

**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

JOINT STATUS REPORT

In response to this Court's order that the parties submit a status report by April 14, 2020, the parties have conferred regarding Plaintiffs' pending preliminary injunction motion. They submit the following information as to their positions:

(a) The parties agree to dispose of live testimony at the evidentiary hearing on Plaintiffs' motion for a preliminary injunction. They will present evidence by stipulations, declarations, and exhibits.

(b) The parties agree not to engage in discovery at the preliminary injunction stage of the case.

(c) The parties have been unable to agree on a briefing schedule and a schedule for the filing of evidence, exhibits, stipulations, and proposed findings of fact and conclusions of law. Plaintiffs propose the following:

- 4/17: Parties serve on all other parties any declarations and exhibits on which they rest for their affirmative positions

- 4/22: Plaintiffs file their supplemental brief in support of a preliminary injunction, with supporting declarations and exhibits (limited to those served on 4/17)
- 4/22: Parties serve on all other parties rebuttal declarations and exhibits
- 4/23: Defendants file their opposition to the preliminary injunction, with supporting declarations and exhibits (limited to those served on 4/17 and 4/22)
- 4/24: Parties file joint stipulations
- 4/25: Parties file proposed Findings of Fact and Conclusions of Law; Plaintiffs file their reply in support of the preliminary injunction with supporting declarations and exhibits (limited to those served on 4/17 and 4/22)

Defendants propose the following:

Defendants believe that until the Governor indicates whether EO GA-09 will be extended, modified, replaced, or permitted to expire after April 21, 2020, any efforts to submit evidence or briefing could not be final and “makes no sense,” as the Court put it in its April 8 order. To avoid the need to supplement the parties’ briefing and/or evidence (and any last-minute delays or rescheduling of the hearing such supplementation might require), Defendants propose deadlines that would enable the parties sufficient time to prepare and finalize both their briefing and their relevant evidence as soon after April 21, 2020, as reasonable:

- April 24, 2020: Plaintiffs must file their initial brief, with all supporting evidence, by this date.
- April 27, 2020: Defendants must file their response brief, with all supporting evidence, by this date.
- April 28, 2020: Plaintiffs must file any reply brief by this date.

- April 29, 2020: The parties must file any stipulations, as well as each party's proposed findings of fact and conclusions of law, by this date.

(d) Plaintiffs believe that no more than two hours are necessary for the hearing; Defendants would limit the time allotted to one hour.

(e) The parties have been unable to agree on a proposed date range for the hearing.

In the absence of a TRO for all relief sought by Plaintiffs, Plaintiffs respectfully request to proceed on as rapid a timetable as possible, with a hearing proposed on April 27, 2020. They are available throughout the week of April 27 as well, and would ask that the hearing be held as soon as practicable for the Court. Moreover, because the current TRO expires on April 19, they intend to seek an extension of the TRO remaining in effect at that time until the Court may issue a decision on the preliminary injunction motion.

Defendants believe that a hearing could be held as early as April 30, 2020, or on any later date convenient for the Court. This would allow sufficient time for the parties to fully brief and prepare their cases following the plan laid out by the Court, and to avoid possible delays caused by an overly ambitious schedule, especially in light of the uncertainty before April 21, 2020.

(f) As indicated above, the parties do not agree on a date for filing evidence, exhibits, stipulations, and proposed findings of fact and conclusions of law.

Plaintiffs believe that, particularly in the absence of discovery in this case, each party should have an opportunity to introduce evidence in rebuttal to evidence offered by any other party in support of its affirmative arguments. Plaintiffs, therefore, propose simultaneous disclosures of affirmative and rebuttal evidence, on April 17 and 22, respectively. In the alternative, Plaintiffs would ask that they be permitted to submit rebuttal evidence alongside any reply brief.

Defendants believe that all evidence or exhibits should be filed by the parties along with their respective initial or response brief. Defendants believe that a deadline for filing any stipulations and each party's proposed findings of fact and conclusions of law may be as early as April 29, 2020.

Dated: April 14, 2020

Respectfully submitted,

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