

REV. PAULA EKNES TUCKER, et al

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff Intervenor;

v.

SIEVE MARSHALL, et al

Defendants

Civil Action No

222 cv 00184 LCB CWB

Pursuant to Federal Rule of Civil Procedure 15(a)(2), Plaintiffs Rev. Paul A. Eknes Tucker; Brianna Roe, individually and on behalf of her minor son, Michael Roe; Megan Roe, individually and on behalf of her minor daughter; Allison Roe; Kathy Noe, individually and on behalf of her minor son, Christopher Noe; Rebecca Roe, individually and on behalf of her minor daughter Melissa Roe; Robert Voe, individually and on behalf of her minor daughter; April Voe; Heather Austin, PhD; and Rachel Koe, MD (collectively, the "Private Plaintiffs") hereby move for leave to file the Second Amended Complaint ("SAC") attached hereto as Exhibit A, respectfully showing the Court as follows

1 On August 9, 2022, the Private Plaintiffs filed a First Amended Complaint (Doc. 146) (the “FAC”), asserting various claims challenging the Alabama Vulnerable Child Compassion and Protection Act (the “Act”).

2 On August 23, 2022, Defendants filed a Motion to Dismiss certain claims asserted in the FAC (Doc. 150) (the “Motion to Dismiss”), including the Private Plaintiffs’ claim in Court III of the FAC that the Act is preempted, the Private Plaintiffs’ claim in Court IV of the FAC that the Act deprives the Private Plaintiffs of their right to free speech, invasion of the First Amendment, and the Private Plaintiffs’ claim in Court V that the Act is void for vagueness.

3 During the hearing on Plaintiffs’ Motion for Preliminary Injunction, “Alabama Solicitor General Edmund LaCour explained that a person must administer or prescribe transitioning medications to violate the Act” and “opined that a person cannot violate the Act simply by advising a minor to take transitioning medications or by driving a minor to a gender clinic where transitioning medications are administered.” May 13, 2022 Opinion and Order (Doc. 107), at 26 (the “Preliminary Injunction Order”).

4 The Court found in its Preliminary Injunction Order that “the Act does not criminalize speech that could indirectly lead to a minor taking transitioning medications,” but only speech “which compels the administration or prescription of transitioning medications to minors.” id. at 28.

5 The Private Plaintiffs have considered the arguments raised in the Motion to Dismiss in light of the above-referenced representations made by Defendants' counsel on the record during the preliminary injunction hearing and the above-referenced findings in the Court's Preliminary Injunction Order and, in reliance on same, have decided to withdraw certain claims asserted in the FAC. Thus, the Private Plaintiffs seek to file the SAC attached hereto as Exhibit A, which withdraws the claims previously asserted by Plaintiff Rev. Paul A. Elmes Tucker and the claims previously asserted in Courts III, IV, and V of the FAC.

6 The Private Plaintiffs have conferred with counsel for Plaintiff Intervenor and counsel for Defendants Plaintiff Intervenor and Defendants consent to the filing of the SAC attached hereto as Exhibit A.

7 Wherefore, the Private Plaintiffs respectfully request that the Court grant their motion for leave to amend and permit the Private Plaintiffs to file the SAC attached hereto as Exhibit A.

Respectfully submitted this 12th day of September, 2022

**/s/ Melody H Eagan
Melody H Eagan (ASB 9780 D38M)
Jeffrey P. Doss (ASB 4212 R63D)
Amie A. Vague (ASB 4113 Q46)
LIGHTFOOT, FRANKLIN & WHITE LLC
The Clark Building**

jdoss@lightfootlaw.com
avague@lightfootlaw.com

J Andrew Platt (ASB 3507J56P)
Misty L. Peterson (GA Bar No 243715) (pro hac vice)
Adam Reinke (GA Bar No 51046) (pro hac vice)
KING & SPALDING LLP
1180 Peachtree Street Northeast, Suite 1600
Atlanta, GA 30309
404.572.4600
aplatt@kslaw.com
mpeterson@kslaw.com
areinke@kslaw.com

Bert P. Ray (IL Bar No 6291911) (pro hac vice)
Abigail Hoveman Terry (IL Bar No 6327057)
L (pro hac

**Jennifer L. Levi (MA Bar No 562298) (pro hac
vice)**

