

**FILED IN DISTRICT COURT**  
**OKLAHOMA COUNTY**  
**IN THE DISTRICT COURT OF OKLAHOMA COUNTY**  
**STATE OF OKLAHOMA**

DEC 11 2018

RICK WARREN  
COURT CLERK

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(1) TULSA WOMEN’S REPRODUCTIVE )  
 CLINIC, LLC, on behalf of itself, its staff, )  
 and its patients, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 (2) MIKE HUNTER, in his official capacity )  
 As Attorney General of Oklahoma, )  
 (3) STEVE KUNZWEILER, in his official )  
 Capacity as District Attorney for Tulsa )  
 County )  
 (4) LYLE KELSEY, in his official capacity )  
 as Executive Director of the Oklahoma )  
 State Board of Medical Licensure and )  
 Supervision, and )  
 (5) TOM BATES, in his official capacity )  
 as Oklahoma Interim Commissioner )  
 of Health, )  
 )  
 Defendants. )

Case No. CV-2015-1838

Judge Patricia G. Parrish

**ORDER GRANTING DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT**  
**IN PART AND DENYING PLAINTIFF’S MOTION**  
**FOR SUMMARY JUDGMENT IN PART**

Pending before this Court are cross-motions for summary judgment on the constitutionality of Oklahoma House Bill 1721 (“HB 1721”) and House Bill 1409 (“HB 1409”), as well as motions to preclude the testimony of expert and fact witnesses. The Court heard arguments on these motions on October 5, 2018. Plaintiff appeared by Leah Wiederhorn, Rabia Muqaddam, and Blake Patton. Defendants appeared by Solicitor General Mithun Masinghani and Assistant Solicitor General Zach West.

For the reasons stated on the record on October 5, 2018, the Court has decided to stay its ruling on the constitutionality of HB 1721 and the corresponding evidentiary motions, pending further action from the Oklahoma Supreme Court in *Okla. Coalition for Reprod. Justice v. Cline*, Case


No. 116,603.<sup>1</sup> This Order does not adjudicate all claims before this Court in this action and addresses only those brought challenging HB 1409.

After weighing the expert testimony offered by both parties, the Court holds that HB 1409 furthers a valid and legitimate state interest in protecting the patient and that it does not unduly burden or place a substantial obstacle in the path of a woman's right to choose. *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292, 195 L. Ed. 2d 655 (2016).

It is HEREBY ORDERED.


- 1) Defendants' Motion for Summary Judgment is GRANTED IN PART, specifically with respect to Plaintiff's claims regarding HB 1409.
- 2) Plaintiff's Motion for Summary Judgment is DENIED IN PART, specifically with respect to its claims regarding HB 1409.
- 3) Plaintiff's Motion to Preclude the Affidavit and Trial testimony of Martha Shuping, M.D. is GRANTED with respect to paragraphs 48, 56, 57, 58, 59, 60, and 62 of her affidavit; it is otherwise DENIED.
- 4) Plaintiff's Motion to Strike the Affidavit of Ryan Webb is DENIED.
- 5) Defendants' Motion to Strike the Testimony of Julia Steinberg, M.D. is DENIED.

IT IS SO ORDERED this 10<sup>th</sup> day of Dec-~~November~~ 2018.

  
THE HONORABLE PATRICIA PARRISH  
DISTRICT COURT JUDGE

<sup>1</sup> The following motions remain pending as do the parties' cross-motions for summary judgment regarding HB 1721: (1) Plaintiff's Motion to Strike the Affidavit of Donna Harrison, M.D.; (2) Plaintiff's Motion to Preclude the Affidavit and Trial Testimony of Michael Valley, M.D.; and (3) Defendants' Motion to Strike Testimony of Amy Whitaker, M.D.

APPROVED AS TO FORM:



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**Zach West, OBA #30768**

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**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I, J. Blake Patton, hereby certify that on the 11<sup>th</sup> day of December 2018, a true and correct copy of the foregoing was sent via U.S. mail, postage pre-paid, to the following:

Mithun Mansinghani  
Solicitor General  
Zach West  
Deputy Solicitor General  
Oklahoma Attorney General's Office  
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Oklahoma City, Oklahoma 73105

*Attorneys for Defendants*



J. BLAKE PATTON