

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

PLANNED PARENTHOOD CENTER FOR
CHOICE, *et al.*,

Plaintiffs,

v.

GREG ABBOTT, in his official capacity as
Governor of Texas, *et al.*,

Defendants.

No. 1:20-cv-00323-LY

**AGREED STIPULATION FOR NON-ENFORCEMENT PENDING FINAL
RESOLUTION, ATTORNEYS FEES AND COSTS**

Plaintiffs and Defendant Brian Middleton, District Attorney of Fort Bend County, Texas (“Defendant”) in the above-styled and numbered cause stipulate as follows:

Stipulations by Plaintiffs

1. Plaintiffs stipulate and agree not to seek attorney’s fees, penalties, damages, expert fees, court costs, or other costs or expenses of any kind, from Defendant in the above-captioned and numbered case. Plaintiffs further agree to withdraw their prior request for a temporary restraining order and preliminary injunctive relief against Defendant at this time. This stipulation does not preclude Plaintiffs from seeking, at their sole discretion, such injunctive relief against Defendant should they elect to do so in the future.

Stipulations by Defendant

2. Whereas Plaintiffs in the instant lawsuit challenge the constitutionality of Governor Greg Abbott’s March 22, 2020, Executive Order GA 09, “Relating to hospital capacity during the COVID-19 disaster,” a violation of which Defendant may enforce, and are requesting temporary injunctive relief pending final resolution of the matter, Defendant agrees not to enforce Governor Greg Abbott’s March 22, 2020, Executive Order as applied to Plaintiffs until such time as a final non-appealable judgment has been issued in this matter.

3. In light of the fact that the Texas Attorney General intends to defend the constitutionality of the Executive Order and its interpretation of that order on a statewide basis on behalf of the Governor, Attorney General, and other state Defendants, Defendant agrees not to participate in litigating the above-styled and numbered cause unless required to do so. Further, by

entering into this stipulation, Defendant is conserving prosecutorial resources until such time as the constitutionality of the Executive Order as applied to Plaintiffs is resolved.

Stipulation on Filing of Answer by Defendant

4. Plaintiffs and Defendant agree that Defendant shall not file an answer, unless ordered to do so by the Court, and that no default judgment shall be taken against him.

5. These stipulations are made without prejudice to any claim or defense that Plaintiffs or Defendant may assert subsequent to this stipulation.

6. This document may be executed in counterparts.

Dated March 28, 2020

Respectfully submitted,

/s/ Justin C. Pfeiffer

JUSTIN C. PFEIFFER (SBN 24091473)

Pro Hac Vice

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BRIAN M. MIDDLETON

/s/ Patrick J. O'Connell

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SIGNATURE CERTIFICATION

Pursuant to Section 14(c) of the Administrative Policies and Procedures for Electronic Filing In Civil and Criminal Cases of the United States District Court for the Western District of Texas, I hereby certify that the content of this document are acceptable to Patrick J. O'Connell, Julie Murray, and counsel for all plaintiffs, and that I have obtained counsels' authorization to affix their electronic signature to this document.

Dated March 28, 2020

Respectfully submitted,

/s/ Justin C. Pfeiffer

JUSTIN C. PFEIFFER (SBN 24091473)

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ATTORNEY OF RECORD FOR DEFENDANT

BRIAN M. MIDDLETON

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2020, the foregoing document were served on counsel by CM/ECF.

Additionally, I will email the following counsel not yet receiving electronic notices.

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DATED: March 28, 2020

/s/ Justin C. Pfeiffer
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