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IN THE SUPREME COURT OF THE STATE OF IDAHO

**PLANNED PARENTHOOD GREAT
NORTHWEST, HAWAII, ALASKA,
INDIANA, KENTUCKY**, on behalf of itself,
its staff, physicians and patients, and **Caitlin
Gustafson, M.D.**, on behalf of herself and
her patients,

Petitioners,

v.

STATE OF IDAHO,

Respondent,

and

SCOTT BEDKE, in his official capacity as
Speaker of the House of Representatives of
the State of Idaho; **CHUCK WINDER**, in
his Official capacity as President Pro
Tempore of the Idaho State Senate; and the
SIXTY-SIXTH IDAHO LEGISLATURE,

Intervenors-Respondents.

Supreme Court No. 49615-2022

**MEMORANDUM IN SUPPORT OF
AMERICAN CENTER FOR LAW &
JUSTICE AND STANTON
HEALTHCARE'S PETITION FOR
LEAVE TO APPEAR AS AMICI
CURIAE**

COME NOW amici, American Center for Law & Justice (ACLJ) and Stanton Healthcare, by
and through undersigned counsel, and respectfully submit this memorandum in support of their

**MEMORANDUM IN SUPPORT OF AMERICAN CENTER FOR LAW & JUSTICE AND
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petition, pursuant to Rule 8 of the Idaho Appellate Rules, for leave to appear as amici curiae in the above-captioned matter for the purpose of filing a brief only. ACLJ and Stanton Healthcare’s appearance as amici curiae would be in support of Respondent, State of Idaho, and in support of Senate Bill 1309 (the “Fetal Heartbeat Preborn Child Protection Act”).

ACLJ and Stanton Healthcare wish only to submit an amici curiae brief and not to participate in oral argument.

STATEMENT OF INTEREST OF AMICI CURIAE

The American Center for Law and Justice (ACLJ) is a national, nonprofit organization dedicated to the defense of constitutional liberties secured by law, including the defense of the sanctity of human life. The ACLJ has participated as amicus curiae in several state and federal courts in support of the sanctity of human life. *See, e.g., June Medical Services v. Russo*, 140 S. Ct. 1101 (2020); *Dobbs v. Jackson Women’s Health Org.*, No. 19-1393 (Sup. Ct.); *Zimmerman v. City of Austin*, 620 S.W.3d 473 (Tex. App. 2021); and *Allegheny Reprod. Health Ctr. et al. v. Pa. Dep’t of Hum. Servs. et al.*, No. 26 MAP 2021, *on appeal from* No. 26 M.D. 2019, 249 A.3d 598 (Pa. Commw. Ct. 2021). This case is of particular interest to the ACLJ and its members because it concerns the fundamental human right to life.

The mission of Stanton Healthcare is to offer life-affirming solutions and resources to women experiencing an unexpected pregnancy, provide hope to those struggling from the pain of a past abortion, and share the message of sexual integrity in a confidential and professional environment that promotes physical, emotional, and spiritual wellness. To that end, Stanton Healthcare operates two medical clinics in Idaho that provide holistic services to clients experiencing an unexpected

pregnancy and ongoing relational care to women and men as they navigate pregnancy and parenthood. Stanton Healthcare gives assistance to those struggling emotionally or physically from previous abortion or pregnancy loss. Stanton Healthcare has witnessed first-hand the devastating effects of abortion on women and their families. It was organized and continues to operate to meet the needs of such individuals.

The ACLJ and Stanton Healthcare therefore have a profound interest in the outcome of this case and come before this Court as amici curiae to argue that SB 1309 is wholly consistent with the dictates of the Idaho Constitution. Nothing within the text of the Idaho Constitution, and decisions of this Court interpreting and applying that instrument, leads to the erroneous conclusion that SB 1309 is unconstitutional.

ARGUMENT

Petitioners challenge a recently adopted law (SB 1309) that affirms the sanctity of human life by restricting access to abortion services after six weeks of pregnancy. It cannot be gainsaid that the Court's decision in this case will have far-ranging consequences for all persons within the State of Idaho, born and unborn. As every citizen within the State will be affected by this Court's decision, every citizen has an interest in being heard in this important case.

Two organizations of citizens that wish to be heard are the ACLJ and Stanton Healthcare. As described above, the ACLJ (with members in every state, including Idaho) frequently appears before federal and state courts to defend constitutional liberties secured by law, including the defense of the sanctity of life. Counsel for the ACLJ have also presented expert testimony before state and federal legislative bodies, in addition to presenting oral argument, representing parties, and submitting

amicus briefs before the Supreme Court of the United States and numerous state and federal courts around the country. The ACLJ, with the support of hundreds of thousands of its members, is dedicated to defending innocent human life through the support and defense of pro-life laws.

Stanton Healthcare sees the effects of abortion on its clients daily. It witnesses first-hand the devastating consequences abortion has on women (including teenage girls), fathers, and families. Stanton Healthcare supported SB 1309 while it was being debated and considered in the Idaho state legislature and seeks to help defend that law before this Court.

ACLJ and Stanton Healthcare will argue against Petitioners' assertion that Senate Bill 1309 violates the Idaho Constitution. Amici will show that the Idaho Constitution values human life, and Idaho statutes appropriately provide civil remedies when innocent human life is wrongfully taken—including the lives of preborn children. Furthermore, no provision of the Idaho Constitution—separately or taken together—creates a right to privacy that encompasses a right to an abortion. While it cannot be disputed that the Constitution offers Idahoans rights of privacy and autonomy in various ways and under different circumstances, the termination of one's unborn progeny is a "right" nowhere grounded in that text.

As with the Constitution of the United States, Idaho's Constitution is silent on the issue of abortion. The Constitution of Idaho does, however, recognize that "[a]ll men are by nature free and equal, and have certain inalienable rights, among which are *enjoying and defending life* and liberty" *Id.* Const. Art. 1 § 1 (emphasis added). Idaho clearly values and protects innocent human life. As this Court has stated: "[b]asic to our culture is the precept that life is precious. As a society

therefore, our laws have as their driving force the purpose of protecting, preserving and improving the quality of human existence.” *Blake v. Cruz*, 108 Id. 253, 260, 698 P.2d 315, 322 (1983).

Senate Bill 1309 conforms with and enhances the driving purpose behind Idaho’s laws, as it not only serves to protect and preserve the lives of preborn children, but it also aids in improving the lives of their parents, family members—and society in general—who would otherwise be prevented from enjoying the love, joy, and unique contributions to society these precious children have to offer.

If this Court were to newly discover a right to abortion in this case, it would not only be a profound disservice to the people of Idaho and the Idaho Constitution itself, but it would also set this Court upon the same long and tortuous path the U.S. Supreme Court has stumbled along for fifty years—a journey that may soon come to an end.

Amici are mindful of the April 28, 2022, deadline for the Respondent to file its Verified Answer and separate response brief. Should Amici’s petition for leave to appear as amici curiae be granted, they will submit their amici curiae brief by that deadline.

CONCLUSION

For the foregoing reasons, ACLJ and Stanton Healthcare respectfully request that the Court grant their petition for leave to appear as amici curiae in this case.

DATED this 20th day of April, 2022.

/s/ David J. Myers
David J. Myers

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2022, I electronically filed the foregoing with the Clerk of the Court using the iCourt e-file system, and caused the following parties or counsel to be served by electronic means:

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