

No. 23-0697

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In the Supreme Court of Texas

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**The State of Texas, *et al.*,**  
**Appellants**

v.

**Lazaro Loe, *et al.*,**  
**Appellees**

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On Appeal from the 201st Judicial District Court  
Travis County, Texas (Cause No. D-1-GN-23-003616)

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**Brief of Conservative Legislators, Former Legislators,  
and Activists as *Amici Curiae* Supporting Affirmance**

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Charles “Chad” Baruch  
Texas Bar Number 01864300  
chad@jtlaw.com  
Robert L. Tobey  
Texas Bar Number 20082975  
robert@jtlaw.com  
Johnston Tobey Baruch, P.C.  
12377 Merit Drive, Suite 880  
Dallas, Texas 75251  
Telephone: (214) 741-6260  
Facsimile: (214) 741-6248

*Counsel for Amici Curiae*

## Supplemental Identity of Parties and Counsel

### ***Amici Curiae* Conservative Legislators, Former Legislators, and Activists**

Kim Banta (R-KY)

Member of the Kentucky House of Representatives, 2019–Present.

Sarah Davis (R-TX)

Member of the Texas House of Representatives, 2011–2021.

Jordan Willow Evans (R-MA)

Town Constable of Charlton, Mass., 2016–2020; Member of the Dudley-Charlton Regional School Committee, 2020–2022; and the Nation’s first openly transgender elected Republican.

Chad Ingels (R-IA)

Member of the Iowa House of Representatives, 2021–Present.

Ileana Ros-Lehtinen (R-FL)

Member of the U.S. House of Representatives, 1989–2019.

Logan Phillips (R-OK)

Member of the Oklahoma House of Representatives, 2018–2022.

Chris Sander (R-MO)

Member of the Missouri House of Representatives, 2021–Present.

Dan Zwonitzer (R-WY)

Member of the Wyoming House of Representatives, 2005–Present.

#### *Counsel for Amici Curiae*

Charles “Chad” Baruch

Texas Bar Number 01864300

chad@jtlaw.com

Robert L. Tobey

Texas Bar Number 20082975

robert@jtlaw.com

Johnston Tobey Baruch, P.C.

12377 Merit Drive, Suite 880  
Dallas, Texas 75251  
Telephone: (214) 741-6260

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### Other Authorities:

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Samantha Valentino, *Ky. lawmakers who broke from party lines on ‘anti-trans’ bill explain their vote*, WKYT (May 17, 2023),  
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Sarah Davis, *My Republican Colleagues’ Anti-Transgender Laws Threaten American Freedom*, Newsweek (July 6, 2023),  
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## Identification of *Amici Curiae*

*Amici curiae* are Republicans and political conservatives from diverse backgrounds who have served as federal, state, and local officials.<sup>1</sup> They share the conservative principle of limited government and respect for liberty—including the rights of families and parents to make decisions in the best interests of their children. The amici are:

Kim Banta (R-KY)  
Member of the Kentucky House of Representatives, 2019–Present.

Sarah Davis (R-TX)  
Member of the Texas House of Representatives, 2011–2021.

Jordan Willow Evans (R-MA)  
Town Constable of Charlton, Mass., 2016–2020; Member of the Dudley-Charlton Regional School Committee, 2020–2022; and the Nation’s first openly transgender elected Republican.

Chad Ingels (R-IA)  
Member of the Iowa House of Representatives, 2021–Present.

Ileana Ros-Lehtinen (R-FL)  
Member of the U.S. House of Representatives, 1989–2019.

Logan Phillips (R-OK)  
Member of the Oklahoma House of Representatives, 2018–2022.

Chris Sander (R-MO)  
Member of the Missouri House of Representatives, 2021–Present.

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<sup>1</sup> No counsel for a party authored this brief in whole or in part. No party, no counsel for a party, and no person other than *Amici* and their counsel made a monetary contribution to fund the preparation or submission of this brief. Tex. R. App. P. 11(c).



Dan Zwonitzer (R-WY)  
Member of the Wyoming House of Representatives, 2005–Present.

Parents— including parents of transgender children—want their children to be safe, happy, and healthy. Reasonable people can disagree about what is best for kids. But the question here is *who* makes that decision: their parents or government bureaucrats? *Amici* believe the Constitution protects the traditional rights of families and prescribes a limited government that respects parental authority.

Specifically, the Constitution safeguards the fundamental right of parents to make important medical decisions for their minor children without interference by the State. Texas’s law that bans gender-affirming medical care for minors with gender dysphoria (like the many similar laws recently enacted by other states) trenches on this right by usurping the parental role and intruding into a family’s medical choices.

In light of *Amici*’s extensive and varied experience working to protect and support parents and families through the political process, *Amici* believe this brief will assist the Court with its consideration of this case.

### **Introduction and Summary of the Argument**

Parents know what is best for their children far better than the government does. And in our constitutional system, parents have the

fundamental right to make critical decisions about the care of their own children—including medical decisions. While the government has a role to play in keeping kids safe, that role is limited and does not justify the State second-guessing the judgments of parents acting in good faith who are best positioned to know what is in the best interest of their children. States have no business overruling the decisions of fit parents who make an informed medical choice for their children that is supported by their doctors, by the medical profession more generally, by the children themselves, and by their conscience. That is not limited government. And it is not constitutional.

Texas has done just that by enacting S.B. 14, banning certain gender-transitioning and gender-affirming procedures for minors. Numerous other states have recently adopted similar bans, some of which make it a crime to provide such care or consider the facilitation of such care to be child abuse. These laws are “a vast government overreach,” as the former Republican Governor of Arkansas Asa Hutchinson put it in explaining why he vetoed similar legislation, because they anoint “the state as the definitive oracle of medical care, *overriding parents*, patients and health-care experts.”<sup>2</sup> Likewise,

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<sup>2</sup> Asa Hutchinson, *Why I vetoed my party’s bill restricting health care for transgender youth*, WASH. POST (Apr. 8, 2021), <https://www.washingtonpost.com/opinions/asa->

the Republican Governor of Ohio Mike DeWine recently vetoed similar legislation because he rejected the premise that “the State ... knows what is best medically for a child rather than the two people who love that child the most, the parents”—particularly when the State’s decision is “also against the medical judgement of the treating physician and the treating team of medical experts.”<sup>3</sup>

Other prominent defenders of limited government recognize this as well. Former New Jersey Governor Chris Christie, for instance, emphasized that how to care for a transgender child is “more of a parent’s decision than a governor’s decision,” because “parents are the people who are best positioned to make these judgments” and “the government should [n]ever be

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[hutchinson-veto-transgender-health-bill-youth/2021/04/08/990c43f4-9892-11eb-962b-78c1d8228819\\_story.html](https://www.ohio.gov/content/ohio-gov/content/ohio-gov/ohio-gov/hutchinson-veto-transgender-health-bill-youth/2021/04/08/990c43f4-9892-11eb-962b-78c1d8228819_story.html) (emphasis added).

<sup>3</sup> State of Ohio Exec. Dep’t, Off. of the Governor, *Veto Message: Statement of Reasons for Veto of Substitute House Bill 68* (Dec. 29, 2023), [http://content.govdelivery.com/attachments/OHIOGOVERNOR/2023/12/29/file\\_attachments/2731770/Signed%20Veto%20Message%20HB%2068.pdf](http://content.govdelivery.com/attachments/OHIOGOVERNOR/2023/12/29/file_attachments/2731770/Signed%20Veto%20Message%20HB%2068.pdf).

stepping into the place of the parents.”<sup>4</sup> Many of *Amici* have also publicly defended parental rights from legislation akin to that at issue here.<sup>5</sup>

The authority claimed by the State here to trample on parents’ decisions about their own kids sweeps far beyond this particular legislation. People of good faith have strongly held views on both sides of debates on issues involving children and gender dysphoria. If Texas and other states can impose their will on parents, then so can states and local governments that think differently—for instance, by allowing (or requiring) schools to shut parents out of discussions regarding their child’s gender expression.

Beyond the gender-identity context, there is no end to the kinds of parental decisions that local, state, or federal officials could hijack whenever

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<sup>4</sup> Brooke Migdon, *Christie knocks transgender health care bans on campaign trail: ‘It’s more of a parent’s decision’*, The Hill (June 23, 2023), <https://thehill.com/homenews/campaign/4065197-christie-knocks-transgender-health-care-bans-on-campaign-trail/>.

<sup>5</sup> See, e.g., Sarah Davis, *My Republican Colleagues’ Anti-Transgender Laws Threaten American Freedom*, NEWSWEEK (July 6, 2023), <https://www.newsweek.com/my-republican-colleagues-anti-transgender-laws-threaten-american-freedom-opinion-1811107>; Ileana Ros-Lehtinen, *Former Republican Congresswoman: The GOP Needs the LGBTQ*, Newsweek (Aug. 22, 2023), <https://www.newsweek.com/former-republican-congresswoman-gop-needs-lgbtq-1821713>; Samantha Valentino, *Ky. lawmakers who broke from party lines on ‘anti-trans’ bill explain their vote*, WKYT (May 17, 2023), <https://www.wkyt.com/2023/03/17/ky-lawmakers-who-broke-party-lines-anti-trans-bill-explain-their-vote/>; Lulu Garcia-Navarro, *Why the G.O.P.’s Attack on Trans Rights Could Backfire on the Party*, N.Y. Times (Mar. 2, 2023), <https://www.nytimes.com/2023/03/02/opinion/trans-gender-attacks-republican-party.html>.

they think they know better than parents. Government has no business interfering with parental value judgments in this manner. The Constitution wisely deposits that power in the hands of parents “to direct the education and upbringing of [their] children.” *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997).

An Iowa Republican legislator—and a signatory to this brief—who voted against a bill similar to this one hit the nail on the head: These bans ignore the basic and inviolable principle that “parents matter.”<sup>6</sup> *Amici* agree. So do the U.S. and Texas Constitutions. This Court should affirm the trial court’s temporary injunction.

### **Argument**

Among other conclusions, the trial court concluded that S.B. 14 “likely violates Article I, Section 19 of the Texas Constitution by infringing upon the fundamental right of parents to make decisions concerning the care, custody, and control of their children.” 7.CR.2151.

That holding turned on the Texas Constitution, but this Court’s recognition of “the fundamental nature of the parental right to make child-

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<sup>6</sup> Iowa Capital Dispatch, *Rep Chad Ingels on SF 538 1*, YouTube (Mar. 12, 2023), <https://www.youtube.com/watch?v=4RAHdguMepo>.

rearing decisions” under Texas law is akin to the analogous right under the Federal Constitution. *In re D.T.*, 625 S.W.3d 62, 69 (Tex. 2021). Moreover, “the language of the Texas Constitution’s due process and equal protection clauses is broader than the federal” counterparts and, in any event, states “may not deny individuals the minimum level of protection mandated by the Federal Constitution.” *Davenport v. Garcia*, 834 S.W.2d 4, 14–15 (Tex. 1992).

Accordingly, *Amici* submit that examination of the *federal* due process right of parents to direct the medical care of their children is sufficient to affirm the trial court’s injunction.

**1. S.B. 14 usurps the constitutional right of parents to make important healthcare choices for their minor children.**

Reflecting bedrock “concepts of the family as a unit with broad parental authority over minor children,” “our constitutional system long ago rejected any notion that a child is ‘the mere creature of the State.’” *Parham v. J.R.*, 442 U.S. 584, 602 (1979) (quoting *Pierce v. Soc’y of Sisters*, 268 U.S. 510, 535 (1925)). A long line of U.S. Supreme Court cases firmly establishes “that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.” *Troxel v. Granville*, 530 U.S. 57, 66 (2000) (plurality opinion) (collecting “this extensive precedent”).

Indeed, that parental right—to direct the upbringing of their children—“is perhaps the oldest of the fundamental liberty interests recognized by [the U.S. Supreme] Court.” *Troxel*, 530 U.S. at 65. It encompasses the right “to recognize symptoms of illness and to seek and follow medical advice.” *Parham*, 442 U.S. at 602. “Simply because the decision of a parent ... involves risks does not automatically transfer the power to make that decision from the parents to some agency or officer of the state.” *Id.* at 603.

In keeping with this constitutional principle, it is generally the *parents’* decision, not the State’s, whether to seek certain medical treatments for their minor children—particularly when those treatments are widely accepted in the medical community and are legal for adults. By enacting S.B. 14, the State claims the power to make that decision instead of the child’s parents.

Indeed, in this Court, Texas argues (Op. Br. at 25) that “the Legislature has determined that as a matter of Texas public policy” that “the prohibited gender-transitioning treatments are too risky to be performed on children” because they “lack the maturity and cognitive development necessary to appreciate their long-term effects.”<sup>7</sup>

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<sup>7</sup> To similar effect, in an *amicus* brief before the Eleventh Circuit, Texas and numerous other states defended these bans on the ground that “minors struggle to navigate peer pressure, weigh costs and benefits of life-altering decisions, or make clear-headed

But *Parham* says “that *parents* possess what a child lacks in maturity,” and “[m]ost children, even in adolescence, simply are not able to make sound judgments concerning many decisions, including their need for medical care or treatment. *Parents* can and must make those judgments.” *Parham*, 442 U.S. at 602–03 (emphases added). The State’s effort to usurp the parental role and responsibility is directly contrary to the Constitution’s guarantee of “liberty,” and the sphere of authority the Constitution reserves for parents “to direct the ... upbringing” of their own children. *Glucksberg*, 521 U.S. at 720.

At bottom, the Texas statute at issue here is an attempt by “the State to inject itself into the private realm of the family to further question the ability of [a fit] parent to make the best decisions concerning the rearing of that parent’s children.” *Troxel*, 530 U.S. at 68-69. It should be uncontroversial that parents—not the State—have primary authority over their children. This statute violates that elementary truth and, with it, the Constitution.

Crucially, this is not a situation in which the State has deemed the medical treatments at issue to be too risky, unsafe, or experimental as a *general* matter. In fact, these treatments are fully legal and available for adults. Many

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judgments about their adult lives.” Br. of the States of Arkansas et al. 13, *Eknes-Tucker v. Governor of Alabama*, No. 22-11707 (11th Cir. July 5, 2022).



of these same treatments (for example, hormone therapy) also remain legal for *all minors* so long as they are not “[f]or the purpose of transitioning a child’s biological sex”—even though such treatments for a different purpose have *the same* physiological effects. Tex. Health & Safety Code Ann. § 161.703(a)(1).

Instead, S.B. 14 makes a paternalistic rule *for minors as a category* that draws a bright-line between 17-year-olds and 18-year-olds. The statute’s ban turns entirely on the general age of majority because it is aimed at shielding children from choices they would be free to make as adults. *See* Opening Br. at 36 (acknowledging that “the procedures . . . are lawful once the patient reaches adulthood”). Of course, that is generally the parents’ duty—but the State does not trust parents to make that decision for their own children.

The theory underlying this ban is plain: Believing that children cannot make choices about medical care for themselves given the potential long-term implications, the State decides it must step in, vetoing the judgments of not just children but their parents. That approach defies the concept of family embedded in our constitutional system, which charges *parents* with making important medical decisions for their children, not a state legislature. *See Parham*, 442 U.S. at 603 (“Simply because the decision of a parent . . . involves

risks does not automatically transfer the power to make that decision from the parents to some agency or officer of the state.”).

To put it bluntly, the State thinks it knows how to take care of children better than the children’s own parents, and, even more disturbingly, that it has the right to substitute its own judgment for that of the parents. That view is anathema to the Constitution.<sup>8</sup>

**2. The authority claimed by the State would provide a blueprint for States to override parents’ decisions wholesale.**

While the State may prefer to override certain choices parents make about the care of their children, the authority it claims would open Pandora’s box. It takes little imagination to picture a different local government, state legislature, or even Congress enacting policies that run roughshod over the rights of parents in a way that offends the preferences of Texas’s current government. A few examples illustrate the point.

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<sup>8</sup> Contrary to the State’s argument it is beside the point that parents ordinarily cannot “obtain banned medical treatments for their children.” Opening Br. at 27 (quoting *L. W. ex rel. Williams v. Skrmetti*, 83 F.4th 460, 475 (6th Cir. 2023)). No one doubts that the State may generally ban certain risky medical treatments or procedures. What it cannot do, though, is enact a special ban only for children on the theory that the State, not parents, has the right to make important medical decisions that children cannot make on their own. As Judge White put it, Texas “did not ban treatment for adults and minors alike; [it] banned treatment for minors *only*, despite what minors or their parents wish.” *L. W.*, 83 F.4th at 510 (White, J., dissenting). Thus, “the issue is the *who*—who gets to decide whether a treatment otherwise available to an adult is right or wrong for a child? Do parents have the right to make that call, or does the government get to decide for itself, notwithstanding the parents’ determinations of what is in their children’s best interests?” *Id.*

Consider a school district in Maryland that enacted a policy authorizing schools to implement “gender support plans” that help students pursue a gender transition without the knowledge or consent of the students’ parents. *John and Jane Parents 1 v. Montgomery Cnty. Bd. of Educ.*, 78 F.4th 622, 626 (4th Cir. 2023). The policy provides that “the school may withhold information about a student’s gender support plan ‘when the family is nonsupportive.’” *Id.* at 627.<sup>9</sup> In that case, a group of parents understandably argued that “the Parental Preclusion Policy violates their fundamental right to raise their children under the Fourteenth Amendment of the Constitution.” *Id.* But that fundamental right cannot extend only to parents who make parental decisions of which the government *approves*.

This isn’t an isolated example. Maine recently enacted legislation permitting minors to obtain hormones for the purpose of gender transitions *without parental consent* in some circumstances.<sup>10</sup> And Washington changed its

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<sup>9</sup> Pushing the same line, California is already suing a school district that “requir[es] schools to notify parents if their children change their gender identification or pronouns.” Amy Taxin & Sophie Austin, *California sues district that requires parents be notified if their kids change their gender or pronouns*, PBS (Aug. 28, 2023), <https://www.pbs.org/newshour/politics/california-sues-district-that-requires-parents-be-notified-if-their-kids-change-their-gender-or-pronouns>.

<sup>10</sup> See Robbie Feinberg, *Maine expands ability of older teens to receive gender-affirming care without parents’ consent*, WBUR (July 13, 2023), <https://www.wbur.org/news/2023/07/13/teens-gender-affirming-care-parental-consent>

law to allow shelters housing a minor “seeking gender-affirming care” not to contact the parents.<sup>11</sup> If parental rights are sacrificed on the altar of State authority, what principled basis would be left to oppose such laws that also seek to remove parents from core decisions involving their children?

The principle of state control that Texas and other states espouse may extend even further, putting families at risk of outright losing their children. One need not look far.

Consider Texas’s policy of investigating parents for “child abuse” simply for choosing to provide gender transition care to their children.<sup>12</sup> As this litigation makes clear, many people and medical professionals believe that it endangers children with gender dysphoria *not to* provide them with gender-affirming care. The trial court found that an injunction was necessary to

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(“Transgender 16- and 17-year-olds in Maine can now, in certain situations, receive gender-affirming hormone therapy without a parent’s consent.”).

<sup>11</sup> Ed Komenda, *Transgender minors protected from estranged parents under Washington law*, PBS (May 9, 2023), <https://www.pbs.org/newshour/politics/transgender-minors-protected-from-estranged-parents-under-washington-law>.

<sup>12</sup> Bill Chappell, *Texas Supreme Court OKs state child abuse inquiries into the families of trans kids*, NPR (May 13, 2022), <https://www.npr.org/2022/05/13/1098779201/texas-supreme-court-transgender-gender-affirming-child-abuse>; *see also* Jim Vertuno, *Texas investigates hospital over care for transgender minors*, Associated Press (May 5, 2023), <https://apnews.com/article/texas-transgender-hospital-investigation-greg-abbott-dce466dcaa7be541c009a2fdc0b4a286>.

prevent “significantly and severely compromising the health and wellbeing of transgender adolescents experiencing gender dysphoria.” 7.CR.2153.

Against this backdrop, it is not hard to imagine jurisdictions on the other side of the culture war authorizing a prosecutor or child protective services to investigate parents for neglect or even “child abuse” simply because the parents do not allow their child to undergo any gender transition procedures. Indeed, the Cincinnati Board of Education has advised public schools “to ‘consider’ reporting child abuse to child protective services if a student’s parents are unsupportive of his or her gender identity.”<sup>13</sup>

Examples of potential government overreach stretch far beyond the context of transgender identity and medical care, and could easily be multiplied. Consider whether states or local jurisdictions might enact laws or policies that disregard parental choice regarding “unhealthy” foods, “dangerous” sports or athletic activities, or even ear piercings for girls and circumcision for boys.

No one wants a system in which parents’ basic judgments in raising their children are challenged and overridden at every turn by politicians and

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<sup>13</sup> Jessica Chasmar, *Cincinnati schools told to ‘consider’ reporting child abuse if parents unsupportive of child’s gender identity*, Fox News (May 18, 2023), <https://www.foxnews.com/politics/cincinnati-schools-told-consider-reporting-child-abuse-parents-unsupportive-childs-gender-identity>.

bureaucrats who disagree with the parents' choices. But that is where the State's logic leads, putting a host of routine parental decisions at risk for State overreach.

### **Conclusion**

The Constitution safeguards the rights of *all* parents against governmental policies that seek to control their children—regardless of whether the policy at issue is popular with conservatives or liberals. This Court should enforce that constitutional protection and affirm the trial court's temporary injunction.

Respectfully submitted,

/s/Charles "Chad" Baruch  
Texas Bar No. 01864300  
chad@jtlaw.com  
Robert L. Tobey  
Texas Bar Number 20082975  
robert@jtlaw.com  
Johnston Tobey Baruch, P.C.  
12377 Merit Drive, Suite 880  
Dallas, Texas 75251  
Telephone: (214) 741-6260  
Facsimile: (214) 741-6248

*Counsel for Amici Curiae*

## **Certificate of Compliance**

This brief was prepared using Microsoft Word. Relying on the word count function in that software, I certify that this petition contains 3,119 words (excluding the cover, tables, signature block, and certificates).

/s/Charles “Chad” Baruch

## **Certificate of Service**

The undersigned certifies a true and correct copy of this instrument was served upon all counsel of record on January 16, 2024, by efileing, and additionally by email on the following lead counsel of record for the named litigants:

Judd Stone  
Judd.Stone@oag.texas.gov

Kennon Wooten  
kwooten@scottdoug.com

/s/Charles “Chad” Baruch

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on the date and to the persons listed below:

Jacqueline Jaramillo on behalf of Chad Baruch

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jacqueline@jtlaw.com

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### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Kay Ridenour		kridenour@lynllp.com	1/16/2024 4:22:26 PM	SENT
Paul Castillo	24049461	pcastillo@lambdalegal.org	1/16/2024 4:22:26 PM	SENT
Kennon Wooten	24046624	kwooten@scottdoug.com	1/16/2024 4:22:26 PM	SENT
David Coale	787255	dcoale@lynllp.com	1/16/2024 4:22:26 PM	SENT
Allissa Aileen Pollard	24065915	allissa.pollard@arnoldporter.com	1/16/2024 4:22:26 PM	SENT
Natalie Thompson	24088529	natalie.thompson@oag.texas.gov	1/16/2024 4:22:26 PM	SENT
Rosalinda Luna		Rosalinda.Luna@oag.texas.gov	1/16/2024 4:22:26 PM	SENT
Adriana Pinon	24089768	apinon@aclutx.org	1/16/2024 4:22:26 PM	SENT
Brian Klosterboer	24107833	bklosterboer@aclutx.org	1/16/2024 4:22:26 PM	SENT
Lanora Pettit	24115221	lanora.pettit@oag.texas.gov	1/16/2024 4:22:26 PM	SENT
Kyle Gardner	24116412	kgardner@lynllp.com	1/16/2024 4:22:26 PM	SENT
Lauren Ditty	24116290	lditty@scottdoug.com	1/16/2024 4:22:26 PM	SENT
Chloe Kempf	24127325	chloenkempf@gmail.com	1/16/2024 4:22:26 PM	SENT
Valeria Alcocer		valeria.alcocer@oag.texas.gov	1/16/2024 4:22:26 PM	SENT
Omar Gonzalez-Pagan		Ogonzalez-pagan@lambdalegal.org	1/16/2024 4:22:26 PM	SENT
Heather Dyer		heather.dyer@oag.texas.gov	1/16/2024 4:22:26 PM	SENT
Johnathan Stone		johnathan.stone@oag.texas.gov	1/16/2024 4:22:26 PM	SENT
Angela Goldberg		agoldberg@scottdoug.com	1/16/2024 4:22:26 PM	SENT
Grace Ojionuka		grace.ojionuka@arnoldporter.com	1/16/2024 4:22:26 PM	SENT
Susie Smith		ssmith@scottdoug.com	1/16/2024 4:22:26 PM	SENT
Lori Leskin		Lori.Leskin@arnoldporter.com	1/16/2024 4:22:26 PM	SENT
Jordan Kadjar		jkadjar@scottdoug.com	1/16/2024 4:22:26 PM	SENT
Sasha Buchert		sbuchert@lambdalegal.org	1/16/2024 4:22:26 PM	SENT



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### Case Contacts

Sasha Buchert		sbuchert@lambdalegal.org	1/16/2024 4:22:26 PM	SENT
Karen Loewy		kloewy@lambdalegal.org	1/16/2024 4:22:26 PM	SENT
Harper Seldin		hseldin@aclu.org	1/16/2024 4:22:26 PM	SENT
Lynly Egyes		lynly@transgenderlawcenter.org	1/16/2024 4:22:26 PM	SENT
Milo Inglehart		milo@transgenderlawcenter.org	1/16/2024 4:22:26 PM	SENT
Shawn Meerkamper		shawn@transgenderlawcenter.org	1/16/2024 4:22:26 PM	SENT
Dale Melchert		dale@transgenderlawcenter.org	1/16/2024 4:22:26 PM	SENT
Elizabeth Gill		egill@aclunc.org	1/16/2024 4:22:26 PM	SENT
Cortlin Lannin		clannin@cov.com	1/16/2024 4:22:26 PM	SENT
D. Veta		jeveta@cov.com	1/16/2024 4:22:26 PM	SENT
William Isasi		wisasi@cov.com	1/16/2024 4:22:26 PM	SENT
Noah Goldberg		ngoldberg@cov.com	1/16/2024 4:22:26 PM	SENT
Charles KEldred		charles.eldred@oag.texas.gov	1/16/2024 4:22:26 PM	SENT
Michele Clanton-Lockhart		mclanton@lambdalegal.org	1/16/2024 4:22:26 PM	SENT