

STATE OF MICHIGAN
COURT OF CLAIMS

PLANNED PARENTHOOD OF
MICHIGAN, on behalf of itself, its
physicians and staff, and its patients, and
SARAH WALLETT, M.D., M.P.H.,
FACOG, on her own behalf and on behalf
of her patients,

Plaintiffs,

v

ATTORNEY GENERAL OF THE STATE
OF MICHIGAN, in her official capacity,

Defendant.

No. 22-000044-MM

HON. ELIZABETH GLEICHER

**DEFENDANT ATTORNEY
GENERAL DANA NESSEL'S
ANSWER TO PLAINTIFFS'
COMPLAINT**

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**DEFENDANT ATTORNEY GENERAL DANA NESSEL’S ANSWER TO
PLAINTIFFS’ COMPLAINT**

Defendant Attorney General Dana Nessel answers Plaintiffs’ complaint as follows:

INTRODUCTION

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Defendant neither admits nor denies the allegations contained in paragraph 5 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.
6. Defendant admits that enforcement of the criminal abortion statute, MCL 750.14, will have devastating consequences in communities across Michigan, but neither admits nor denies the specific allegations as to harm to PPMI and its staff and patients for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.
7. Defendant neither admits nor denies the allegations contained in paragraph 7 as Plaintiffs’ complaint speaks for itself.

JURISDICTION

8. Defendant admits that the Court of Claims generally has jurisdiction to hear claims for declaratory and injunctive relief against state officers under MCL 600.6419, but neither admits nor denies Plaintiffs' allegation in paragraph 8 that this Court has jurisdiction as it is a legal conclusion which requires no response.

PARTIES

9. Defendant neither admits nor denies the allegations contained in paragraph 9 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

10. Defendant neither admits nor denies the allegations contained in paragraph 10 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

11. Defendant admits that she is the Attorney General of the State of Michigan but neither admits nor denies the remaining allegations in paragraph 11 as they are legal conclusions which require no response.

FACTS

12. Defendant admits that the allegations in paragraph 12 accurately quote MCL 750.14.

13. Defendant neither admits nor denies the allegations contained in paragraph 13 as the referenced statutes speak for themselves.

14. Defendant neither admits nor denies the allegations contained in paragraph 14 as the referenced Court of Appeals' opinion speaks for itself.

15. Defendant neither admits nor denies the allegations contained in paragraph 15 as the referenced Court of Appeals' opinion speaks for itself.

16. Defendant neither admits nor denies the allegations contained in paragraph 16 as the referenced Court of Appeals' opinion speaks for itself.

17. Defendant neither admits nor denies the allegations contained in paragraph 17 as the referenced statutes speak for themselves.

18. Defendant neither admits nor denies the allegations contained in paragraph 18 as the referenced statute speaks for itself.

19. Defendant neither admits nor denies the allegations contained in paragraph 19 as the United States Supreme Court's opinion in *Roe v Wade*, 410 US 113 (1973), speaks for itself.

20. Defendant neither admits nor denies the allegations contained in paragraph 20 as the Michigan Supreme Court's opinion in *People v Bricker*, 389 Mich 524 (1973), speaks for itself.

21. Defendant admits that the allegations in paragraph 21 accurately quote from the opinion in *People v Bricker*, 389 Mich 524 (1973).

22. Defendant neither admits nor denies the allegations contained in paragraph 22 as the Michigan Supreme Court's opinion in *People v Bricker*, 389 Mich 524 (1973), speaks for itself.

23. Defendant neither admits nor denies the allegations contained in paragraph 23 as the Michigan Supreme Court's opinion in *People v Bricker*, 389 Mich 524 (1973), speaks for itself.

24. Defendant neither admits nor denies the allegations contained in paragraph 24 as the Michigan Supreme Court's opinion in *Larkin v Cahalan*, 389 Mich 533 (1973), speaks for itself.

25. Defendant admits the allegation that the Michigan Supreme Court has never addressed the criminal abortion statute's constitutionality as a matter of law, but neither admits nor denies the remaining allegations in paragraph 25 as the Court of Appeals' decision in *Mahaffey v Attorney General*, 222 Mich App 325 (1997), speaks for itself.

26. Defendant admits the allegation that the Michigan Supreme Court has never construed or re-examined the criminal abortion statute in light of subsequent doctrinal changes to the federal substantive due process right to abortion recognized in *Roe v Wade*, but neither admits nor denied the remaining allegations in paragraph 26 because the referenced federal decisions speak for themselves.

27. Defendant neither admits nor denies the allegations in paragraph 27 as they are legal conclusions which require no response.

28. Defendant generally admits that if *Roe v Wade* is overruled, such a ruling will endanger the constitutional rights of Michigan citizens, but Defendant neither admits nor denies the remaining allegations in paragraph 28 as they are legal conclusions which require no response.

29. Defendant admits that the criminal abortion statute has never been repealed, but neither admits nor denies the remaining allegation in paragraph 29 as

the reference Court of Appeals opinion, *People v Higuera*, 244 Mich App 429 (2001), speaks for itself.

STATEMENT OF FACTS RELATIVE TO EACH PLAINTIFF

A. PPMI

30. Defendant neither admits nor denies the allegations contained in paragraph 30 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

31. Defendant neither admits nor denies the allegations contained in paragraph 31 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

32. Defendant neither admits nor denies the allegations contained in paragraph 32 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

33. Defendant neither admits nor denies the allegations contained in paragraph 33 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

34. Defendant neither admits nor denies the allegations contained in paragraph 34 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

35. Admitted.

36. Defendant neither admits nor denies the allegations contained in paragraph 36 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

37. Defendant neither admits nor denies the allegations contained in paragraph 37 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

38. Defendant neither admits nor denies the allegations contained in paragraph 38 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

39. Defendant neither admits nor denies the allegations contained in paragraph 39 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

40. Defendant admits that the criminal abortion statute prohibits abortions unless “necessary to preserve the life” of the pregnant person, but neither admits nor denies the remaining allegations in paragraph 40 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

41. Defendant neither admits nor denies the allegations contained in paragraph 41 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

42. Defendant neither admits nor denies the allegations contained in paragraph 42 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

B. SARAH WALLETT, M.D., M.P.H., FACOG

43. Defendant neither admits nor denies the allegations contained in paragraph 43 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

44. Defendant neither admits nor denies the allegations contained in paragraph 44 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

45. Defendant neither admits nor denies the allegations contained in paragraph 45 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

46. Defendant admits that the criminal abortion statute prohibits abortions unless “necessary to preserve the life” of the pregnant person, but neither admits nor denies the remaining allegations in paragraph 46 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

47. Defendant neither admits nor denies the allegations contained in paragraph 47 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

48. Defendant neither admits nor denies the allegations contained in paragraph 48 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

**PREGNANCY HAS SIGNIFICANT MEDICAL, FINANCIAL AND
PERSONAL CONSEQUENCES**

49. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 49 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

50. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 50 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

51. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 51 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

52. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 52 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

53. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 53 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

54. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 54 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

55. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 55 for lack of

sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

56. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 56 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

57. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 57 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

58. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 58 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

59. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a

substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 59 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

60. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 60 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

61. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 61 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

62. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 62 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

63. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 63 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

64. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 64 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

65. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 65 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

66. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 66 for lack of

sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

67. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 67 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

68. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 68 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

69. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 69 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

70. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a

substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 70 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

71. Defendant generally admits that pregnancy affects people who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but Defendant neither admits nor denies the specific allegations contained in paragraph 71 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

ABORTION IS SAFE, COMMON AND ESSENTIAL HEALTH CARE

72. Defendant generally admits that abortion is a common medical service performed in the United States, but neither admits nor denies the remaining allegations contained in paragraph 72 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

73. Defendant neither admits nor denies the allegations contained in paragraph 73 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

74. Defendant neither admits nor denies the allegations contained in paragraph 74 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

75. Defendant neither admits nor denies the allegations contained in paragraph 75 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

76. Defendant neither admits nor denies the allegations contained in paragraph 76 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

77. Defendant neither admits nor denies the allegations contained in paragraph 77 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

78. Defendant neither admits nor denies the allegations contained in paragraph 78 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

79. Defendant neither admits nor denies the allegations contained in paragraph 79 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

80. Defendant neither admits nor denies the allegations contained in paragraph 80 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

81. Defendant generally admits that people seek abortions for a variety of reasons, but neither admits nor denies the specific allegations contained in paragraph 81 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

82. Admitted.

83. Defendant neither admits nor denies the allegations contained in paragraph 83 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

84. Defendant neither admits nor denies the allegations contained in paragraph 84 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

85. Defendant generally admits that people seek abortions for a variety of reasons, but neither admits nor denies the specific allegations contained in paragraph 85 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

86. Defendant generally admits that people seek abortions for a variety of reasons, but neither admits nor denies the specific allegations contained in paragraph 86 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

87. Defendant generally admits that people seek abortions for a variety of reasons, but neither admits nor denies the specific allegations contained in paragraph 87 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

88. Defendant generally admits that people seek abortions for a variety of reasons, but neither admits nor denies the specific allegations contained in

paragraph 88 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

89. Defendant generally admits that people seek abortions for a variety of reasons, but neither admits nor denies the specific allegations contained in paragraph 89 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

90. Defendant generally admits that people seek abortions for a variety of reasons, but neither admits nor denies the specific allegations contained in paragraph 90 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

91. Defendant generally admits that people seek abortions for a variety of reasons, but neither admits nor denies the specific allegations contained in paragraph 91 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

92. Defendant generally admits that pregnant people in Michigan need access to safe and legal abortion, but neither admits nor denies the specific allegations contained in paragraph 92 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

93. Defendant generally admits that if the criminal abortion statute becomes enforceable it will substantially chill the provision of and access to abortions, but neither admits nor denies the specific allegations contained in

paragraph 93 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

**IF ENFORCED AS WRITTEN, THE CRIMINAL ABORTION BAN WILL
OUTLAW VIRTUALLY ALL ABORTIONS IN MICHIGAN**

94. Defendant neither admits nor denies the allegations in paragraph 94 as the criminal abortion statute speaks for itself.

95. Defendant admits that there is no court order that currently enjoins any Michigan official from enforcing the criminal abortion statute, but neither admits nor denies the specific allegations in paragraph 95 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

96. Defendant generally admits that a ruling in *Dobbs v Jackson Women's Health Organization*, No 19-1932, may impact the interpretation of the criminal abortion statute, but neither admits nor denies the remaining allegations in paragraph 96 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

97. Defendant neither admits nor denies the allegations contained in paragraph 97 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs. Further answering, to the extent the allegations are legal conclusions no response is required.

98. Defendant neither admits nor denies the allegations contained in paragraph 98 for lack of sufficient information or knowledge to form a belief about

the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

Further answering, to the extent the allegations are legal conclusions no response is required.

99. Defendant neither admits nor denies the allegations in paragraph 99 as they are legal conclusions which require no response.

100. Defendant neither admits nor denies the allegations contained in paragraph 100 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs. Further answering, to the extent the allegations are legal conclusions no response is required.

101. Defendant neither admits nor denies the allegations contained in paragraph 101 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs. Further answering, to the extent the allegations are legal conclusions no response is required.

102. Defendant neither admits nor denies the allegations contained in paragraph 102 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs. Further answering, to the extent the allegations are legal conclusions no response is required.

103. Defendant generally admits that pregnancy affects persons who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have

a substantially deleterious effect on the people of this State, but neither admits nor denies the allegations contained in paragraph 103 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

104. Defendant generally admits that pregnancy affects persons who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but neither admits nor denies the allegations contained in paragraph 104 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

105. Defendant generally admits that pregnancy affects persons who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but neither admits nor denies the allegations contained in paragraph 105 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

106. Defendant generally admits that pregnancy affects persons who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but neither admits nor denies the allegations contained in paragraph 106 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

107. Defendant generally admits that pregnancy affects persons who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but neither admits nor denies the allegations contained in paragraph 107 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

108. Defendant generally admits that pregnancy affects persons who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but neither admits nor denies the allegations contained in paragraph 108 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

109. Defendant generally admits that pregnancy affects persons who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but neither admits nor denies the allegations contained in paragraph 109 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

110. Defendant generally admits that pregnancy affects persons who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but neither admits nor denies the allegations contained in paragraph 110 for lack of sufficient information

or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

111. Defendant generally admits that pregnancy affects persons who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but neither admits nor denies the allegations contained in paragraph 111 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

112. Defendant generally admits that pregnancy affects persons who become pregnant in myriad ways and that the enforcement of MCL 750.14 will have a substantially deleterious effect on the people of this State, but neither admits nor denies the allegations contained in paragraph 112 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

113. Defendant neither admits nor denies the allegations contained in paragraph 113 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

114. Defendant neither admits nor denies the allegations contained in paragraph 114 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

115. Defendant neither admits nor denies the allegations contained in paragraph 115 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

116. Defendant neither admits nor denies the allegations in paragraph 116 as they are legal conclusions which require no response.

117. Defendant neither admits nor denies the allegations in paragraph 117 as they are legal conclusions which require no response.

CLAIMS FOR RELIEF

DEFENDANT'S RESPONSE TO COUNT I Michigan Constitution – Due Process – Vagueness

118. Defendant incorporates her answers from the foregoing paragraphs as if fully set forth herein.

119. Admitted.

120. Defendant neither admits nor denies the allegations contained in paragraph 120 as the referenced Court of Appeals' opinion, *People v Rogers*, 249 Mich App 77 (2001), speaks for itself.

121. Defendant generally admits that the decision in *Dobbs v Jackson Women's Health Organization*, No 19-1932, may impact the interpretation and application of the criminal abortion statute as construed by the Michigan Supreme Court in *People v Bricker*, 389 Mich 524 (1973), but neither admits nor denies the specific allegations in paragraph 121 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

122. Defendant generally admits that the terms of the criminal abortion statute are so indefinite as to be unconstitutional, but neither admits nor denies the specific allegations in paragraph 122 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs. Further answering, to the extent the allegations are legal conclusions, no response is required.

123. Defendant admits that the criminal abortion statute, as written, does not include an exception to its prohibition for abortions necessary to save the pregnant person's health, but neither admits nor denies the specific allegations in paragraph 123 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

124. Defendant admits that the criminal abortion statute violates the Due Process Clause of the 1963 Michigan Constitution, art 1, § 17.

DEFENDANT'S RESPONSE TO COUNT II
Michigan Constitution – Due process – Liberty and Bodily Injury

125. Defendant incorporates her answers from the foregoing paragraphs as if fully set forth herein.

126. Admitted.

127. Defendant neither admits nor denies the allegations contained in paragraph 127 as the referenced Court of Appeals opinions, *Mays v Governor*, 506 Mich 157 (2020) and *May v Snyder*, 323 Mich App 1 (2018), speak for themselves.

128. Defendant neither admits nor denies the allegations in paragraph 128 as they are legal conclusions for which no response is required.

129. Admitted.

130. Admitted.

131. Defendant neither admits nor denies the allegation in paragraph 131 as it is a legal conclusion for which no response is required.

132. Admitted.

**DEFENDANT'S RESPONSE TO COUNT III
Michigan Constitution – Equal Protection**

133. Defendant incorporates her answers from the foregoing paragraphs as if fully set forth herein.

134. Admitted.

135. Defendant admits that the allegation in paragraph 135 is an accurate quote from Const 1963, art 1, § 2.

136. Defendant neither admits nor denies the allegations contained in paragraph 136 as the referenced Court of Appeals' opinion, *Shepherd Montessori Ctr Milan v Ann Arbor Charter Twp*, 486 Mich 311 (2010), speaks for itself.

137. Admitted.

138. Admitted.

139. Admitted.

140. Defendant neither admits nor denies the allegation in paragraph 140 as it is a legal conclusion for which no response is required.

141. Defendant neither admits nor denies the allegation in paragraph 141 as it is a legal conclusion for which no response is required.

142. Admitted.

143. Admitted.

144. Admitted.

145. Admitted.

146. Admitted.

DEFENDANT'S RESPONSE TO COUNT IV
Elliott-Larsen Civil Rights Act – MCL 37.2302 – Sex Discrimination in
Public Accommodations and Services

147. Defendant incorporates her answers from the foregoing paragraphs as if fully set forth herein.

148. Defendant admits that the criminal abortion statute discriminates on the basis of sex but neither admits nor denies the remaining allegations in paragraph 148 as they are legal conclusions for which no response is required.

149. Defendant admits that abortion is a vital health care service that gives people the ability to plan their own future, but neither admits nor denies the remaining allegations in paragraph 149 as they are legal conclusions for which no response is required.

150. Defendant neither admits nor denies the allegation in paragraph 150 as it is a legal conclusion for which no response is required.

151. Admitted.

152. Admitted.

153. Defendant neither admits nor denies the allegations in paragraph 153 as they are legal conclusions which require no response.

154. Defendant neither admits nor denies the allegation in paragraph 154 as it is a legal conclusion for which no response is required.

155. Defendant denies the allegations in paragraph 155 to the extent they suggest that Defendant has or will enforce the criminal abortion statute since she has not and will not enforce the statute. Further answering, to the extent the allegations suggest that enforcing the criminal abortion statute would cause the actor to be in violation of the Elliott-Larsen Civil Rights Act, that is a legal conclusion for which no response is required.

DEFENDANT'S RESPONSE TO COUNT V
Michigan Constitution – Retained Rights – Liberty and Privacy

156. Defendant incorporates her answers from the foregoing paragraphs as if fully set forth herein.

157. Admitted.

158. Defendant admits that the allegation in paragraph 158 is an accurate quote from Const 1963, art 1, § 23.

159. Defendant neither admits nor denies the allegations contained in paragraph 159 as the referenced constitutional convention debates speak for themselves.

160. Defendant neither admits nor denies the allegation in paragraph 160 as it is a legal conclusion for which no response is required.

161. Defendant generally admits that society and medicine have changed since the enactment of the criminal abortion statute and that women and pregnant people have a fundamental right to make decisions about their lives, but neither

admits nor denies the remaining allegations in paragraph 161 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

162. Admitted.

163. Admitted.

164. Admitted.

DEFENDANT’S RESPONSE TO COUNT VI
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165. Defendant incorporates her answers from the foregoing paragraphs as if fully set forth herein.

166. Admitted.

167. Defendant admits that the allegation in paragraph 167 is an accurate quote from Const 1963, art 1, § 17.

168. Defendant neither admits nor denies the allegations contained in paragraph 168 as the referenced court opinions, *Grimes v Van Hook-Williams*, 302 Mich 521 (2013) and *People v Vaughn*, 491 Mich 642 (2012), speak for themselves.

169. Defendant generally admits that the Due Process Clause protects the right to privacy, but neither admits nor denies the remaining allegations in paragraph 169 as the referenced opinions, *Advisory Opinion on Constitutionality of 1975 PA 227*, 396 Mich 465 (1976), and *De May v Roberts*, 46 Mich 160 (1881), speak for themselves.

170. Defendant generally admits that the Due Process Clause’s protection of the rights to privacy and individual liberty encompasses a person’s right to make

decisions about whether or not to terminate a pregnancy, but neither admits nor denies the remaining allegations in paragraph 170 for lack of sufficient information or knowledge to form a belief about the truth of the allegations asserted and thus leaves Plaintiffs to their proofs.

171. Admitted.

172. Admitted.

NOTICE OF AFFIRMATIVE AND OTHER DEFENSES

1. Because Defendant has taken no action to enforce or otherwise support MCL 750.14, Plaintiffs have failed to state a claim against Defendant for which they would be entitled to an award of attorneys' fees and costs.

2. Defendant reserves the right to raise further defenses or assert other matters revealed by its continuing investigation and discovery, including all defenses available under MCR 2.111, 2.112, 2.113, 2.114, 2.115, and 2.116.

RELIEF REQUESTED

WHEREFORE, Defendant Attorney General Dana Nessel respectfully states the following as her request for relief:

A. Should the Court determine it has subject matter jurisdiction to hear this action, Defendant does not object to the entry of an order declaring that MCL 750.14 is violative of the Due Process Clause and the Equal Protection Clause, and the Retained Rights Clause of the Michigan Constitution as an appropriate remedy.

B. Should the Court determine it has subject matter jurisdiction to hear this action and that the requirements of MCR 3.310(A) and (C) are met, Defendant

does not object to the entry of a preliminary injunction, to preserve the status quo, that enjoins future enforcement of MCL 750.14.

C. Should the Court determine it has subject matter jurisdiction to hear this action and that the requirements of MCR 3.310(A) and (C) are met, Defendant does not object to the entry of a permanent injunction that enjoins the enforcement of MCL 750.14.

D. Defendant requests that this Court refrain from awarding attorneys' fees and costs because neither she nor the Department of Attorney General has ever enforced MCL 750.14, and Plaintiffs have alleged no affirmative conduct of the Attorney General that otherwise violates Michigan constitutional or statutory law.

Respectfully submitted,

Fadwa A. Hammoud (P74185)
Solicitor General

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Dated: May 5, 2022

PROOF OF SERVICE

Heather S. Meingast certifies that on May 5, 2022, she served a copy of the above document in this matter on all counsel of record via MiFILE.

/s/Heather S. Meingast
Heather S. Meingast