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*Attorneys for Respondents*

**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; BRAD LITTLE, in his  
official capacity as Governor of the State of  
Idaho; LAWRENCE WASDEN, in his official  
capacity as Attorney General of the State of  
Idaho; JAN M. BENNETTS, in her official  
capacity as Ada County Prosecuting Attorney;  
GRANT P. LOEBS, in his official capacity as  
Twin Falls County Prosecuting Attorney;  
IDAHO STATE BOARD OF MEDICINE;  
IDAHO STATE BOARD OF NURSING; and  
IDAHO STATE BOARD OF PHARMACY,

Respondents,

and

Docket No. 49899-2022

**NOTICE OF RESPONDENTS'  
SUPPLEMENTAL AUTHORITY**

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.

Pursuant to I.A.R. 34(e)(1), Respondents submit this notice of supplemental authority in support of their argument that this Court should not grant Petitioners' Verified Petition for Writ of Prohibition and Application for Declaratory Judgment and grant their motion to strike. This filing further serves as notice pursuant to the Set for Hearing by Supreme Court form that counsel for Respondents intends to cite these authorities during argument.

- *State v. Smith*, No. 49461, 2022 WL 4004014, at \*13 (Idaho 2022) (holding that at domestic battery trial, nurse's testimony about bruising and its appearance on dark skin tones was not permissible lay testimony, and describing as a "growing problem" cases where "there is the proverbial 'expert in lay witness clothing' who, if going unnoticed, can evade the reliability requirements of Rule 702 and mandatory discovery requirements for experts");
- *Matter of Doe*, No. 49529, 2022 WL 4295304, at \*5 (Idaho 2022) (rejecting equal protection claim of unwed father and explaining that, due to the biological realities of pregnancy and birth, "[the father] is incorrect that he and Mother had equivalent parental rights at birth by virtue of biology alone");
- *Crooks v. Mabus*, 845 F.3d 412, 417-18 (D.C. Cir. 2016) (applying facial challenge standard from *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489 (1982), and rejecting a facial challenge to a navy regulation);
- *Planned Parenthood of Indiana and Kentucky, Inc. v. Marion Cnty. Prosecutor*, 7 F.4th 594, 598-606 (7th Cir. 2021) (applying *Hoffman*, and holding that a statute requiring

physicians to report complications arising from abortion procedures was not unconstitutionally vague);

- *Kashem v. Barr*, 941 F.3d 358, 364 (9th Cir. 2019) (declining to reach the plaintiffs’ facial challenge arguments where No Fly List criteria were not vague as applied, citing *Hoffman*, which requires the challenger to show vagueness in all applications); and
- *United States v. Requena*, 980 F.3d 30, 39-43 (2d Cir. 2020) (applying *Hoffman* and the standard from *United States v. Salerno*, 481 U.S. 739 (1987), differentiating *Johnson v. United States*, 576 U.S. 591 (2015), and rejecting facial challenge to federal controlled substance statute regulating synthetic cannabinoids).

DATED this 4th day of October, 2022.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By: /s/ Megan A. Larrondo  
MEGAN A. LARRONDO  
Deputy Attorney General

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 4th day of October, 2022, I electronically filed the foregoing with the Clerk of the Court using the iCourt e-file system which sent a Notice of Electronic Filing to the following persons:

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