

Exhibit D

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

WHOLE WOMAN’S HEALTH, et al.,)	
)	
Plaintiffs,)	
)	CIVIL ACTION
v.)	
)	CASE NO. _____
AUSTIN REEVE JACKSON, et al.,)	
)	
Defendants.)	

**DECLARATION OF JESSICA KLIER IN SUPPORT OF PLAINTIFFS’ MOTION FOR
SUMMARY JUDGMENT**

JESSICA KLIER, declares under penalty of perjury that the following statements are true and correct:

1. I am the Administrator at Austin Women’s Health Center and Brookside Women’s Medical Center, a position that I have held for 16 years. Along with the Medical Director, I provide overall leadership for the clinic. My responsibilities include carrying out the clinic’s organizational goals, developing and implementing clinic policies and procedures with operational oversight of financial and budgetary activities, and ensuring compliance with all regulatory agencies governing health care delivery.

2. Austin Women’s Health Center is a licensed abortion facility and Brookside Women’s Medical Center is a gynecological and primary care practice. Together, these two facilities (collectively “Austin Women’s”) have provided high-quality reproductive services to Texas women for over 40 years. Austin Women’s provides medication abortion up to 70 days of gestation and procedural abortions (sometimes referred to as “surgical abortions”) up to 17 weeks, 6 days as dated from the first day of the patient’s last menstrual period (“LMP”). Austin Women’s also provides contraception, miscarriage management, and gynecologic surgical

procedures, including colposcopies, biopsies, and loop electrosurgical excision procedures (“LEEPs”), in which a layer of cervical tissue is removed to diagnose and treat cancer or precancerous cells.

3. I submit this declaration in support of Plaintiffs’ Motion for Summary Judgment.

4. The facts I state here are based on my experience, my review of Austin Women’s business records, information obtained in the course of my duties at Austin Women’s, and personal knowledge that I have acquired through my service at Austin Women’s.

5. My understanding of Senate Bill 8 (“S.B. 8”) is that it prevents a physician from performing an abortion if they can detect embryonic or fetal cardiac activity or if they have failed to check for cardiac activity. I understand that any person may sue a physician who violates this law and if they are successful, the physician is blocked from violating the law again, and must pay a minimum of \$10,000, as well as costs and attorney’s fees.

6. I further understand that anyone who “aids or abets” in the performance of a prohibited abortion, including clinics, can also be sued and would face the same penalties as the physicians.

7. Embryonic or fetal cardiac activity can generally be detected as early as six weeks LMP. Therefore, S.B. 8 bans abortion in Texas after approximately six weeks LMP.

8. If we continue providing abortions after six weeks LMP, the threat of lawsuits will cause uncertainty and anxiety for Austin Women’s, its physicians, and staff. Our patients will be burdened in their decision-making because their friends, family, and support networks could be sued for allegedly “aiding and abetting” them in obtaining their abortions.

9. I believe it is very likely that Austin Women's, our physicians and/or staff members will be sued by the anti-abortion individuals who are constantly threatening abortion access in this state and who are opposed to our provision of abortion care.

10. S.B. 8 is designed to prohibit the majority of abortion care we provide and put our future at risk. Staff or physicians who are sued will be forced to defend themselves against lawsuits that will be emotionally, logistically, and financially burdensome. I understand that they may also face disciplinary action by the Texas Medical and Nursing Boards. We will not be able to continue operating if our staff and physicians are prohibited from performing their jobs. Staff have already come to me, concerned about their jobs, about our long-term sustainability, and fearful for the repercussions S.B. 8 will have for them personally.

11. It will also be devastating for the patients we serve if we cannot continue offering abortions after six weeks LMP.

12. For multiple reasons, ten percent or less of our patients obtain an abortion before six weeks LMP. It is extremely difficult to arrange the necessary logistics and finances and comply with the many burdensome Texas laws that the state has placed on abortion, all before the patient reaches six weeks LMP.

13. If these patients are prevented from getting abortion care in Texas, many will be unable to access abortion at all. Those who are able to travel out of state will suffer increased risks to their health by the delay in ending their pregnancies. Many will also face increased costs related to abortion, as their abortion access is pushed to later gestational points when abortion is more expensive and may require a two-day procedure, instead of one.

14. I am all too familiar with laws like S.B. 8 that are intended to close clinics. While later ruled unconstitutional, House Bill 2 of 2013 succeeded in closing down more than half of

the abortion clinics in Texas, including our sister clinic in Killeen. Our clinic in Killeen has never reopened.

15. I am worried for myself, my staff, the doctors I work with, and the patients we serve. We have been providing high-quality medical care to patients in Texas for 40 years, under constant threat from those who oppose the work we do. Yet I have never been more concerned for our future than I am today.

16. I also understand that S.B. 8 requires those who challenge abortion restrictions or regulations in Texas to pay defendants' costs and attorney's fees for any claims they do not succeed on.

17. Austin Women's has been involved in a number of lawsuits challenging Texas abortion laws, including: *In re Abbot*, 954 F.3d 772 (5th Cir. 2020), *cert. granted, judgment vacated as moot by Planned Parenthood Ctr. for Choice v. Abbott*, 141 S. Ct. 1261 (2021) (mem.) (COVID abortion ban); *Whole Woman's Health v. Smith*, 338 F. Supp. 3d 606 (W.D. Tex. 2018), *appeal docketed and argued*, No. 18-50730 (5th Cir.) (requirement for interment or cremation of embryonic and fetal tissue); *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292 (2016) (decision on admitting-privileges and ASC requirements); and *Planned Parenthood of Greater Tex. Surgical Health Servs. v. Abbott*, 748 F.3d 583 (5th Cir. 2014), *reh'rg en banc denied*, 769 F.3d 330 (5th Cir. 2014) (decision on admitting-privileges, medication-abortion regulations).

18. Austin Women's has stayed open because of litigation we have brought against unconstitutional laws. If we are required to pay for defendants' costs and attorney's fees when we do not succeed on every claim we bring, even if we obtain our desired relief, this will make it

more difficult for us to bring cases and certain claims that are necessary to protect our patients' constitutional rights.

Date: 7-10-2021


Jessica Klier