 Principal Investigator, Louisiana Women’s Access Study David and Lucile Packard Foundation	Feb 2018 – Jun 2019
C40118041, C50119045 Principal Investigator,* Plan First: Medicaid Waiver Evaluation Alabama Department of Public Health (*Co-Investigator, Oct 2011-April 2016; J. Bronstein, PI)	Oct 2011 – Aug 2019
Grants #3862, #3673, #5123 Co-Investigator, Texas Policy Evaluation Project Private non-profit foundation (J.E. Potter, PI)	Oct 2011 – Aug 2019
Grant #2016-64118 Principal Investigator, Improving services & policies around reproductive health care in Mississippi David and Lucile Packard Foundation	Apr 2016 – Aug 2017
SFPRF7-JI3 Principal Investigator, Access to abortion care in the Deep South Society of Family Planning	Jul 2013 – Jul 2015
SFPRF7-10 Co-Investigator, Reproductive stigmas and pregnancy decision-making in Alabama Society of Family Planning (J.M. Turan, PI)	Oct 2013 – Mar 2015
C40870013 Co-Investigator, Title V Maternal Child Health Needs Assessment Alabama Department of Public Health (J. Preskitt, PI)	Jan 2014 – Dec 2014
Research Award Principal Investigator, Unintended pregnancy among recent Latina immigrants UAB Minority Health and Health Disparities Research Center	Oct 2012 – Jun 2014
2009-031039 Co-Investigator, Texas Teen Opportunity Project Texas Department of State Health Services (K. Hopkins, PI)	Mar 2009 – Sept 2010

Peer-reviewed publications (Underline indicates co-author was a student, fellow, or staff)

101. A. Chatillon, E. Vizcarra, B. Kumar, S.L. Dickman, A.D. Beasley, and **K. White**. 2023. Access to care following Planned Parenthood’s termination from Texas’ Medicaid network: A qualitative study. *Contraception*, In Press.

100. **K. White**, O. Leyser-Whalen, B. Whitfield, A. Dane’el, A. Andrea, A. Rupani, B. Kumar, G. Moayedi. 2023. “Abortion assistance fund staff and volunteers as patient navigators following an abortion ban in Texas.” *Perspectives on Sexual and Reproductive Health*, In Press.

Kari White

99. W. Arey, K. Lerma and **K. White**. 2023 “Self-diagnosing the end of pregnancy after medication abortion.” *Culture, Health & Sexuality*. In Press.
98. K.S. Arora, A. Chua, E. Miller, M. Boozer, T. Serna, B.W. Bullington, **K. White**, D.D. Gunzler, J.L. Bailit, and K. Berg. 2023. “Medicaid and Fulfillment of Postpartum Permanent Contraception Requests.” *Obstetrics and Gynecology*; 141(5):918-925.
97. W. Arey, K. Lerma, E. Carpenter, G. Moayed, L. Harper, A.D. Beasley, T. Ogburn, and **K. White**. 2023. “Abortion access and medically complex pregnancies before and after Texas Senate Bill 8” *Obstetrics and Gynecology*; 141(5): 995-1003.
96. G. Sierra, N.F. Berglas, L.G. Hofler, D. Grossman, S.C.M. Roberts, and **K. White**. 2023. “Out-of-state travel for abortion among Texas residents following an executive order suspending in-state services during the coronavirus pandemic.” *International Journal of Environmental Research and Public Health*, 24(4): 3679.
95. A. Nagle, K. Lerma, and **K. White**. 2023. “Abortion-client religious identity and self-judgment in a setting with antiabortion protestors in Mississippi.” *Contraception*; 121: 109977.
94. B. Whitfield, E. Vizcarra, A. Dane’el, L. Palomares, G. D’Amore, J. Maslowsky, and **K. White**. 2023. “Minors’ experiences accessing confidential contraceptive care in Texas.” *Journal of Adolescent Health*; 72(4): 591-598.
93. K. Lerma, E. Carpenter, A. Chatillon, and **K. White**. 2023. “Publicly funded family planning organizations’ response to the COVID-19 pandemic in Texas.” *Women’s Health Issues*; 33(3): 228-234.
92. S.E. Baum, G. Sierra, D. Grossman, E. Vizcarra, J.E. Potter, and **K. White**. 2023. “Comparing preference for and use of medication abortion in Texas after policy changes in 2014 and 2018.” *Contraception*; 119: 109912.
91. S. Vohra-Gupta, E.J. Ela, E. Vizcarra, L. Petruzzi, K. Hopkins, J.E. Potter, and **K. White**. 2022. “Evidence-based family planning services among publicly funded providers in Texas” *BMC Health Services Research*; 22(1): 1498.
90. J. Yarger, K. Hopkins, S. Elmes, I. Rossetto, S. De La Melena, C.E. McCulloch, **K. White**, and C.C. Harper. 2023. “Perceived Access to Contraception via Telemedicine Among Young Adults: Inequities by Food and Housing Insecurity.” *Journal of General Internal Medicine*; 38(2): 302-308.
89. **K. White**, G. Sierra, K. Lerma, A. Beasley, L.G. Hofler, K. Tocce, V. Goyal, T. Ogburn, J.E. Potter, S.L. Dickman. “Association of Texas’ 2021 ban on abortion in early pregnancy with the number of facility-based abortions in Texas and surrounding states.” 2022. *JAMA*, 328(20): 2048-2055.
88. K.L. Burke, G. Sierra, K. Lerma, and **K. White**, 2022. “Service delivery at Title X sites in Texas during the COVID-19 pandemic.” *Perspectives on Sexual and Reproductive Health* 54(4): 198-207.
87. E. Carpenter, H. Gyuras, K.L. Burke, D. Czarnecki, D. Bessett, M. McGowan, and **K. White**. 2023. “Seeking abortion care in Ohio and Texas during the COVID-19 pandemic.” *Contraception*; 118: 109896.
86. Q. Chen, E. Carpenter, and **K. White**. 2022. “Non-physicians’ challenges in sexual and reproductive health care provision for women of reproductive age with cancer: a scoping review of barriers and facilitators.” *Supportive Care in Cancer*; 30(12): 10441-10452.
85. M.A. Biggs, K. Ehrenreich, N. Morris, K. Blanchard, C.K. Bustamante, S.Y. Choimorrow, D. Hauser, Y. Hernandez, N. Kapp, T. Kromenaker, G. Moayed, J. Perritt, L. Ralph, E.G. Raymond, E.S. Valladares, **K. White** and D. Grossman. 2022. “Comprehension of an over-the-counter drug facts label prototype for a mifepristone and misoprostol medication abortion product.” *Obstetrics & Gynecology*. 139(6): 1111-1122.
84. W. Arey, K. Lerma, A. Beasley, G. Moayed, L. Harper, **K. White**. 2022. “A preview of the dangerous future of abortion bans – Texas Senate Bill 8.” *New England Journal of Medicine*. 387: 388-390.

Kari White

83. N. Berglas, **K. White**, R. Schroeder, S.C.M. Roberts. 2022. "Geographic Disparities in Disruptions to Abortion Care in Louisiana at the Onset of the COVID-19 Pandemic." *Contraception*. 115: 17-21.
82. **K. White**, M. Martinez-Ordenes, D.K. Turok, J.D. Gipson, S. Borrero. 2022. "Vasectomy knowledge and interest among US men who do not intend to have more children." *American Journal of Men's Health*, 16(3): 1557988322109857.
81. K. Lerma, A. McBrayer, S. Nathan, C. Dehlendorf, and **K. White**. 2022. "Use of a contraceptive decision support tool in the abortion care setting." *Contraception*, 113: 68-70.
80. A. Biggs, L. Ralph, N. Morris, K. Ehrenreich, J. Perritt, N. Kapp, K. Blanchard, **K. White**, R. Barar, D. Grossman 2022. "A cross-sectional survey of U.S. abortion patients' interest in obtaining medication abortion over the counter" *Contraception*, 109: 25-31.
79. S. Dickman, **K. White**, G. Sierra, and D. Grossman. 2022. "Financial hardships due to out-of-pocket abortion costs in Texas." *American Journal of Public Health*, 112(5): 758-761.
78. L. Ralph, K. Ehrenreich, R. Barar, A. Biggs, N. Morris, K. Blanchard, N. Kapp, G. Moayed, J. Perritt, E. Raymond, **K. White**, D. Grossman. 2022. "Accuracy of self-assessment of gestational duration among people seeking abortion." *American Journal of Obstetrics & Gynecology*, 226(5): 710e1-e21.
77. **K. White**, G. Sierra, T. Evans, S.C.M. Roberts. 2022. "Abortion at 12 or more weeks' gestation and travel for later abortion care among Mississippi residents." *Contraception*, 108(4): 19-24.
76. M. Adams, G. Kully, S. Tilford, **K. White**, S. Mody, N. Johns, D. Grossman, and S. Averbach. 2021. "Time from first clinical contact to abortion in Texas and California." *Contraception*, 11-(6) 76-80.
75. E.J. Ela, E. Vizcarra, L. Thaxton, **K. White**. 2022. "Insurance Churn and Postpartum Health among Low-Income Texas Women." *Women's Health Issues*, 32(2): 95-102. *Editor's choice
74. E. Carroll, K. Lerma, A. Linley, T. Evans, S. Nathan, **K. White**. 2021. "Abortion patient experiences with protestors while accessing care in Mississippi." *Sexuality Research & Social Policy*, <https://doi.org/10.1007/s13178-021-00643-1>.
73. S. Dickman, **K. White** and D. Grossman. 2021. "Affordability and access to abortion care in the United States." *JAMA Internal Medicine*, 181(9): 1157-1158.
72. J.E. Potter, K.L. Burke, R.K Broussard, K. Hopkins. D. Grossman, **K. White**. 2021. "Improving assessment of demand for postpartum tubal ligation among publicly insured women in Texas." *Contraception*, 104(5): 518-523.
71. K. Arora, R. Ponsaran, L. Morello, L. Katabi, R.T. Behmer-Hansen, N. Zite, **K. White**. 2021. "Obstetrician–Gynecologists' practices in postpartum sterilization without a valid Medicaid consent form." *Obstetrics & Gynecology*, 138 (1): 66-72.
70. S. Raifman. G. Sierra, D. Grossman, S.E. Baum, K. Hopkins, J.E. Potter, and **K. White**. 2021. "Border-state abortions increased for Texas residents after House Bill 2." *Contraception*, 104(3): 314-318.
69. S.C.M. Roberts, N.F. Berglas, R. Schroeder, M. Lingwall, D. Grossman, and **K. White**. 2021. "Disruptions to abortion care in Louisiana during early months of the COVID-19 pandemic." *American Journal of Public Health*, 111(8): 1504-1512.
68. S. Raifman, S. Baum, **K. White**, K. Hopkins, T. Ogburn, D. Grossman. 2021. "Perspectives on self-managed abortion among providers in hospitals along the Texas-Mexico border" *BMC Women's Health*, 21(article 132).
67. M.A. Williams, S. Nathan, **K. White**. 2021. "Insurance churn and inconsistent access to reproductive health care among abortion patients in Mississippi." *Journal of Health Care for the Poor & Underserved*, 32(4): 1965-1977.

Kari White

66. K. Coleman-Minahan, E.J. Ela, **K. White** and D. Grossman. 2021. "Contraindications to hormonal contraception among postpartum women in Texas." *Obstetrics & Gynecology*, 137(5): 907-915.
65. **K. White**, S. Narasimhan, S. Hartwig, E. Carroll, A. McBrayer, S. Hubbard, R. Rebouché, M. Kottke, and K.S. Hall. 2021. "Parental involvement policies for minors seeking abortion in the Southeast and quality of care." *Sexuality Research & Social Policy*. <https://doi.org/10.1007/s13178-021-00539-0>.
64. **K. White**, B. Kumar, V. Goyal, R. Wallace, S.C.M. Roberts, D. Grossman 2021. "Changes in abortion in Texas following an executive order ban during the coronavirus pandemic." *JAMA*, 325(7):691-693.
63. K. Arora, R. Ponsaran, L. Morello, L. Katabi, R.T. Behmer-Hansen, N. Zite, **K. White**. 2020. "Attitudes and beliefs of obstetricians-gynecologists regarding Medicaid postpartum sterilization - A qualitative study" *Contraception*, 102(5): 376-382.
62. K.L. Burke, J.E. Potter, and **K. White**. 2020. "Unsatisfied contraceptive preferences due to cost among women in the United States." *Contraception X*, 2: 10032.
61. **K. White**, K. Portz, S. Whitfield, and S. Nathan. 2020. "Women's post-abortion contraceptive preferences and access to family planning services in Mississippi." *Women's Health Issues*, 30(3): 176-183.
60. L. Fuentes, S. Baum, B. Keefe-Oates, **K. White**, K. Hopkins, J.E. Potter, D. Grossman. 2020. "Texas women's decisions and experiences with self-managed abortion." *BMC Women's Health* 20, article 6.
59. K. Coleman-Minahan, K. Hopkins, and **K. White**. 2020. "Availability of confidential services for teens declined after the 2011-2013 changes to publicly funded family planning programs in Texas." *Journal of Adolescent Health*. 66(6): 719-724.
58. E. Carroll and **K. White**. 2019. "Abortion patients' preferences for care and experiences accessing services in Louisiana" *Contraception X*. 2: 100016.
57. M. Wang, A. Khodadadi, J.M. Turan, and **K. White**. 2021. "Scoping Review of Access to Emergency Contraception for Sexual Assault Victims in Emergency Departments in the United States" *Trauma, Violence & Abuse* 22(2): 413-421.
56. J.E. Potter, A.J. Stevenson, K. Coleman-Minahan, K. Hopkins, **K. White**, S. Baum, and D. Grossman. 2019. "Challenging unintended pregnancy as an indicator of reproductive autonomy." *Contraception* 100(1): 1-4.
55. A.D. Campbell, D.K. Turok and **K. White**. "Fertility intentions and perspectives on contraceptive involvement among low-income men aged 25 to 55." 2019. *Perspectives on Sexual and Reproductive Health* 51(3): 125-133.
54. **K. White**, S. Baum, K. Hopkins, J.E. Potter, and D. Grossman. 2019. "Change in second-trimester abortion after implementation of a restrictive state law." *Obstetrics & Gynecology* 133(4): 771-779.
53. S. Baum, **K. White**, K. Hopkins, J.E. Potter, and D. Grossman. 2019. "Rebound of medication abortion in Texas following updated mifepristone label." *Contraception* 99(5): 278-280.
52. A. Bianchi, K.S. Oths, and **K. White**. 2019. "Are the undocumented deserving? Health workers' views of immigrants in Alabama." *Journal of Health Care for the Poor and Underserved* 30(2): 820-840.
51. **K. White**, K. Adams, and K. Hopkins. 2019. "Counseling and referrals for women with unplanned pregnancies at publicly funded family planning organizations in Texas." *Contraception* 99(1): 48-51.
50. D. Grossman and **K. White**. 2018. "Abortion 'reversal' - Legislating without evidence." *New England Journal of Medicine* 379: 1491-1493.

Kari White

49. K. Hopkins, C. Hubert, K. Coleman-Minahan, A.J. Stevenson, **K. White**, D. Grossman, and J.E. Potter. 2018. "Unmet demand for hormonal and long-acting reversible contraception among community college students in Texas." *Journal of American College Health* 66(5): 360-368.
48. W.S. Rice, B. Turan, **K. White**, J.M. Turan. 2018. "Norms and stigma around unintended pregnancy in Alabama: Associations with recent contraceptive use and dual method use among young adult women." *Women & Health*. 58(10): 1151-1166.
47. **K. White**, K. Hopkins, D. Grossman, and J.E. Potter. 2018. "Providing family planning services at primary care organizations after the exclusion of Planned Parenthood from publicly funded programs in Texas: Early qualitative evidence." *Health Services Research* 53(S1): 2770-2786.
46. **K. White**, D. Grossman, A.J. Stevenson, K. Hopkins, and J.E. Potter. 2017. "Does information about abortion safety affect Texas voters' opinions about restrictive laws? A randomized study" *Contraception* 96(6): 381-387.
45. J.E. Potter, K. Coleman-Minahan, **K. White**, D.E. Powers, C. Dillaway, A.J. Stevenson, K. Hopkins, D. Grossman. 2017. "Contraception following delivery among publicly insured women in Texas: Use compared with preferences." *Obstetrics and Gynecology*; 130(2): 393-402.
44. **K. White**, J.M. Turan, and D. Grossman. 2017. "Travel for abortion services in Alabama and delays obtaining care." *Women's Health Issues* 27(5): 523-529.
43. W.S. Smith, B. Turan, K.L. Stringer, A. Helova, **K. White**, K. Cockrill, and J.M. Turan. 2017. "Norms and stigma regarding pregnancy decision following an unintended pregnancy: Development and predictors of scales among young women in the U.S. South." *PLOS ONE* 12(3): e0174210.
42. **K. White**, A. Campbell, K. Hopkins, D. Grossman, and J.E. Potter. 2017. "Barriers to offering vasectomy at publicly funded family planning organizations in Texas." *American Journal of Men's Health*. 11(3): 757-766.
41. D. Grossman, **K. White**, K. Hopkins, and J.E. Potter. 2017. "Change in distance to nearest facility and abortion in Texas, 2012 to 2014." *JAMA* 317(4): 437-439.
40. S. Baum, **K. White**, K. Hopkins, J.E. Potter, D. Grossman. 2016. "Women's experiences obtaining abortion care in Texas after implementation of a restrictive law: a qualitative study." *PLOS ONE* 11(10): e0165048.
39. J.E. Potter, C. Hubert, and **K. White**. 2017. "The availability and use of postpartum LARC in Mexico and among Hispanics in the United States." *Maternal and Child Health Journal*. 21(9): 1744-1752.
38. **K. White**, M. Ocampo, I.C. Scarinci. 2017. "A socio-ecological approach for examining factors related to contraceptive use among recent Latina immigrants in an emerging Latino state." *Women & Health* 7: 878-889.
37. **K. White**, J.E. Potter, A.J. Stevenson, L. Fuentes, K. Hopkins, D. Grossman. 2016. "Women's knowledge of and support for abortion restrictions in Texas: Findings from a statewide representative survey." *Perspectives on Sexual and Reproductive Health* 48(4): 189-197.
36. C. Gerds, L. Fuentes, D. Grossman, **K. White**, B. Keefe-Oates, S. Baum, K. Hopkins, C.W. Stolp, J.E. Potter. 2016. "The impact of clinic closures on women obtaining abortion services after implementation of a restrictive law in Texas." *American Journal of Public Health* 106(5):857-64.
35. W. Smith, J.M. Turan, **K. White**, K. Stringer, A. Helova, T. Simpson, and K. Cockrill. 2016. "Social norms and stigma around unintended pregnancy and pregnancy options: A qualitative study of young adult women in Alabama." *Perspectives on Sexual and Reproductive Health* 48(2): 73-81.
34. **K. White**, V. deMartelly, D. Grossman, and J.M. Turan. 2016. "Experiences accessing abortion care in Alabama among women traveling for services." *Women's Health Issues* 26(3): 298-304.

Kari White

33. L. Fuentes, S. Lebenkoff, **K. White**, C. Gerdts, K. Hopkins, J.E. Potter, D. Grossman. 2016. "Women's experiences seeking abortion care after the closure of clinics due to a restrictive law in Texas." *Contraception* 93(4): 292-297.
32. J.E. Potter, C. Hubert, A.J. Stevenson, K. Hopkins, A.R.A. Aiken, **K. White**, and D. Grossman. 2016. "Barriers to postpartum contraception in Texas and pregnancy within two years of delivery." *Obstetrics and Gynecology* 127(2): 289-96.
31. C. Hubert, **K. White**, K. Hopkins, D. Grossman, and J.E. Potter. 2016. "Perceived interest in vasectomy among Latina women and their partners in a community with limited access to female sterilization." *Journal of Health Care for the Poor and Underserved* 27(2): 762-777.
30. **K. White**, E. Carroll, and D. Grossman. 2015. "Complications from first-trimester aspiration abortion: A systematic review of the literature." *Contraception* 92(5): 422-438.
29. **K. White** and I.C. Scarinci. 2015. "Comparison of self-rated health among Latina immigrants in a Southern U.S. city and a national sample." *American Journal of Medical Sciences* 350(4): 290-295.
28. **K. White**, J.E. Potter and N. Zite. 2015. "Geographic variation in characteristics of postpartum women using female sterilization." *Women's Health Issues* 25(6): 628-633.
27. D. Grossman, **K. White**, L. Harris, M. Reeves, P. Blumenthal, B. Winikoff, D. Grimes. 2015. "Continuing pregnancy after mifepristone and 'reversal' of first-trimester medical abortion: A systematic review." *Contraception* 92(3): 206-211.
26. **K. White**, S.B. Teal, and J.E. Potter. 2015. "Contraception after delivery and short interpregnancy intervals among women in the United States." *Obstetrics and Gynecology* 126(6): 1471-1477.
25. **K. White**, K. Hopkins, A. Aiken, A. Stevenson, C. Hubert, D. Grossman, J.E. Potter. 2015. "The impact of reproductive health legislation on family planning clinic services in Texas." *American Journal of Public Health* 105(5): 851-858.
24. K. Hopkins, **K. White**, F. Linkin, C. Hubert, D. Grossman, J.E. Potter. 2015. "Women's experiences seeking affordable family planning services in Texas." *Perspectives on Sexual and Reproductive Health* 47(2): 63-70.
23. **K. White**, J. Blackburn, B. Manzella, E. Welty, and N. Menachemi. 2014. "Changes in use of county public health services following Alabama's immigration law." *Journal of Health Care for the Poor and Underserved* 25(4): 1844-1852.
22. D. Grossman, S. Baum, L. Fuentes, **K. White**, K. Hopkins, A. Stevenson, J.E. Potter. 2014. "Change in abortion services after implementation of a restrictive law in Texas." *Contraception* 90(5): 496-501.
21. J.E. Potter, K. Hopkins, A.R.A. Aiken, C. Hubert, A.J. Stevenson, **K. White**, D. Grossman. 2014. "Unmet demand for highly effective contraception in Texas." *Contraception* 90(5): 488-495.
20. **K. White** and J.E. Potter. 2014. "Reconsidering racial/ethnic differences in sterilization in the United States." *Contraception* 89(6): 550-556.
19. **K. White**, V.A. Yeager, N. Menachemi, and I.C. Scarinci. 2014. "Impact of Alabama's immigration law on access to health care among Latina immigrants and children: Implications for national reform." *American Journal of Public Health* 104(3): 397-405.
18. D. Grossman, **K. White**, K. Hopkins, and J.E. Potter. 2014. "The public health threat of anti-abortion legislation." *Contraception* 89(2): 73-74.
17. **K. White**, J.E. Potter, K. Hopkins, and D. Grossman. 2014. "Variation in postpartum contraceptive method use: Results from the Pregnancy Risk Assessment Monitoring System (PRAMS)." *Contraception* 89(1): 57-62.

Kari White

16. **K. White**, K. Hopkins, and E.L. Schiefelbein. 2013. "The influence of race/ethnicity and gender on attitudes surrounding contraceptive responsibility: Do Latino adolescents differ from other groups?" *Journal of Applied Research on Children* 4(2): article 8.
15. **K. White**, J.E. Potter, K. Hopkins, J. Amastae, and D. Grossman. 2013. "Hypertension among oral contraceptive users in El Paso, Texas." *Journal of Health Care for the Poor and Underserved* 24(4): 1511-1521.
14. **K. White**, K. Hopkins, J.E. Potter, and D. Grossman. 2013. "Knowledge and attitudes about long-acting reversible contraception among Latina women who desire sterilization." *Women's Health Issues* 23(4): e257-e263.
13. **K. White** and J.E. Potter. 2013. "Patterns of contraceptive use among Mexican-origin women." *Demographic Research* 28(41): 1199-1212.
12. **K. White** and J.E. Potter. 2013. "The impact of out-migration of men on fertility and marriage in the migrant sending states of Mexico, 1995-2000." *Population Studies* 67(1): 83-95.
11. J.E. Potter, A.J. Stevenson, **K. White**, K. Hopkins, and D. Grossman. 2013. "Hospital variation in postpartum tubal sterilization rates in California and Texas." *Obstetrics and Gynecology* 121(1): 152-158.
10. J.E. Potter, **K. White**, K. Hopkins, S. McKinnon, D. Grossman, M. Shedlin, and J. Amastae. 2012. "Frustrated demand for sterilization among low-income Latinas in El Paso, Texas." *Perspectives on Sexual and Reproductive Health* 44(4): 228-235.
9. **K. White**, D. Grossman, K. Hopkins, and J.E. Potter. 2012. "Cutting family planning in Texas." *New England Journal of Medicine* 367(13): 1179-1181.
8. K. Hopkins, D. Grossman, **K. White**, J. Amastae, and J.E. Potter. 2012. "Reproductive health preventive screening among clinic vs. over-the-counter oral contraceptive users." *Contraception* 86(4): 376-382.
7. **K. White**, J.E. Potter, K. Hopkins, L. Fernández, J. Amastae, and D. Grossman. 2012. "Contraindications to progestin-only oral contraceptive pills among reproductive aged women." *Contraception* 86(3): 199-203.
6. **K. White**, I. Garces, L. Bandura, A. McGuire, and I.C. Scarinci. 2012. "Design and evaluation of a theory-based, culturally relevant outreach model for breast and cervical cancer screening for Latina immigrants." *Ethnicity & Disease* 22: 274-280.
5. **K. White** and C.J. Buckley. 2011. "Exposure to international migration and its effect on childbearing in Turkey." *International Migration Review*. 45(1): 123-147.
4. D. Grossman, **K. White**, K. Hopkins, J. Amastae, M. Shedlin, and J.E. Potter. 2011. "Contraindications to combined oral contraceptives among over-the-counter and clinic pill users." *Obstetrics and Gynecology* 117(3): 558-565.
3. J.E. Potter, **K. White**, K. Hopkins, J. Amastae, and D. Grossman. 2010. "Clinic versus over-the-counter access to oral contraception: Choices women make in El Paso, Texas." *American Journal of Public Health* 100(6): 1130-1136.
2. **K. White** and M.B. Laws. 2009. "Role exchange behavior in medical interpretation." *Journal of Immigrant and Minority Health* 11(6): 482-93.
1. **K. White**, M. Small, R. Frederic, G. Joseph, R. Bateau, and T. Kershaw. 2006. "Health seeking behavior among pregnant women in rural Haiti." *Health Care for Women International* 27(9): 822-38.

Book chapters

J. Amastae, M. Shedlin, **K. White**, K. Hopkins, D.A. Grossman, and J.E. Potter. 2013. "Lessons for border research: the Border Contraceptive Access Study" pp 249-264 in *Uncharted Terrain: New Directions in Border Research Methodology, Ethics, and Practice*. A.O. O'Leary, C.M. Deeds & S. Whiteford (Eds.) Tucson, AZ: University of Arizona Press.

Kari White

Research briefs

D. Grossman, C. Joffe, S. Kaller, K. Kimport, E. Kinsey, K. Lerma, N. Morris, and **K. White**. 2023. “Care Post-Roe: documenting cases of poor-quality care since the Dobbs decision.” <https://www.ansirh.org/sites/default/files/2023-05/Care%20Post-Roe%20Preliminary%20Findings.pdf>

B. Whitfield, L. Dixon, and **K. White**. 2023. “Implications of parental consent for clinician-provided contraception for minors in Texas.” <https://sites.utexas.edu/txpep/implications-of-parental-consent-for-clinician-provided-contraception-for-minors-in-texas/>

K. White, **K. Lerma**, L. Thaxton, and A.D. Beasley. “Medication abortion use and access in Texas.” <https://sites.utexas.edu/txpep/medication-abortion-brief/>

A.D. Beasley, **A. Nagle**, **K. Lerma**, G. Sierra, **G. Alvarez Pérez**, and **K. White**, 2023. “Pregnant Texans’ interest in other models of abortion care after the fall of Roe.” https://sites.utexas.edu/txpep/files/2023/01/TxPEP_Research_Brief_Mitigation_Strategies_17Jan.pdf

E. Sepper, G. Moayedi, L. Thaxton, A. Beasley, **L. Dixon**, and **K. White**. 2022. “After Roe: Criminal abortion bans in Texas.” https://sites.utexas.edu/txpep/files/2022/06/TexasPostRoeCriminalAbortionBans-TxPEP-PolicyBrief_27June22.pdf

W. Arey, **L. Dixon**, **E. Vizcarra**, and **K. White**. 2022. “Reactions to SB8 among Texans who obtained out-of-state abortion care.” <https://sites.utexas.edu/txpep/files/2022/06/TxPEP-brief-word-cloud-2022.pdf>

K. White, **A. Dane’el**, **E. Vizcarra**, **L. Dixon**, **K. Lerma**, A. Beasley, J.E. Potter, T. Ogburn. 2022. “Out-of-state travel for abortion following implementation of Texas Senate Bill 8.” <http://sites.utexas.edu/txpep/files/2022/03/TxPEP-out-of-state-SB8.pdf>

B. Whitfield, **A. Chatillon**, **E. Vizcarra**, **R. Wolleben**, **K. White**. 2022. “Timely access to contraception at Medicaid providers following the exclusion of Planned Parenthood from Texas’ Medicaid program.” <http://sites.utexas.edu/txpep/files/2022/01/TxPEP-research-brief-Planned-Parenthood-Medicaid.pdf>

W. Arey, **K. Lerma**, **A. McBrayer**, and **K. White**. 2021. “Barriers to contraceptive access in Mississippi.” <http://sites.utexas.edu/msrepro/files/2021/12/barriers-to-contraceptive-access.pdf>

K. White, **E. Vizcarra**, **L. Palomares**, **A. Dane’el**, A. Beasley, T. Ogburn, J.E. Potter, and S.L. Dickman. 2021. “Initial impacts of Texas’ Senate Bill 8 on abortions in Texas and at out-of-state facilities.” <http://sites.utexas.edu/txpep/files/2021/11/TxPEP-brief-SB8-inital-impact.pdf>

K. Lerma, **A. McBrayer**, and **K. White**. 2021. “Abortion patients’ challenges accessing care in Mississippi.” <https://sites.utexas.edu/msrepro/abortion-patients-challengesaccessing-care-in-mississippi/>

K. White, G. Sierra, **L. Dixon**, E. Sepper, and G. Moayedi. 2021. “Texas Senate Bill 8: Medical and legal implications.” <http://sites.utexas.edu/txpep/files/2021/07/TxPEP-research-brief-SB8.pdf>

K. Lerma, **E. Carpenter**, and **K. White**. 2021. “Provider perspectives on Texas’ publicly funded family planning programs.” <http://sites.utexas.edu/txpep/files/2021/04/TxPEP-research-brief-provider-perspectives.pdf>

E. Carpenter, **K. Lerma**, **L. Dixon**, **K. White**. 2021 “Publicly funded reproductive health care programs for people with low incomes in Texas, 2011-2021.” <http://sites.utexas.edu/txpep/files/2021/03/TxPEP-research-brief-reproductive-health-care.pdf>

E. Carpenter, **K.L. Burke**, **E. Vizcarra**, **A. Dane’el**, V. Goyal, and **K. White**. 2021. “Texas’ executive order during COVID-19 increased barriers for patients seeking abortion care.” <http://sites.utexas.edu/txpep/files/2020/12/TxPEP-research-brief-COVID-abortion-patients.pdf>

Kari White

K. White, G. Sierra, E. Vizcarra, L. Dixon, S. Baum, K. Hopkins, J.E. Potter and D. Grossman. 2020. “The potential impact of Texas’ executive order on patients’ access to abortion care.”

<http://sites.utexas.edu/txpep/files/2020/04/TxPEP-research-brief-executive-order-abortion-delay-4-8-20.pdf>

E. Carroll and **K. White**. 2020. “Louisiana abortion patients’ current challenges accessing care.”

<https://liberalarts.utexas.edu/prc/research/research-brief-series/2020-research-briefs/carroll-white-la-patients.php>

E. Carroll and **K. White**. 2019. “Women’s experiences with protestors while access abortion care in Louisiana.”

<https://liberalarts.utexas.edu/prc/research/research-brief-series/2019-research-briefs/carroll-white-la-protestors.php>

K. White, K. Burke, K. Hopkins and J.E. Potter. 2019. “Texas women’s access to reproductive health services since the 2016 statewide reorganization of women's health programs.” <https://liberalarts.utexas.edu/txpep/research-briefs/access-to-reproductive-health-services-brief.php>

K. White, E.J. Ela, K. Hopkins, and J.E. Potter. 2019. “Providers’ barriers to offering contraception in the Healthy Texas Women (HTW) Program.” <https://liberalarts.utexas.edu/txpep/research-briefs/htw-provider-evaluation-brief.php>

C. Dillaway, **K. White**, K. Hopkins, and J.E. Potter. 2017. “Does religion influence contraceptive choice among Hispanic women in Texas?” <https://liberalarts.utexas.edu/txpep/research-briefs/religion-contraception-brief.php>

Invited presentations

K. White, with H. Allison, M. Jones, C. Torres, and M. Vemireddy. “Criminalization of pregnancy: History, impact and lived experiences.” University of Texas School of Law, May 2023.

K. White, with D. Greene Foster and U. Upadhyay. “Presidential panel on abortion.” Annual meeting of the Population Association of America, New Orleans, LA, April 2023.

K. White, with L. Ikemoto, M. Oberman and A. Salganicoff. “Reproductive Health and Rights in a post-*Dobbs* World.” University of Nevada Las Vegas, Health Law conference, virtual meeting, April 2023.

K. White, with S. Borrero, C. Myers and W. Rice “Assessing geographic access to care post-*Dobbs*.” Society of Family Planning Social Science pre-conference meeting, Baltimore, MD, December 2022.

K. White. “Abortion in Texas after *Dobbs*.” Department of Obstetrics and Gynecology, University of Texas, Rio Grande Valley, Edinburg, TX, November 2022.

K. White. “Effects of Texas’ recent abortion bans on access to care.” School of Medicine Dean’s Research Seminar series, University of Texas, Rio Grande Valley, Edinburg, TX, November 2022.

K. White, with A. Gonzalez Velez, C. Roth, and L. Thaxton. “Reproductive rights in the Americas: An historical perspective.” Teresa Lozano Long Institute of Latin American Studies, University of Texas at Austin, September 2022.

K. White, with A.R.A. Aiken and M. Pineda Torres. “Perspective on the Roe reversal: Implications for Texas.” LBJ Futures Forum, LBJ School of Public Affairs, University of Texas at Austin. July 2022.

K. White. “Assessing the impact of abortion restrictions in Texas.” California Center for Population Research, University of California, Los Angeles. May 2022.

K. White. “A view of abortion access at ground zero: Mississippi, Texas and a post-Roe United States.” Bixby Center for Reproductive Health, University of California, Los Angeles. May 2022.

K. White, with J. Marcella and H. Palacio. “Sexual and reproductive health, rights and justice: peering at post-Roe world through an equity lens.” Academy Health: Health Datapalooza and National Health Policy Conference, Washington, D.C. April 2022.

Kari White

K. White, with W. Arey and E. Vizcarra. “What evidence from Texas can (and cannot) teach us.” Webinar organized by the Society of Family Planning, March 2022.

K. White, with A.R.A. Aiken, and E. Ramirez. “U.S. Reproductive Rights at a Crossroads: The Impacts of a Decade of Policy-Making in Texas and Urgent Policy Priorities for the Future.” Austin, TX, Association for Public Policy Analysis and Management. March 2022.

K. White, with L. Fuentes, R. Mariappuram, L. Thaxton, A. Williams. “The Future of Reproductive Justice: Discussing the Impact of Texas SB8.” Columbia School of Social Work. February 2022.

K. White, with A. Salvador, D. Greene Foster, and A. Appannagari. “The current state of abortion policy in the U.S.” CityMatCH, December 2021.

K. White, with M. Fontes, and S. Dickman. “Texas abortion ban: What it means and what happens next.” Sexual and Reproductive Health Matters, October 2021.

K. White, with C. Tejada, S. Dickman, S. Medley. “Understanding and Upending Texas SB8: Arguments in the Court.” New York University Law School, September 2021.

K. White, with E. Carpenter, H. Gyuras, D. Bessett, M. McGowan, A. Foster and A. Ghorashi. “Impact of COVID-19 on abortion provision: Patient and provider perspectives” webinar organized by the Society of Family Planning, March 2021.

K. White. “Navigating NIH career development awards as a family planning researcher,” webinar organized by the Society of Family Planning, January 2021.

K. White and S.C.M. Roberts. “Evaluating Louisiana’s abortion restrictions.” Tulane University, July 2020.

K. White. “The impact of restrictive legislation on high risk patients and providers in Texas.” Perspectives on Reproductive Health panel at the annual meeting of the Society for Maternal Fetal Medicine, Grapevine, TX, February 2020.

K. White. “The impact of abortion policy on women’s health.” Lister Hill Center for Health Policy, University of Alabama at Birmingham, November 2019.

K. White. “Healthcare and immigration: The intersection of national and state policies in Alabama.” Center for Health Ecology and Health Equity Research, Auburn University, Auburn, AL, February 2019.

K. White. “Changes in family planning services in Texas after legislation to defund Planned Parenthood.” Grand Rounds, Department of Obstetrics and Gynecology, University of Tennessee Medical Center at Knoxville, Knoxville, TN, April 2017.

K. White. “Family planning research and policy in Texas: Steps forward and set backs.” Family planning symposium, University of Utah, Salt Lake City, Utah, February 2017.

K. White. “Postpartum contraception in Texas.” Grand Rounds, Department of Obstetrics and Gynecology, Texas Tech University, El Paso, TX, February 2017.

K. White. “Facilitating access to medication abortion.” Grand Rounds, Department of Obstetrics and Gynecology, Emory University, Atlanta, GA, December 2015.

K. White. “What do we really know about how the public system is serving women, men and providers?” Presented at “The 37%: Developing a research agenda for addressing mistimed, unintended, unplanned and unwanted pregnancy in the US.” National Institute of Child Health and Human Development, Rockville, MD, June 2013.

Kari White

K. White. “The impact of HB56 on Latina women and children’s use of health services.” Immigrants and Public Health Forum, Montgomery, AL, October 2012.

K. White. "Contraindications to POPs compared to COCs." OCs OTC Working Group Meeting, Washington DC, October 2011.

Conference Presentations (last 4 years)

2023

K. Lerma, W. Arey, A. Chatillon, and **K. White.** “Reasons for participation in abortion research in restrictive settings.” Oral presentation at the annual meeting of the National Abortion Federation, Denver, CO, May 2023.

K. Hopkins, I. Rosetto, J. Yarger, A. Sanchez, **K. White,** and C.C. Harper. “Use of preferred contraceptive method among young adults: Inequities by race/ethnicity and language spoken at home.” Oral presentation at the annual meeting of the Population Association of America, New Orleans, LA. April 2023.

2022

K. White, W. Arey, A. Dane’el, E. Vizcarra, J.E. Potter, T. Ogburn and A.D. Beasley. “Abortion patients’ priorities and tradeoffs deciding where to obtain out-of-state care following Texas’ 2021 abortion ban.” Oral presentation at the annual meeting of the Society of Family Planning, Baltimore, MD, December 2022.

*Featured at the meeting’s plenary session: “Spotlight on Science.”

A. Nagle, K. Lerma, G. Sierra, **K. White.** “Preferred contraception use and barriers to care in Mississippi.” Poster presentation at the annual meeting of the Society of Family Planning, Baltimore, MD, December 2022.

B. Whitfield, G. Sierra, K. Lerma, V. Goyal, L. Thaxton, B. Kumar, A. Gilbert, and **K. White.** “Changes in return rate and wait time between ultrasound and abortion following Texas’ executive order banning abortion during COVID-19.” Poster presentation at the annual meeting of the Society of Family Planning, Baltimore, MD, December 2022.

C.C. Harper, S. Elmes, J. Yarger, K. Brandi, K. Hopkins, I. Rosetto, D. Van Liefde, **K. White,** U. Upadhyay. “Medication abortion via telemedicine: Interest among young adults in Texas and California.” Poster presentation at the annual meeting of the Society of Family Planning, Baltimore, MD, December 2022.

K. White, with V. Goyal, R. Mariappuram, and A. Rupani. “Texas Senate Bill 8: Implications on the ground and lessons learned.” Panel presentation at the annual meeting of the National Abortion Federation, May 2022.

K. Lerma, A. Nagle, G. Sierra, **K. White.** “Perceptions of abortion legality and availability in Mississippi” Oral presentation at the annual meeting of the National Abortion Federation, May 2022.

K. Burke, G. Sierra, K. Lerma, and **K. White.** 2022. “Service delivery at Title X sites in Texas during the COVID-19 pandemic.” Oral presentation at the annual meeting of the Population Association of America, April 2022.

2021

K. White, G. Sierra, E Vizcarra, L. Hofler, N. Berglas, D. Grossman, and S.C.M. Roberts. Travel patterns among Texas residents obtaining out-of-state abortion care following an executive order suspending in-state services during the coronavirus pandemic. Poster presentation at the annual meeting of the Society of Family Planning (virtual meeting) October 2021.

B. Whitfield, E. Vizcarra, A. Dane’el, L. Palomares, G. D’Amore, J. Maslowsky, **K. White.** Minors’ experiences accessing confidential contraception in Texas. Poster presentation at the annual meeting of the Society of Family Planning (virtual meeting) October 2021.

Q. Chen, E. Carpenter, **K. White.** “Nonphysician’s challenges in sexual and reproductive health care provision for women of reproductive age with cancer: Barriers and facilitators.” Poster presentation at the annual meeting of the Multinational Association in Supportive Care for Cancer (virtual meeting) June 2021.

Kari White

E. Carroll, K. Lerma, A. McBrayer, T. Evans, S. Nathan, **K. White**. Patient experiences with protestors while accessing abortion care in Mississippi. Oral presentation at the annual meeting of the National Abortion Federation (virtual meeting) May 2021.

S. Narasimhan, E. Carroll, A. McBrayer, S.A. Hartwig, P. Rogers, R. Rebouché, M. Kottke, K.S. Hall, and **K. White**. Minors' decision making around abortion and parental involvement in two Southern states. Poster presentation at the annual meeting of the Population Association of America (virtual meeting). May 2021.

E. Carpenter, E.J. Ela, and **K. White**. Dynamics of low-income women's fertility intentions and contraceptive use in the postpartum period. Oral presentation at the annual meeting of the Population Association of America (virtual meeting). May 2021.

M. Williams, S. Nathan, and **K. White**. Inconsistent access to reproductive healthcare among abortion patients in Mississippi. Oral presentation at the annual meeting of the Population Association of America (virtual meeting). May 2021.

2020

S. Narasimhan, S. Hartwig, E. Rockwell, A. McBrayer, M. Kottke, R. Rebouche, K. Stidham Hall, and **K. White**. The impact of parental involvement laws on abortion quality of care in three Southeastern states. Oral presentation at the annual meeting of the American Public Health Association (virtual meeting), October 2020.

A. Akle, B. Kumar, C. Labgold, O. Leyser-Whalen, M. Lingwall, O. Njoku, **K. White**. Abortion funds and research: Building collaborations that support service delivery and advocacy. Panel presentation at the annual meeting of the Society of Family Planning (virtual meeting) October 2020.

K. White, G. Sierra, Sarah E. Baum, Kristine Hopkins, Joseph E. Potter, Daniel Grossman. Attitudes about second-trimester abortion and the impact of restrictive laws among reproductive-aged Texas women. Poster presentation at the annual meeting of the Society of Family Planning (virtual meeting) October 2020.

D. Grossman, G. Sierra, S.E. Baum, K. Hopkins, J.E. Potter, **K. White**. Factors associated with delays obtaining abortion care in Texas. Poster presentation at the annual meeting of the Society of Family Planning (virtual meeting) October 2020.

K. Coleman-Minahan, E.J. Ela, **K. White** and D. Grossman. Contraindications to hormonal contraception among postpartum women in Texas. Poster presentation at the annual meeting of the Society of Family Planning (virtual meeting) October 2020.

S. Raifman, G. Sierra, D. Grossman, S.E. Baum, K. Hopkins, J.E. Potter, **K. White**. Out-of-state abortions increased for Texas residents after House Bill 2. Oral presentation at the annual meeting of the Society of Family Planning (virtual meeting) October 2020.

SERVICE

Professional Service

Steering Committee, Society of Family Planning #WeCount Rapid Surveillance	2022-present
Early Career Award Committee, Population Association of America	2021-present
Robert J. Lapham Award Committee, Population Association of America	2020-present
Scientific Review Committee, Society of Family Planning annual meeting	2014-2018, 2021-2023
Steering Committee, Society of Family Planning Abortion Clinical Trials Network	2016-2017
Planning Committee, Society of Family Planning Social Science Interest Group	2017
Poster judge, Society of Family Planning annual meeting	2015
Session moderator, Population Association of America annual meeting	2013, 2015
Session moderator, American Public Health Association annual meeting	2012

Kari White

Journal reviewer

Reproductive Health: *American Journal of Obstetrics and Gynecology; Contraception; Culture, Health & Sexuality, Journal of Family Planning and Reproductive Health Care; Journal of Women's Health; Perspectives on Sexual and Reproductive Health; Women's Health Issues; Women & Health*

General public health/social science: *American Journal of Men's Health; American Journal of Public Health; American Sociological Review; Demographic Research; Ethnicity & Disease; Family & Community Health; Gender & Society, Health Affairs, Health & Place; Health Equity; Health Promotion Practice; International Migration Review; JAMA, Journal of Health Care for the Poor and Underserved; Journal of Immigrant and Minority Health; Journal of Marriage and Family; Medical Care; Patient Education and Counseling Innovation*

Grant review committees

Society of Family Planning Research Fund, <i>Leveraging Existing Resources to Document Dobbs Impact</i>	2023
Society of Family Planning Research Fund, <i>Increasing Access to Medication Abortion, Pt II</i>	2020
Society of Family Planning Research Fund, <i>Junior Investigator Awards</i>	2017
Gulf States Health Policy Center, <i>Health Policy Research RFA-GSHPC-15-15-001</i>	2015
UAB Center for Clinical Translational Sciences, <i>NIH Pathway to Independence Award K99/R00</i>	2015
UAB Lister Hill Center, <i>Intramural Pilot Grant Review</i>	2013

University service

Norval Glenn Committee, best graduate student paper in family sociology, UT-Austin Dept of Sociology	2022-2023
Andrew Carnegie Fellows Program, UT internal competition, UT Office of the Vice President for Research	2021
Governance Committee, UT-Austin Population Research Center	2020-present
Lecturer Review Committee, UT-Austin Dept of Sociology	2020-2021
Social Work & Mitigation Advocacy Faculty Search Committee, UT-Austin School of Social Work	2020
Doctoral Committee, UT-Austin School of Social Work	2019-present
Faculty Affairs Committee, UAB School of Public Health	2018-2019
Medical Sociology Faculty Search Committee, UAB College of Arts & Sciences	2018-2019
Outcomes Research Faculty Search Committee, UAB School of Public Health	2017-2019
Diversity and Inclusion Committee, UAB School of Public Health	2017-2019
Safety Committee, UAB School of Public Health	2015
Admissions and Graduation Committee, UAB School of Public Health	2012-2018
Maternal and Child Health MPH Admissions Committee, UAB School of Public Health	2012-2019
Wicked Health Case Competition, Judge, UAB School of Public Health	2016
Wicked Health Case Competition, Faculty mentor, UAB School of Public Health	2014
Rhodes Scholarship, Finalist Preparatory Interview Committee, UAB Honors College	2014
Teaching Awards Committee, UAB School of Public Health	2012-2013

Other service

Severe Maternal Morbidity & Mortality Technical Expert Panel, member National Institute of Child Health & Human Development	2021-2023
Co-led Amicus brief on social science research on abortion restrictions <i>Submitted to the U.S. Supreme Court in Dobbs v Jackson Women's Health Organization (Case Nos. 19-1392)</i>	2021
Contraceptive Development & Behavior Workshop member National Institute of Child Health & Human Development	2020

Kari White

Declaration on access to abortion services in Texas <i>Submitted to the U.S. District Court in Planned Parenthood v Abbott (Case No. 1:20-cv-323-LY)</i>	2020
Co-led Amicus brief on social science research on abortion restrictions <i>Submitted to the U.S. Supreme Court in June Medical Service v Russo (Case Nos. 18-1323, 18-1460)</i>	2019

TEACHING & MENTORING**Courses****University of Texas at Austin**

Course Director, Women's Health Policy (SW 395K)	Spring 2021, 2022
--	-------------------

University of Alabama at Birmingham

Course Director, Immigrant Health (HCO 629/729)	Fall 2014, 2017-2018
Course Co-Director, Writing Grants and Program Applications (HCO 695)	Spring 2016

Guest Lectures**University of Texas at Austin**

Fertility and Reproduction (SOC 307K) <i>Abortion and the current US policy landscape</i>	Spring 2023
--	-------------

Massachusetts Institute of Technology

Race, Gender, and Social Inequality: Reproductive Health Care in the United States (WGS 224) <i>Conducting research on abortion & abortion restrictions</i>	Spring 2021
--	-------------

University of Pittsburgh, School of Public Health

Politics of Health Policy (HPM 2063) <i>Abortion restrictions in Texas</i>	Spring 2021
---	-------------

University of Alabama at Birmingham

Maternal Child Health Fundamentals I (HCO 605) <i>US family planning programs and policies</i>	Fall 2011-2013, 2015-2018
---	---------------------------

School of Medicine, Difficult Dialogues in Healthcare <i>Healthcare and immigration: The intersection of national and state policies in Alabama</i>	Fall 2018
--	-----------

Maternal Child Health Fundamentals II (HCO 606) <i>Qualitative research approaches in maternal and child health</i>	Spring 2016
--	-------------

Qualitative & Mixed Methods in Public Health (HCO 628/728) <i>Mixed methods to study access to abortion in Alabama</i>	Spring 2015
---	-------------

Sociology of Sex and Gender (SOC 220) <i>Evaluating reproductive health policies in Texas</i>	Spring 2016-2017
--	------------------

Emory University, Rollins School of Public Health

Global Elimination of Maternal Mortality from Abortion (GEMMA) <i>Access to abortion in Alabama</i>	Spring 2015
--	-------------

Kari White

Research mentorship**Early stage investigators**

Lauren Thaxton, MD, MSBS MBA, Assistant Professor, co-mentor 2020-present
 UT Austin, Dell Medical School Women's Health

Ghazaleh Moayedi, DO, research mentor 2020-2023
 Physicians for Reproductive Health

Post-doctoral fellows

Whitney Arey, PhD, primary mentor 2021-present

Anna Chatillon, PhD, primary mentor 2021-present

Emma Carpenter, PhD MSW, primary mentor 2020-2021

Elizabeth J. Ela, PhD, co-mentor 2019-2021

Doctoral Dissertation Committee Member

Michelle Eilers, *Department of Sociology, University of Texas at Austin* April 2023
 "Psychosocial Predictors of Young Adult Sexual and Reproductive Health Behaviors Amidst Conflicting Norms"

Pamela Musoke, *School of Public Health, University of Alabama at Birmingham* Mar 2019
 "Examining the impact of couple relationship factors on male engagement in pregnancy health and communal coping"

Whitney Smith, *School of Public Health, University of Alabama at Birmingham* May 2016
 "Examining the social and policy context of unintended pregnancy"

Medical students/fellows/other scholars

Lucy Cheng, Medical Student, *School of Medicine, University of Pittsburgh* Dec 2022 – present
 Evaluating the impact of socioeconomic and political events on patients' vasectomy perspectives
 Clinical Scientist Training Program, co-mentor

Adaobi Anakwe, Doctoral Student, *College for Public Health & Social Justice, St. Louis University* Oct 2020 – 2021
 The social ecosystem of men's preconception health and reproductive planning, SFP Emerging Scholars mentor

Ashley White, Doctoral Student, *Arnold School of Public Health, University of South Carolina* Oct 2019 – Sept 2020
 Men's vasectomy attitudes, knowledge, and practices, SFP Emerging Scholars mentor

Margaret Williams, Medical Student, *School of Medicine, University of Alabama at Birmingham* Apr 2018 – 2021
 Inconsistent healthcare access among abortion patients in Mississippi, mentor

Elizabeth Clark, Family Planning Fellow, *Dept of Obstetrics & Gynecology, Emory University* Sept 2018 – Aug 2019
 ACCESS: Assessment of Costs and Coverage of Ending pregnancy in the Southeastern States, co-mentor

Michelle Wang, Medical Student, *School of Medicine, University of Alabama at Birmingham* Feb 2018 – Aug 2019
 Assessment of barriers to access of emergency contraception for sexual assault survivors in Alabama, mentor

Comprehensive Exam Committee Chair

Amanda Nagle, MPH, *Department of Sociology University of Texas at Austin* Spring 2023

Brooke Whitfield, MA, *Department of Sociology University of Texas at Austin* Fall 2022

Kristen Burke, MA, *Department of Sociology University of Texas at Austin* Fall 2021

Master's Thesis Supervisor

Brooke Whitfield, *Department of Sociology, University of Texas at Austin* May 2022

"Examining the relationship between primary contraceptive method use and sexually transmitted disease in a nationally representative sample of young women"

Kari White

Master's Thesis Reader

Kristen Burke, *Department of Sociology, University of Texas at Austin* Dec 2019
 "Short-acting hormonal contraceptive use among low-income postpartum women in Texas"

Master's Thesis Committee Member

Brianna Trejo, *Department of Sociology, University of Texas, El Paso* expected June 2022
 "Abortion funds as care work: Navigating the emotional toll of the Texas executive order and COVID-19 pandemic"

Anna Bianchi, *Department of Anthropology, University of Alabama, Tuscaloosa* May 2017
 "Health deservingness frames of pregnant immigrant women by health care practitioners in Tuscaloosa, Alabama"

Victoria deMartelly, *Rollins School of Public Health, Emory University* May 2015
 "Socioeconomics and barriers to abortion access in Alabama"

Master's Practicum supervisor

Kara Abshire, *Rollins School of Public Health, Emory University* June – Aug 2018
 Victoria deMartelly, *Rollins School of Public Health, Emory University* June – Aug 2014

Masters Student Advising, University of Alabama at Birmingham

Elizabeth Tyron-Ebert	Aug 2018 – Aug 2019
Katelin Adams	June 2018 – Aug 2019
Macarena Martinez Ordenes	Sept 2017 – May 2019
Daniele Wesley	Sept 2017 – Dec 2018
Allison Thompson	Aug 2016 – 2019
Ashley Bridgmon	Jan 2016 – Dec 2017
Emily Morrell	Jan 2016 – Aug 2017
Kaylene Logan	May 2015 – Aug 2016
Haglaeeh Contreras	Aug 2013 – May 2016
Elaine McGlaughlin	Aug 2013 – Aug 2015
Erin Carroll Rockwell	Aug 2012 – May 2014
Lisa Moyer	Aug 2012 – Dec 2013

Undergraduate Thesis Supervisor

Eva Strelitz-Block, *Plan II, University of Texas at Austin* May 2023
 "The Politics of Medical Education: Abortion Care Training in Texas Medical Schools"
 *Received Dean's Distinguished Graduate Award

Undergraduate Thesis Reader

Gabriela Covarrubias, *Plan II, University of Texas at Austin* May 2022
 "Reforming sex ed in Texas"

Undergraduate Research Supervisor

Pritika Paramasivam, independent research project, *University of Texas at Austin* 2020-2023
 "Cultural, Political, and Social Barriers to Obtaining Abortions for Asian Americans in Texas: A Qualitative Study"

Rachel Wolleben, Bridging Disciplines Connecting Experiences, UT Austin 2021

PREVIOUS PROFESSIONAL POSITIONS

Research Associate Sept 2009 – June 2011
Division of Preventive Medicine, University of Alabama at Birmingham, Birmingham, AL

Graduate Research Assistant Aug 2006 – May 2011

Kari White

Population Research Center, University of Texas at Austin, Austin, TX

Research Associate

School of Medicine, Yale University, New Haven, CT

Sept 2003 – July 2006

Bilingual Family Advocate

National Alliance for the Mentally Ill – Southern Arizona, Tucson, AZ

Aug 2000 – May 2001

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

YELLOWHAMMER FUND, on)	
behalf of itself and its clients.)	CASE NO. 2:23-cv-00450-MHT
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	
)	
ATTORNEY GENERAL OF)	
ALABAMA STEVE MARSHALL,)	
in his official capacity)	
)	
Defendant.)	
)	
WEST ALABAMA WOMEN’S)	
CENTER, on behalf of themselves)	
and their staff; et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
STEVE MARSHALL, in his official)	
capacity as Alabama Attorney)	
General,)	
)	
Defendant.)	

**DECLARATION OF KELSEA MCLAIN IN SUPPORT OF PLAINTIFF’S
MOTION FOR SUMMARY JUDGMENT**

I, KELSEA MCLAIN, hereby declare under penalty of perjury that the following statements are true and correct:

1. I am the Deputy Director of the Yellowhammer Fund, a nonprofit corporation based in Alabama. Yellowhammer Fund provides support to pregnant and parenting people in Alabama, Mississippi, and the Florida Panhandle.

2. As Deputy Director, I ensure that all of our current programs are run successfully and that our budgets are delivered to the Executive Director. I am also responsible for human resources at Yellowhammer Fund, including supporting staff and new hires, maintaining performance goals, and honoring our team's hard work.

3. Before becoming Deputy Director in July 2022, I served as the Healthcare Access Director at Yellowhammer Fund. In that role, I helped to ensure that pregnant Alabamians had the funding and logistical support they needed to access abortion care both within and outside of Alabama. I also provided support to residents of other states who traveled to Alabama for abortion care. This role was focused on addressing the pressing abortion care needs of our community.

4. In total, I have been with the Yellowhammer Fund for four years. I have devoted my career to advocating for access to reproductive health care across the South, and have worked or volunteered in Texas, Alabama, Florida, and North Carolina.

5. I provide the following testimony based on personal knowledge.

Yellowhammer Fund's Abortion Fund Provided Critical Support to Pregnant People Seeking Abortion Care

6. Before *Dobbs*, one of my core responsibilities at Yellowhammer Fund was to support our abortion fund. The abortion fund was founded in 2017 in order to meet

pregnant Alabamians' need for financial and logistical support to access abortion care. I helped oversee the fund, ensuring that we were meeting our mission of decreasing barriers to abortion care, raising awareness about the fund and its services, and constantly improving our services to be more responsive to the needs of our community.

7. I worked directly with abortion clinics and other abortion care providers to ensure that they were aware of our services. I regularly communicated with clinics and providers, as well as other abortion funds and advocacy groups, to spread awareness of the fund and collaboratively address the needs of our community members. In addition to providing funding for abortions, our abortion fund also helped pregnant people with other logistical and practical needs associated with abortion access. These needs range from transportation to childcare arrangements to lodging to food. Our fund also assisted patients by making referrals to abortion providers.

8. Yellowhammer Fund's abortion fund operated a telephone help line and text line that patients could contact if they needed financial and logistical assistance for their abortions. In addition, clinics and providers would sometimes call the line to notify us that a patient needed financial and logistical support. Most of the patients who called our phone line had been referred by clinics or individual providers. We also accepted referrals via email.

9. After a patient or provider contacted us, Yellowhammer Fund's abortion fund would determine the total cost of the abortion, as well as the logistical and practical

support needs of our callers. We made financial pledges directly to clinics to help cover the cost of the abortion. If we were not able to cover the total cost of an abortion, we worked with other abortion funds to fill the gap. We also referred callers from other states to abortion funds in their state to help ensure that their financial needs were met.

10. I served as a case manager and provided direct support to our individual callers. It was my role to ensure that our callers received the support they needed, communicate with them to ensure that they were able to access care, and provide any follow-up support. We were there to support clients for as long as they needed us to be there for them.

11. The services provided by Yellowhammer Fund's abortion fund were incredibly important for our community. Many of our callers struggled to make ends meet, and most were below the federal poverty level. The majority of callers were on Medicaid or were uninsured. Our callers had limited savings, and many were already parents of one or more children. Depending on the gestational age of their pregnancies, the cost of abortion could range from several hundred to tens of thousands of dollars. Without our support, many of our callers would have struggled to gather the necessary funds for their abortions, and some would have been forced to carry their pregnancies to term against their wishes. Our abortion fund helped to ease the stress of accessing abortion care for our callers while helping them make decisions for themselves and their families.

12. Clients would often verbalize other health needs, including concerns over the health of their pregnancy and potential outcomes should they be forced to carry a pregnancy to term. Clients often expressed that they needed an abortion to protect their health and their lives. They were also concerned about the lack of access to health care providers in Alabama to ensure a safe and healthy pregnancy.

13. Additionally, many of the abortion fund's clients struggled to address the other needs associated with accessing abortion care. The cost of abortion care is more than the cost of the procedure or medication itself. For example, our callers also needed help making childcare arrangements, and many needed help with transportation and lodging. Even while abortion was still legal in Alabama, the limited number of abortion clinics in the state meant that some of our callers had to travel long distances to reach the nearest clinic. The cost of travel, as well as the costs of lodging and food, were insurmountable for many callers. Our fund helped cover those costs while also supporting our callers with the many logistical decisions necessary for accessing care—including making hotel arrangements, purchasing bus and plane tickets, and providing funds and assistance for food and childcare.

14. Like the majority of abortion patients in Alabama before *Dobbs*, most of the abortion fund's callers were Black. Black pregnant people face the most severe barriers to accessing abortion care. Our abortion fund helped to ease these burdens by ensuring

that our callers could make individual reproductive decisions for themselves and their families, regardless of their income level.

15. Our callers were also all low-income. Alabama is the sixth poorest state in the country, and our callers did not have the funds necessary to pay for expensive abortion care in other states, let alone to travel and cover all of their logistical needs—including lodging and childcare.

16. Many of our callers already had children and decided to have an abortion in order to ensure that they had the resources they needed to parent their children and care for their family.

17. As a reproductive justice organization, Yellowhammer Fund strongly believes that every person has the right to have a child, the right not to have a child, and the right to parent the children they have in safe and healthy environments. Our abortion fund helped communicate that message by ensuring that the callers we served could access the care they decided was best for themselves and their families.

Before the Attorney General's Threats, Yellowhammer Fund Intended to Continue Funding Out-of-State Abortions

18. Even before the U.S. Supreme Court's decision in *Dobbs*, Yellowhammer Fund anticipated that, if *Roe v. Wade* were overturned, the abortion fund would play a critical role helping pregnant Alabamians travel to states where abortion care remained legal.

19. In preparation for the potential decision, our fund started to plan to ensure we would be ready to provide travel support in the event that abortion was criminalized in Alabama. Among other things, I began developing relationships with clinics in states where abortion care was likely to remain legal. I estimate that before *Dobbs*, between 15-20% of the callers our fund supported had to travel outside of the state for abortion care. We expected that number to rise to 100% after *Dobbs*. I developed a spreadsheet with information about clinics across the country that could serve pregnant Alabamians, in order to ensure that our fund was ready to act quickly by making referrals for our callers. I also began to develop systems, including referral and case management systems, that we could use to ensure that we could respond appropriately to an increase in demand for funds and support after *Dobbs*.

20. Additionally, I worked with my team to ensure that our budget could accommodate requests for support. We anticipated that the requests would increase and that the costs of travel and of abortion care would increase exponentially if abortion was banned in Alabama.

21. I also began to prepare for potential expansion of the abortion fund. Because we anticipated that many more callers would have to travel out of the state for abortions, I expected to hire more people to help me with case management, travel support, and other needs of our callers. We were beginning to have conversations about other ways we could expand our work, including transporting clients across state lines.

**Since the Attorney General's Threats, the Need for Yellowhammer Fund's
Abortion Fund Has Only Grown**

22. After *Dobbs*, Alabama began enforcing a ban on abortion with few exceptions. Our fund temporarily stopped providing abortion funding and logistical support to pregnant Alabamians.

23. Soon after *Dobbs*, I learned that Attorney General Steve Marshall made threats to criminally prosecute abortion funds that provide support to Alabama residents who seek abortion care in states where it is legal. I learned that the attorney general made threats to prosecute funds for conspiracy or serving as an accessory to a violation of Alabama's abortion ban if they help provide financial and logistical support to Alabama residents traveling for out-of-state lawful abortion care. His comments specifically mentioned groups that work in Tuscaloosa, so I understood the threats to be directed towards us specifically. My general impression was that in the attorney general's statements, he described Yellowhammer Fund, our work, and our organization, without directly saying our name. We are the only group in Tuscaloosa doing this work that we are aware of, so his threats felt targeted directly at us.

24. These threats made me worried that I could be prosecuted for providing support through Yellowhammer Fund's abortion fund. I am also worried that my staff members and volunteers could be prosecuted if we provide funding and logistical support to help pregnant Alabamians access abortion care in states where it is lawful. We also feared that these threats would expose our clients to additional surveillance or that

their abortions would be implicated in any legal case brought against Yellowhammer Fund. These threats concerned us because we are always heavily focused on protecting our clients' privacy.

25. Because the attorney general's threats continue to make us fearful of prosecution, Yellowhammer Fund has not resumed providing funding and support through our abortion fund.

26. Even though our fund is no longer in operation, I continue to hear from pregnant Alabama residents who need financial and logistical support to access abortion care in other states where it is legal. Abortion is banned in Alabama, but it remains legal in other states in the country. Yellowhammer Fund's telephone help line receives between five and ten calls a week from people who are seeking support from the fund. We also still receive calls from clinics and providers who are trying to help patients find the resources they need to obtain an abortion. A significant portion of callers are later in their pregnancies because they have not been able to find support from other funds. For many callers, it feels like we are getting the phone call because we are their last hope, and these callers are at the end of the line trying to figure out resources for their abortions.

27. When Yellowhammer Fund receives those calls, our staff sends a response message to inform callers that we are no longer operating our abortion fund. Our message also tells callers that we cannot provide them with financial or practical support for an abortion in another state. We do not share information with patients about lawful

abortion care in other states because we are afraid that doing so could subject us to prosecution.

28. Now that abortion is illegal in Alabama, pregnant people in Alabama must travel several hundred miles to other states to access abortion care. It is no longer a matter of determining the nearest abortion clinic. Patients now have to consider a variety of factors when arranging abortion care: accessibility, if they know anyone who lives in the state they are traveling to, and availability of appointments, to name a few. Patients now commonly have to navigate air travel instead of arranging a car ride. The costs of travel, lodging, and other needs are very high.

29. Because Yellowhammer Fund is not able to provide support to pregnant Alabama residents, many of the people we would like to serve do not have the support they need. We know that some people who are not able to get funding or logistical support for out-of-state abortions are forced to carry their pregnancies to term. When we talk to people who reached out to us for funding, they sometimes tell us they were not able to get an abortion. We let these patients know they can reach out to Yellowhammer Fund for other support in their pregnancy and after giving birth. We are also hearing anecdotally from health care providers that some pregnant people report that they are carrying a pregnancy they would have otherwise terminated if they had been able to access abortion care.

30. There is heavy stigma and shame associated with parenting a child after not being able to obtain an abortion. The Defendant's threats harm pregnant Alabamians who are seeking lawful out-of-state abortion care because they isolate them from the supporters who can help them.

31. Many of the states surrounding Alabama ban or severely limit access to abortion. This includes Louisiana, Mississippi, North Carolina, South Carolina, Georgia, and Texas. As more states continue to restrict abortion care, the costs of traveling out-of-state for abortion care will continue to increase, making abortion increasingly inaccessible to many pregnant Alabamians.

32. I wish that the Yellowhammer Fund abortion fund could resume providing assistance to help meet Alabamians' significant need for financial and logistical support for abortions in other states, which has only grown since the attorney general's threats. Providing assistance to help pregnant Alabamians access abortion care in other states was an important way for me to send a message of dignity, love, and support to pregnant Alabamians. The abortion fund's services also helped to communicate the importance of bodily autonomy and every person's right to make decisions about their body. Funding abortion is not just about bridging the gaps but also about affirming the right to access abortion care and sending the message that getting an abortion shouldn't bankrupt people or ruin their lives. Funding abortion shows patients that unfair and unjust barriers to care should not impact how they feel about that care or their choice to obtain it.

33. If not for Attorney General Marshall's threats, I would be providing financial and practical support through Yellowhammer Fund's abortion fund. I would also be helping to advertise the services of the Yellowhammer Fund abortion fund, ensuring that pregnant Alabamians were aware of the fund and the availability of out-of-state abortion care, and overseeing a growing staff to meet the needs of pregnant Alabamians. Additionally, Yellowhammer Fund would be providing information about our services and our support of lawful out-of-state abortion care on our website and on social media. Yellowhammer Fund would be holding itself out as a funder and supporter of lawful abortion and helping as many pregnant Alabamians as our resources allowed.

34. Lastly, I am someone who has had abortions with the support of an abortion fund. This is why the restrictions in Alabama and the attorney general's threats have been so emotionally difficult for me: I have firsthand knowledge of how important abortion funds are for supporting pregnant people's dignity and autonomy. Abortion funds dismantle the stigma and shame people feel when they struggle to afford the necessary things in life. The amount of harm a person experiences when they cannot access abortion care is immeasurable and has a lifelong impact on people's families, happiness, health, and lives.

35. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 08/14/2023

A handwritten signature in black ink, consisting of a stylized 'K' followed by a series of loops and a long horizontal stroke extending to the right.

Kelsea McLain

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

YELLOWHAMMER FUND, on)
behalf of itself and its clients.)
)
Plaintiff,)
)
v.)
)
ATTORNEY GENERAL OF)
ALABAMA STEVE MARSHALL,)
in his official capacity)
)
Defendant.)
)
WEST ALABAMA WOMEN’S)
CENTER, on behalf of themselves)
and their staff; et al.,)
)
Plaintiffs,)
)
v.)
)
STEVE MARSHALL, in his official)
capacity as Alabama Attorney)
General,)
)
Defendant.)

**DECLARATION OF PAIGE SUELZLE IN SUPPORT OF PLAINTIFF’S
MOTION FOR SUMMARY JUDGMENT**

I, PAIGE SUELZLE, hereby declare under penalty of perjury that the following statements are true and correct:

1. I am a Legal Fellow at The Lawyering Project and counsel for Plaintiff in this action. I began my employment at The Lawyering Project in November 2022.

2. I provide the following testimony based on personal knowledge.

3. In preparation for this lawsuit, I searched online for an audio recording of Attorney General Steve Marshall's statements about prosecuting abortion funds which had previously been reported in the media. On or around December 15, 2022, I found the audio recording of Attorney General Marshall's comments on the Jeff Poor Show, 106.5 FM Talk, at the following link: <https://fmtalk1065.com/podcast/alabama-attorney-general-steve-marshall-jeff-poor-show-thursday-8-11-22>.

4. The recording was dated August 11, 2022, at 4:29:09 pm.

5. The Lawyering Project transcribed Attorney General Marshall's comments for purposes of this action, from approximately the 8:00 minute mark to the 10:01 minute mark.

6. I have verified that the following is an accurate transcription of Attorney General Marshall's radio remarks:

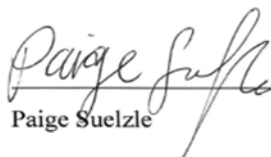
There is no doubt that [the Abortion Ban] is a criminal law, and the general principles that apply to a criminal law would apply to this . . . a classic felony, the most significant offense that we have as far as punishment goes under our criminal statute absent a death penalty case, and so, uh, provisions relating to accessory liability—uh provisions relating to conspiracy—uh would have applicability involving [the Abortion Ban]. So, for example, if

someone was promoting themselves out as a funder of abortion out of state, uh, then that is potentially criminally actionable for us. And so, one thing we will do in working with local law enforcement and prosecutors is making sure that we fully implement this law. You know there is nothing about that law that restricts any individual from driving across state lines and, uh, seeking an abortion, uh, in another place, however, I would say that if any individual held themselves out, uh, as a, as an entity or a group that is using funds, that they are able to raise, uh, to be able to facilitate those, uh, those visits then that, uh, is something we are going to look at closely. . . . To the extent that there is groups, and we've seen groups out of Tuscaloosa for example, that have one point in time have talked about it, some of them are doing it now, uh, but if they are promoting this as one of the services, uh, we clearly will be taking a look at that.

7. Over the past several months since discovering the audio recording, I have re-listened to the above-linked audio recording numerous times to confirm the accuracy of the transcription.

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 8/10/23


Paige Suelzle