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CLERK OF THE DOUGLAS COUNTY DISTRICT COURT
CASE NUMBER: DG-2025-CV-000241
PII COMPLIANT
IN THE SEVENTH JUDICIAL DISTRICT
DOUGLAS COUNTY DISTRICT COURT
CIVIL DEPARTMENT

LILY LOE, by and through her parent and next friend Lisa Loe; LISA LOE; RYAN ROE, by and through his parent and next friend Rebecca Roe; REBECCA ROE,

Plaintiffs,

v.

STATE OF KANSAS, *ex rel* KRIS KOBACH, Attorney General,

Defendants.

Case No. DG-2025-CV-000241
Div. No. 7

PLAINTIFFS' RESPONSE TO
“DEFENDANT’S NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF ITS
RESPONSE IN OPPOSITION TO PLAINTIFFS’ MOTION FOR TEMPORARY
INJUNCTION” FILED ON JANUARY 20, 2026

Plaintiffs file this Response to “Defendant’s Notice of Supplemental Authority in Support of its Response in Opposition to Plaintiffs’ Motion for Temporary Injunction” filed on January 20, 2026 (the “Notice”).

The holding and reasoning of *E.N. v. Kehoe*, No. SC 100933, 2026 WL 96912, at *1 (Mo. Jan. 13, 2026), are distinguishable from the legal issues before this Court in at least three important ways.

First, the Kansas Constitution provides greater protections than both the U.S. Constitution and the Missouri Constitution. *Cf. Farley v. Engelken*, 241 Kan. 663, 670-71 (1987) (explaining the Kansas Constitution provides “separate, adequate, and greater rights than the federal Constitution”); *see also* Plaintiffs’ Proposed Findings of Fact and Conclusions of Law at nos. 372, 374-376. The Missouri Supreme Court determined that the Missouri Constitution’s equal protection and due process clauses do not provide greater protections than the U.S. Constitution

unless “United States Supreme Court precedent dilutes these important rights.” *E.N.*, 2026 WL 96912, at *3, n.4 (cleaned up). But the Kansas Supreme Court has repeatedly held that the Kansas Constitution more freely departs from the U.S. Constitution to provide additional and greater protections, with no such qualification. *See, e.g., State v. Lawson*, 296 Kan. 1084, 1090-92 (2013); *State v. McDaniel*, 228 Kan. 172, 184-85 (1980); *State v. Albano*, 313 Kan. 638, 644-45 (2021).

Second, the Missouri Supreme Court’s equal protection analysis regarding the Missouri law provides no new analytic value to this Court’s evaluation of Kansas S.B. 63 under the Kansas Constitution. Missouri’s SAFE Act, Mo. Ann. Stat. § 191.1720, is different from Kansas S.B. 63 in a key respect: the Missouri law does not contain any provision analogous to the restriction on social transition found at K.S.A. § 65-28,138(d), (f). Because Missouri’s law was similar to the Tennessee and Arkansas laws challenged respectively in *United States v. Skrmetti* and *Brandt ex rel. Brandt v. Griffin*, which also lacked such analogous provisions, the Missouri Supreme Court was persuaded by those decisions’ reasoning under federal law regarding whether there was a classification triggering heightened scrutiny for purposes of equal protection. *See E.N.*, 2026 WL 96912, at *3 & n.4. However, as previously briefed by Plaintiffs, S.B. 63’s inclusion of a restriction on social transition creates a sex and transgender status classification that would trigger heightened scrutiny even under the federal Constitution, and certainly would under Kansas’s more protective Constitution. *See* Plaintiffs’ Proposed Findings of Fact and Conclusions of Law at nos. 384-392. Moreover, the context of S.B. 63’s enactment demonstrates its discriminatory purpose, which also triggers heightened scrutiny under even the federal Constitution. *See* Plaintiffs’ Proposed Findings of Fact and Conclusions of Law at nos. 393-399.

Third, the Missouri Supreme Court’s due process analysis adds nothing to this Court’s analysis of the Kansas Constitution’s protections because the Kansas Constitution contains

separate protections for bodily autonomy. The Missouri Supreme Court determined that there was, at least for minors, “no fundamental right to seek care the legislature has prohibited.” *E.N.*, 2026 WL 96912, at *6. However, as Plaintiffs have previously briefed, the Kansas Constitution’s protections for bodily autonomy likely extend to minors. *See* Plaintiffs’ Proposed Findings of Fact and Conclusions of Law at nos. 478-79. Parents or guardians are the ones who exercise this right on behalf of minors in providing informed consent to this care. *See* Plaintiffs’ Proposed Findings of Fact and Conclusions of Law at nos. 425-443. Defendant has failed to demonstrate any specific state interest with respect to minors that would allow the Government to displace this parental decision-making authority regarding medical decisions during their child’s minority. *See* Plaintiffs’ Proposed Findings of Fact and Conclusions of Law at nos. 477-485.

Plaintiffs respectfully request that this Court expeditiously grant Plaintiffs’ Motion for Temporary Injunction and further deny Defendant’s Motion to Dismiss.

Respectfully submitted, this 23rd day of January, 2026.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2026, the above Plaintiffs' Response to Defendant's Notice of Supplemental Evidence was electronically filed with the Clerk of the Court using the Court's electronic filing system, which will send a notice of electronic filing to registered participants. A copy will also be provided to all counsel of record by PDF attachment to email.

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