

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

PRETERM-CLEVELAND, et al.,	:	
	:	
Plaintiffs,	:	Case No. 1:19-cv-00360
	:	
v.	:	Judge Michael R. Barrett
	:	
OHIO ATTORNEY GENERAL DAVE YOST, et al.,	:	
	:	
Defendants.	:	

**DEFENDANTS’ MEMORANDUM IN OPPOSITION TO PLAINTIFFS’
MOTION TO CLARIFY TEMPORARY RESTRAINING ORDER (DOC. 54)
AND REQUEST TO DISSOLVE THE TEMPORARY RESTRAINING ORDER
ISSUED ON MARCH 30, 2020 (DOC. 43)**

Defendants Ohio Department of Health, State Medical Board of Ohio, and Ohio Attorney General Dave Yost respectfully ask this Court to deny Plaintiffs’ motion for clarification (Doc. 54) and, instead, ask this Court to simply dissolve the Temporary Restraining Order issued on March 30, 2020 (Doc. 43).

The Plaintiffs say there is an inconsistency between two statements in the Defendants’ Sixth Circuit briefing – (1) “doctors must delay surgical abortions *that can be delayed* without jeopardizing the patient’s ability to secure a pre-viability abortion” and (2) doctors must “delay surgical abortions, where possible.” (emphasis sic.) Defendants’ Motion for Stay, Doc. 10, COA 20-3365 at 4; Reply Brief, Doc. 16, COA 20-3365 at p. 2. Try as Defendants might, they cannot see any inconsistency between these statements.

Instead of “clarifying” the Temporary Restraining Order, the Court should dissolve it. In its order denying a stay pending appeal (Doc. 52), the Court concluded that the Director’s Order means what Defendants said it means. And it suggested that, under that reading, the Director’s

Order is constitutional in all of its applications. Therefore, there is no longer any basis for a court order prohibiting enforcement.

The fact-based nature of the Director's Order does not lend itself to the precise guidance Plaintiffs seek. At bottom, the Plaintiffs want an advisory opinion explaining to them, with bright-line rules, exactly what they can do and when they can do it. It is not the job of the federal courts to provide this type of guidance.

Respectfully Submitted,

DAVE YOST
Ohio Attorney General

/s/ Heather L. Buchanan

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CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2020, the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Heather L. Buchanan

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