

No. 18-1323
No. 18-1460

IN THE
Supreme Court of the United States

JUNE MEDICAL SERVICES L.L.C., ON BEHALF OF ITS PATIENTS, PHYSICIANS, AND STAFF, D/B/A HOPE MEDICAL GROUP FOR WOMEN; JOHN DOE 1; JOHN DOE 2,

Petitioners and Cross-Respondents,
v.

DR. REBEKAH GEE, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE LOUISIANA DEPARTMENT OF HEALTH,
Respondent and Cross-Petitioner.

**On Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit**

**MOTION FOR LEAVE TO SUBMIT
JOINT APPENDIX IN NON-BOOKLET FORMAT**

Pursuant to Rules 26.8 and 33.2 of the Rules of this Court, petitioners in No. 18-1323 and cross-respondents in No. 18-1460 (with the agreement of respondent in No. 18-1323 and cross-petitioner in No. 18-1460) respectfully seek leave to submit the joint appendix in these cases on 8½-by-11-inch paper format. These cases involve a constitutional challenge to Louisiana’s Act 620, which requires abortion providers to have admitting privileges at local hospitals. Interpreting the “undue burden” framework articulated in *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016), to require a “fact-intensive review,” the Fifth Circuit conducted an “in-depth analysis of the instant record, weighing both the benefits and the burdens of

Act 620.” Pet. App. 34a. This fact-based analysis went considerably beyond the fact-based arguments presented to the court of appeals in the briefs and record excerpts. Much of the briefing in this Court will therefore be trained on the Fifth Circuit’s sua sponte fact-based analysis, rendering it important to compile a joint appendix far exceeding the record excerpts prepared for the Fifth Circuit and containing a voluminous amount of record material.

If the joint appendix were prepared in booklet format according to Rule 33.1, it would span several volumes, cost over \$50,000, and be extremely difficult to prepare in time for petitioners to cite in their opening brief, due November 25, 2019. The pertinent facts here are dispersed throughout the record, which incorporates a six-day bench trial, voluminous documentary exhibits, and a variety of sealed materials. Faced with similarly large amounts of pertinent record material in the past, the Court has allowed the parties to dispense with the need to submit a joint appendix in booklet format, either in whole or in part. *See, e.g., Andrew F. v. Douglas Cty. Sch. Dist.*, 137 S. Ct. 988 (2017) (No. 15-827); *McDonnell v. United States*, 136 S. Ct. 2355 (2016) (No. 15-474); *Exxon Shipping Co. v. Baker*, 554 U.S. 471 (2008) (No. 07-219). Accordingly, petitioners respectfully suggest that the significant expense of preparing a joint appendix in booklet format would be unwarranted in this case as well. We have conferred with counsel for respondent regarding this matter, and respondent concurs.

Dated: November 6, 2019

Respectfully submitted,

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