

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>PLANNED PARENTHOOD</b>	:	Case No. 1:15-cv-568
<b>SOUTHWEST OHIO REGION, et al.,</b>	:	
	:	<b>Judge Michael R. Barrett</b>
<i>Plaintiffs,</i>	:	
vs.	:	
	:	
<b>BRUCE T. VANDERHOFF, M.D.,</b>	:	<b><u>PLAINTIFFS' MOTION FOR</u></b>
	:	<b><u>SUMMARY JUDGMENT</u></b>
<i>Defendant.</i>	:	

**MOTION**

Pursuant to this Court’s Calendar Order (May 20, 2022), Plaintiffs hereby move for summary judgment against Defendant under Federal Rule of Civil Procedure 56 on the grounds that there is no genuine issue of material fact as to Plaintiffs’ claims, and Plaintiffs are entitled to judgment as a matter of law that the Written Transfer Agreement (“WTA”) Requirement, Ohio Rev. Code Ann. §§ 3702.303-04(A); Ohio Admin. Code § 3701-83-14(C); Public Hospital Ban, Ohio Rev. Code Ann. § 3727.60; and Automatic Suspension Provision, *id.* § 3702.309(A), are unconstitutional. Plaintiffs have a constitutionally protected property interest in both the continued operation of their facilities and the continued possession of their facilities’ Ambulatory Surgical Facility licenses. *See Women’s Med. Prof’l Corp. v. Baird*, 438 F.3d 595 (6th Cir. 2006). The undisputed evidence proves that 1) the WTA Requirement and Public Hospital Ban unconstitutionally delegate authority to determine Plaintiffs’ property interest to private parties (Pls.’ Third Am. Compl. ¶¶ 138-39, ECF No. 177 (“Am. Compl.”)); 2) the Automatic Suspension Provision unconstitutionally deprives Plaintiffs of their protected property interests without affording them any procedural protections (Am. Compl. ¶¶ 140-41); and 3) the WTA Requirement and the Ohio Department of Health’s enforcement thereof unconstitutionally threaten to deprive

Plaintiffs of their protected property interests without affording them fair notice of what the law requires and adequate procedural protections (Am. Compl. ¶¶ 142-43).

Dated: July 29, 2022

Respectfully submitted,

/s/ B. Jessie Hill

CARRIE Y. FLAXMAN  
Planned Parenthood Federation of America  
1110 Vermont Avenue, NW, Suite 300  
Washington, DC 20005  
(202) 973-4800  
(202) 296-3480 (fax)  
[carrie.flaxman@ppfa.org](mailto:carrie.flaxman@ppfa.org)  
*Admitted Pro Hac Vice*  
*Co-counsel for Plaintiff Planned Parenthood*  
*Southwest Ohio Region*

MELISSA COHEN  
Planned Parenthood Federation of America  
123 William Street, Floor 9  
New York, NY 10038  
Telephone: (212) 541-7800  
Fax: (212) 247-6811  
[melissa.cohen@ppfa.org](mailto:melissa.cohen@ppfa.org)  
*Admitted Pro Hac Vice*  
*Co-counsel for Plaintiff Planned Parenthood*  
*Southwest Ohio Region*

FREDA J. LEVENSON #0045916  
ACLU of Ohio Foundation, Inc.  
4506 Chester Avenue  
Cleveland, OH 44103  
(216) 472-2220  
(216) 472-2210 (fax)  
[flevenson@acluohio.org](mailto:flevenson@acluohio.org)  
*Counsel for Plaintiff Planned Parenthood*  
*Southwest Ohio Region and Plaintiff*  
*Women's Med. Group Professional*  
*Corporation*

B. JESSIE HILL #0074770  
*Trial Attorney for Plaintiffs*  
Cooperating Counsel for the ACLU of  
Ohio  
Case Western Reserve Univ., School of  
Law  
11075 East Boulevard  
Cleveland, Ohio 44106  
(216) 368-0553  
(216) 368-2086 (fax)  
[bjh11@cwru.edu](mailto:bjh11@cwru.edu)  
*Counsel for Plaintiff Planned*  
*Parenthood Southwest Ohio Region*  
*and Plaintiff Women's Med. Group*  
*Professional Corporation*

RACHEL REEVES  
BRIGITTE AMIRI  
KYLA EASTLING\*  
American Civil Liberties Union  
Foundation  
125 Broad Street, 18<sup>th</sup> Floor  
New York, NY 10004  
(212) 284-7358  
(212) 549-2651 (fax)  
[rreeves@aclu.org](mailto:rreeves@aclu.org)  
[bamiri@aclu.org](mailto:bamiri@aclu.org)  
[keastling@aclu.org](mailto:keastling@aclu.org)  
*Admitted Pro Hac Vice*  
*\*Admission for Pro Hac Vice*  
*forthcoming*  
*Of-Counsel for Plaintiff Women's Med.*  
*Group Professional Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 29, 2022, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing pleading and the Notice of Electronic Filing has been served by ordinary U.S. mail and email upon all parties for whom counsel has not entered an appearance electronically.

/s/ B. Jessie Hill

*Attorney for Plaintiffs*