

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

COMPREHENSIVE HEALTH OF PLANNED)		
PARENTHOOD GREAT PLAINS, et al.))	
)	
Plaintiffs,))	
)	
v.))	Case No. 2:16-cv-04313-HFS
)	
DR. RANDALL WILLIAMS, in his official))	
capacity as Director of the Missouri))	
Department of Health and Senior Services,))	
et al.,))	
)	
Defendants.))	

MEMORANDUM TO COUNSEL

In the interest of providing time to the State defendants to work through a plan to avoid collateral and unintended damage to standard medical regulations, I advise that I have decided to grant a preliminary injunction to plaintiffs on the two issues presented in their complaint, invalidating both the hospital affiliation requirement for doctors performing abortions and the requirement that abortion clinics meet the requirements imposed on Ambulatory Surgical Centers. The Supreme Court invalidated both these aspects of regulation in Texas litigation last June. Missouri has not complied with that decision.

The State defendants argue that this result will cause unintended collateral damage, by deregulating abortion clinic requirements that are accepted as desirable and were outside the concern of the Supreme Court in the Texas case. If the State

defendants are correct, the judgment to be entered could alleviate those concerns, and counsel should prepare an appropriate judgment form while I write my opinion.

As I understand the problem, invalidating the ASC statutory requirement for abortion clinics would disable the Director of the Department of Health and Senior Services from using regulations authorized by the statute that would be rendered invalid by the ruling. But I could probably accommodate that concern by staying the statutory ruling as to ASCs for a specified period until the General Assembly can take action, and allowing the Director to revise the regulations before the statutory change, to avoid collateral harm. Prompt regulatory change within 60 or 90 days of my ruling seems required to satisfy the pressing needs of those seeking abortions and the needs of the plaintiffs to be prepared to offer the services which are protected by the Constitution.

There may be easier ways to avoid collateral damage, and plaintiffs' counsel may wish to be heard. To the extent an agreed procedural judgment can be submitted, that would be welcome. I expect to allow ten days from my ruling for judgment proposals to be submitted.

/s/ Howard F. Sachs
Howard F. Sachs
United States District Judge

April 4th 2017
Kansas City, Missouri