

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION**

EMW WOMEN’S SURGICAL CENTER,
P.S.C., *et al.*,

Plaintiffs,

v.

ERIC FRIEDLANDER, *et al.*,

Defendants.

Case No.: 3:19-cv-00178-DJH-RSE

**PLAINTIFFS’ MOTION FOR A TEMPORARY RESTRAINING
ORDER AND/OR PRELIMINARY INJUNCTION**

Plaintiffs seek emergency relief to block the enforcement of House Bill 3 (“the Act”), which took effect yesterday pursuant to an emergency clause after the legislature overrode Governor Beshear’s veto. The Act bans abortion at 15 weeks in pregnancy, and imposes numerous other abortion restrictions, all of which require Plaintiffs to use forms created by the Cabinet for Health and Family Services or follow their regulations. But because those forms and regulations are not yet ready, it is impossible for Plaintiffs or the Commonwealth’s other abortion facility, Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana, and Kentucky, to comply with the Act. As such, the Act constitutes an operative ban on abortion. Accordingly, the Act will cause immediate irreparable harm. Plaintiffs therefore respectfully request that the Court act on an expedited basis and immediately grant a TRO enjoining Defendants from enforcing the Act.

As detailed more fully in the accompanying Memorandum of Law, and in the simultaneously filed Motion for a TRO/Preliminary Injunction in *Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana, and Kentucky, Inc. v. Cameron*, the issuance of a temporary

restraining order and/or preliminary injunction is warranted here. Plaintiffs have met all the elements required for such relief. Plaintiffs are likely to succeed on the merits of their claim that the 15-week ban and the Act's operative ban are unconstitutional under 46 years of Supreme Court precedent, beginning with *Roe v. Wade*, 410 U.S. 113 (1973), which holds that the State may not ban abortion before the point of fetal viability. The Act is causing immediate irreparable harm to Plaintiffs and their patients by prohibiting abortion. Moreover, the balance of equities weighs firmly in Plaintiffs' favor, and blocking the enforcement of these unconstitutional abortion bans will further the public interest.

Further, pursuant to FRCP 65(b)(1)(B), the undersigned counsel certify that upon electronically filing this motion and Complaint using the Courts CM/ECF system, counsel will electronically mail the filed documents to: Daniel Cameron, Kentucky Attorney General at Barry L. Dunn, Barry.Dunn@ky.gov and Victor B. Maddox, Victor.Maddox@ky.gov; Wesley W. Duke, Assistant General Counsel for the Kentucky Cabinet for Health and Family Services at WesleyW.Duke@ky.gov; Michael S. Rodman, Executive Director Kentucky Board of Medical Licensure, kbml@ky.gov and Leanne Diakov, General Counsel of Kentucky Board of Medical Licensure, leanne.Diakov@ky.gov; and Thomas Wine, the Commonwealth's Attorney for the 30th Circuit of Kentucky at tbwine@louisvilleprosecutor.com. Formal notice to Defendants and their agents, however, should not be required due to the constitutional rights at issue and the inability to effect formal process as a result of HB 3's immediate effective date.

For the foregoing reasons, and as set forth in the accompanying Memorandum and Declarations, Plaintiffs respectfully request that the court GRANT the Motion for a Temporary Restraining Order and/or Preliminary Injunction.

Dated: April 14, 2022

Respectfully submitted,

/s/ Brigitte Amiri
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**pro hac vice motions granted*

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was filed with the Court using the CM/ECF system on April 14, 2022, which will generate an electronic notice of filing to all counsel registered with that service.

s/Brigitte Amiri
Brigitte Amiri