

No. 19-1392

IN THE
Supreme Court of the United States

THOMAS E. DOBBS, M.D., M.P.H.,
STATE HEALTH OFFICER OF THE
MISSISSIPPI DEPARTMENT OF HEALTH, ET AL.,
Petitioners,

v.

JACKSON WOMEN'S HEALTH ORGANIZATION, ET AL.,
Respondents.

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

JOINT APPENDIX

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PETITION FOR A WRIT OF CERTIORARI FILED JUNE 15, 2020
CERTIORARI GRANTED MAY 17, 2021

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NOTICE

The following opinions, decisions, orders, and judgments have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the petition for a writ of certiorari:

APPENDIX A: OPINION, Fifth Circuit
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DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI

No. 3:18-cv-00171

JACKSON WOMEN'S HEALTH ORGANIZATION, *et al.*,

v.

THOMAS E. DOBBS, M.D., M.P.H., *et al.*

RELEVANT DOCKET ENTRIES

DATE	NO.	PROCEEDINGS
03/19/2018	1	COMPLAINT against Kenneth Cleveland, Mary Currier, Mississippi State Board of Medical Licensure (Filing fee \$ 400 receipt number 34643049387), filed by Jackson Women's Health Organization, Sacheen Carr-Ellis. (Attachments: # 1 Exhibit House Bill No. 1510 (As Sent to Governor), # 2 Civil Cover Sheet)(LAT) (Entered: 03/19/2018)
03/19/2018	5	MOTION for Temporary Restraining Order by Sacheen Carr-Ellis, Jackson Women's Health Organization (Attachments: # 1 Affidavit Declaration of Dr. Carr-Ellis) (McDuff, Robert) (Entered: 03/19/2018)

DATE	NO.	PROCEEDINGS
03/19/2018	6	***ERROR***DISREGARD THIS ENTRY. MOTION for Temporary Restraining Order Memorandum in Support by Sacheen Carr-Ellis, Jackson Women's Health Organization (McDuff, Robert) Modified on 3/20/2018 (cwl). (Entered: 03/19/2018)
03/20/2018	7	MEMORANDUM in Support re 5 MOTION for Temporary Restraining Order filed by Sacheen Carr-Ellis, Jackson Women's Health Organization (McDuff, Robert) (Entered: 03/20/2018)
03/20/2018	8	DEFENDANTS' Exhibit List for Motion hearing held on 3/20/2018 before Judge Reeves. (Attachments: # 1 Exhibit D-1 House Bill 1510, # 2 Errata D-2 Article)(JS) (Entered: 03/20/2018)
03/20/2018	9	ORDER granting 5 Motion for TRO. Signed by District Judge Carlton W. Reeves on 3/20/2018. (AC) (Entered: 03/20/2018)
03/26/2018	16	MOTION to Adopt Plaintiffs' Proposed Schedule and Limit Discovery to Exclude Legally Immaterial Issues by Sacheen Carr-Ellis, Jackson Women's Health Organization (McDuff, Robert) (Entered: 03/26/2018)

DATE	NO.	PROCEEDINGS
03/28/2018		TEXT-ONLY ORDER extending the temporary restraining order at Docket No. 9 by 14 days to Friday, April 13, 2018, pursuant to a showing of good cause as required under Federal Rule of Civil Procedure 65. Signed by District Judge Carlton W. Reeves on 3/28/2018. NO FURTHER WRITTEN ORDER SHALL ISSUE. (cr) (Entered: 03/28/2018)
04/09/2018	23	AMENDED COMPLAINT against All Defendants, filed by Jackson Women's Health Organization, Sacheen Carr-Ellis.(Schneller - PHV, Hillary) (Entered: 04/09/2018)
04/11/2018	25	ORDER extending TRO and separating claims in this case. Signed by District Judge Carlton W. Reeves on 4/11/2018. (cr) (Entered: 04/11/2018)
04/16/2018	26	MOTION for Reconsideration re 25 Order by Kenneth Cleveland, Mary Currier (Barnes-State Gov, Paul) (Entered: 04/16/2018)
04/16/2018	27	MEMORANDUM IN SUPPORT re 26 MOTION for Reconsideration re 25 Order filed by Kenneth Cleveland, Mary Currier (Barnes-State Gov, Paul) (Entered: 04/16/2018)

DATE	NO.	PROCEEDINGS
04/27/2018	32	AMENDED ANSWER to 23 Amended Complaint by Kenneth Cleveland, Mary Currier (Barnes-State Gov, Paul) (Entered: 04/27/2018)
04/27/2018	33	Response in Opposition re 16 MOTION to Adopt Plaintiffs' Proposed Schedule and Limit Discovery to Exclude Legally Immaterial Issues by Sacheen Carr-Ellis, Jackson Women's Health Organization (McDuff, Robert) filed by Kenneth Cleveland, Mary Currier (Attachments: # 1 Exhibit H.B. 1510) (Barnes-State Gov, Paul) (Entered: 04/27/2018)
04/27/2018	34	MEMORANDUM IN OPPOSITION re 16 MOTION to Adopt Plaintiffs' Proposed Schedule and Limit Discovery to Exclude Legally Immaterial Issues filed by Kenneth Cleveland, Mary Currier (Barnes-State Gov, Paul) (Entered: 04/27/2018)
04/30/2018	35	RESPONSE in Opposition re 26 MOTION for Reconsideration re 25 Order filed by Sacheen Carr-Ellis, Jackson Women's Health Organization (Delaney - PHV, Aaron) (Entered: 04/30/2018)

DATE	NO.	PROCEEDINGS
04/30/2018	36	MEMORANDUM in Opposition re 26 MOTION for Reconsideration re 25 Order filed by Sacheen Carr-Ellis, Jackson Women's Health Organization (Delaney - PHV, Aaron) (Entered: 04/30/2018)
05/04/2018	38	REPLY to Response to Motion re 16 MOTION to Adopt Plaintiffs' Proposed Schedule and Limit Discovery to Exclude Legally Immaterial Issues, 33 Response in Opposition, filed by Sacheen Carr-Ellis, Jackson Women's Health Organization (Schneller - PHV, Hillary) (Entered: 05/04/2018)
05/08/2018	39	Rebuttal re 26 MOTION for Reconsideration re 25 Order filed by Kenneth Cleveland, Mary Currier (Barnes-State Gov, Paul) (Entered: 05/07/2018)
05/15/2018	41	ORDER granting 16 Motion to Limit Discovery and Adopt Discovery Schedule. Signed by District Judge Carlton W. Reeves on 5/15/2018. (cr) (Entered: 05/15/2018)
05/15/2018	42	ORDER denying 26 Motion for Reconsideration. Signed by District Judge Carlton W. Reeves on 5/15/2018. (cr) (Entered: 05/15/2018)

DATE	NO.	PROCEEDINGS
07/26/2018	65	MOTION in Limine to Preclude Irrelevant Opinion and Testimony of Defendants' Expert Maureen L. Condic, Ph.D. by Sacheen Carr-Ellis, Jackson Women's Health Organization (Attachments: # 1 Exhibit A - State Defendants' Designation of Experts for Phase I & Decl. of Maureen L. Condic, Ph.D.)(Schneller - PHV, Hillary) (Entered: 07/26/2018)
07/26/2018	66	MEMORANDUM in Support re 65 MOTION in Limine to Preclude Irrelevant Opinion and Testimony of Defendants' Expert Maureen L. Condic, Ph.D. filed by Sacheen Carr-Ellis, Jackson Women's Health Organization (Schneller - PHV, Hillary) (Entered: 07/26/2018)
08/03/2018	74	Response in Opposition re 65 MOTION in Limine to Preclude Irrelevant Opinion and Testimony of Defendants' Expert Maureen L. Condic, Ph.D. by Sacheen Carr-Ellis, Jackson Women's Health Organization (Attachments: # 1 Exhibit A - State Defendants' Designation of Experts for Phase I & Decl. of Maureen L. Condic, Ph.D.) (Schneller - PHV, Hillary) filed by Kenneth Cleveland, Mary Currier (Attachments: # 1 Exhibit A - Defendants' Designation of Experts

DATE	NO.	PROCEEDINGS
		with all attachments) (Barnes-State Gov, Paul) (Entered: 08/03/2018)
08/03/2018	75	MEMORANDUM IN OPPOSITION re 65 MOTION in Limine to Preclude Irrelevant Opinion and Testimony of Defendants' Expert Maureen L. Condic, Ph.D. filed by Kenneth Cleveland, Mary Currier (Barnes-State Gov, Paul) (Entered: 08/03/2018)
08/07/2018	76	REPLY to Response to Motion re 74 Response in Opposition,, 65 MOTION in Limine to Preclude Irrelevant Opinion and Testimony of Defendants' Expert Maureen L. Condic, Ph.D. filed by Sacheen Carr-Ellis, Jackson Women's Health Organization (Schneller - PHV, Hillary) (Entered: 08/07/2018)
08/15/2018	77	ORDER granting in part and denying in part 65 Motion in Limine. Signed by District Judge Carlton W. Reeves on 8/15/2018. (AC) (Entered: 08/15/2018)
08/24/2018	81	MOTION for Summary Judgment (Phase I) by Sacheen Carr-Ellis, Jackson Women's Health Organization (Attachments: # 1 Affidavit Exhibit 1 - Declaration of Sacheen Carr-Ellis, M.D., M.P.H., in Support of Plaintiffs' Motion for Summary Judgment (Phase I), # 2

DATE	NO.	PROCEEDINGS
		Affidavit Exhibit 2 - Declaration of Martina Badell, M.D., in Support of Plaintiffs' Motion for Summary Judgment (Phase I), # 3 Exhibit Exhibit 3 - Dr. Mary Currier's Responses to Plaintiffs' First Set of Requests for Admission to Defendants)(Schneller - PHV, Hillary) (Entered: 08/24/2018)
08/24/2018	82	MEMORANDUM in Support re 81 MOTION for Summary Judgment (Phase I) filed by Sacheen Carr-Ellis, Jackson Women's Health Organization (Schneller - PHV, Hillary) (Entered: 08/24/2018)
09/07/2018	85	MEMORANDUM IN OPPOSITION re 81 MOTION for Summary Judgment (Phase I) filed by Kenneth Cleveland, Mary Currier (Attachments: # 1 Exhibit 1 - HB 1510, # 2 Exhibit 2 - Declaration of Maureen Condic, # 3 Exhibit 3 - Excerpts from Depo of Dr. Carr-Ellis, # 4 Exhibit 4 - 2014 Miss. Laws ch. 506 (H.B. 1400), # 5 Exhibit 5 - (Redacted) Plaintiffs' responses to first set of interrogatories, # 6 Exhibit 6 - Bartlett article)(Barnes-State Gov, Paul) (Entered: 09/07/2018)

DATE	NO.	PROCEEDINGS
09/14/2018	86	REPLY to Response to Motion re 81 MOTION for Summary Judgment (Phase I), 85 Memorandum in Opposition, filed by Sacheen Carr-Ellis, Jackson Women's Health Organization (Schneller - PHV, Hillary) (Entered: 09/14/2018)
10/18/2018	87	ORDER extending Temporary Restraining Order. Signed by District Judge Carlton W. Reeves on 10/18/2018. (CL) (Entered: 10/18/2018)
11/20/2018	89	ORDER granting 81 Plaintiffs' Motion for Summary Judgment. Signed by District Judge Carlton W. Reeves on 11/20/2018. (CL) (Entered: 11/20/2018)
12/17/2018	93	NOTICE OF APPEAL (18-60868) as to 89 Order on Motion for Summary Judgment by Kenneth Cleveland, Mary Currier. Filing fee \$ 505, receipt number 0538-3877848. Appeal Record due by 1/2/2019 (Barnes-State Gov, Paul) (Entered: 12/17/2018)

U.S. COURT OF APPEALS FOR THE
FIFTH CIRCUIT

No. 18-60868

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
12/17/2018	CIVIL RIGHTS CASE docketed. NOA filed by Appellants Mr. Kenneth Cleveland and Mr. Thomas E. Dobbs [18-60868] (RLL) [Entered: 12/18/2018 09:35 AM]
03/06/2019	APPELLANT'S BRIEF FILED # of Copies Provided: 0 A/Pet's Brief deadline satisfied. Appellee's Brief due on 04/05/2019 for Appellees Sacheen Carr-Ellis and Jackson Women's Health Organization. Paper Copies of Brief due on 03/12/2019 for Appellants Kenneth Cleveland and Thomas E. Dobbs. [18-60868] REVIEWED AND/OR EDITED - The original text prior to review appeared as follows: APPELLANT'S BRIEF FILED by Mr. Kenneth Cleveland and Mr. Thomas E. Dobbs. Date of service: 03/06/2019 via email - Attorney for Appellants: Barnes, Minor; Attorney for Appellees: Delaney, McDuff, Orlansky, Rikelman, Schneller [18-60868] (Paul Eldridge Barnes) [Entered: 03/06/2019 05:26 PM]

DATE	PROCEEDINGS
04/05/2019	<p>APPELLEES' BRIEF FILED. # of Copies Provided: 0. E/Res's Brief deadline satisfied. Reply Brief due on 04/26/2019 for Appellants Kenneth Cleveland and Thomas E. Dobbs. Paper Copies of Brief due on 04/10/2019 for Appellees Sacheen Carr-Ellis and Jackson Women's Health Organization. [18-60868] REVIEWED AND/OR EDITED - The original text prior to review appeared as follows: APPELLEE'S BRIEF FILED by Ms. Sacheen Carr-Ellis and Jackson Women's Health Organization. Date of service: 04/05/2019 via email - Attorney for Appellants: Barnes, Minor; Attorney for Amici Curiae: Bursch, Carmody, Hawkins, Strickland; Attorney for Appellees: Delaney, McDuff, Orlansky, Rikelman, Schneller [18-60868] (Hillary Schneller) [Entered: 04/05/2019 02:04 PM]</p>
04/26/2019	<p>APPELLANT'S REPLY BRIEF FILED # of Copies Provided: 0 Reply Brief deadline satisfied. Paper Copies of Brief due on 05/06/2019 for Appellants Kenneth Cleveland and Thomas E. Dobbs. [18-60868] REVIEWED AND/OR EDITED - The original text prior to review appeared as follows: APPELLANT'S REPLY BRIEF FILED by Mr. Kenneth Cleveland and Mr. Thomas E. Dobbs. Date of service: 04/26/2019 via email - Attorney for Appellants: Barnes, Minor; Attorney for Amici Curiae:</p>

DATE	PROCEEDINGS
10/07/2019	<p data-bbox="621 447 1208 701">Bursch, Carmody, Casamassima, Eisenberg, Fallon, Hawkins, Mac Avoy, Sarnoff, Smith, Strickland, Szyfer; Attorney for Appellees: Delaney, McDuff, Orlansky, Rikelman, Schneller [18-60868] (Paul Eldridge Barnes) [Entered: 04/26/2019 04:30 PM]</p> <p data-bbox="621 722 1208 1199">ORAL ARGUMENT HEARD before Judges Higginbotham, Dennis, Ho. Arguing Person Information Updated for: Paul Eldridge Barnes arguing for Appellants Thomas E. Dobbs, Et Al; Arguing Person Information Updated for: Beth Ellen Klusmann arguing for Amicus Curiae State of Louisiana; Arguing Person Information Updated for: Hillary Schneller arguing for Appellees Jackson Women's Health Organization, Et Al. [18-60868] (PFT) [Entered: 10/07/2019 01:27 PM]</p>
12/13/2019	<p data-bbox="621 1220 1208 1545">PUBLISHED OPINION FILED. [18-60868 Affirmed] Judge: PEH , Judge: JLD , Judge: JCH. Mandate issue date is 01/06/2020 (This opinion includes URL material that is archived by the Fifth Circuit Court of Appeals Library, and made available at http://www.lb5.uscourts.gov/ArchivedURLS/.) [18-60868] (NFD) [Entered: 12/13/2019 05:05 PM]</p>

DATE	PROCEEDINGS
12/13/2019	<p>JUDGMENT ENTERED AND FILED. Costs Taxed Against: Each Party to Bear Its Own Costs on Appeal. [18-60868] (NFD) [Entered: 12/16/2019 10:55 AM]</p>
12/27/2019	<p>SUFFICIENT PETITION for rehearing en banc filed by appellants. [9218308-2] Mandate issue date canceled. Sufficient Rehearing due on 01/06/2020 for Appellants Kenneth Cleveland and Thomas E. Dobbs. Document is insufficient for the following reasons: The Statement of the facts is missing [18-60868]</p> <p>REVIEWED AND/OR EDITED - The original text prior to review appeared as follows: PETITION filed by Appellants Mr. Kenneth Cleveland and Mr. Thomas E. Dobbs for rehearing en banc [9218308-2]. Date of Service: 12/27/2019 via email - Attorney for Appellants: Barnes, Minor; Attorney for Amici Curiae: Bursch, Carmody, Casamassima, Eisenberg, Fallon, Hawkins, Klusmann, Mac Avoy, Sarnoff, Smith, Strickland, Szyfer; Attorney for Appellees: Delaney, Geise, Grusauskas, Hammerman, Korberg, McDuff, Orlansky, Rikelman, Schneller [18-60868] (Paul Eldridge Barnes) [Entered: 12/27/2019 02:43 PM]</p>
12/30/2019	<p>REHEARING MADE SUFFICIENT filed by Appellants Mr. Thomas E. Dobbs and Mr. Kenneth Cleveland in 18-60868 [9218308-2]. Sufficient Rehearing due</p>

DATE	PROCEEDINGS
01/17/2020	<p>deadline satisfied. Paper Copies of Rehearing due on 01/06/2020 for Appellants Kenneth Cleveland and Thomas E. Dobbs. [18-60868] (MAS) [Entered: 12/30/2019 03:41 PM]</p> <p>COURT ORDER denying Petition for rehearing en banc filed by Appellants Mr. Thomas E. Dobbs and Mr. Kenneth Cleveland [9218 308-2] Without Poll. Mandate issue date is 01/27/2020 [9232413-1] [18-60868] (MAS) [Entered: 01/17/2020 10:44 AM]</p>
01/27/2020	<p>MANDATE ISSUED. Mandate issue date satisfied. [18-60868] (MAS) [Entered: 01/27/2020 08:01 AM]</p>
03/24/2020	<p>SUPREME COURT ORDER received extending time to file petition for writ of certiorari to 06/15/2020. Extension request filed by Appellants Mr. Kenneth Cleveland and Mr. Thomas E. Dobbs. Application No. 19A1027. [9278878-1] [18-60868] (SMC) [Entered: 03/24/2020 03:27 PM]</p>
06/19/2020	<p>SUPREME COURT NOTICE that petition for writ of certiorari [9338165-2] was filed by Appellants Mr. Kenneth Cleveland and Mr. Thomas E. Dobbs on 06/15/2020. Supreme Court Number: 19-1392. [18-60868] (SMC) [Entered: 06/19/2020 04:18 PM]</p>

DATE	PROCEEDINGS
05/18/2021	SUPREME COURT ORDER received granting petition for writ of certiorari filed by Appellants Mr. Thomas E. Dobbs and Mr. Kenneth Cleveland in 18-60868 on 05/17/2021. [9576731-1] [18-60868] (SMC) [Entered: 05/18/2021 11:03 AM]

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
OF MISSISSIPPI
NORTHERN DIVISION**

Case No. 3:18cv171-CWR-FKB

JACKSON WOMEN'S HEALTH ORGANIZATION,
on behalf of itself and its patients,

and

SACHEEN CARR-ELLIS, M.D., M.P.H.,
on behalf of herself and her patients,

Plaintiffs,

v.

MARY CURRIER, M.D., M.P.H.,
in her official capacity as State
Health Officer of the Mississippi
Department of Health, *et al.*

Defendants.

**DECLARATION OF SACHEEN CARR-ELLIS,
M.D., M.P.H., IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY
JUDGMENT (PHASE I)**

Sacheen Carr-Ellis, M.D., M.P.H., declares and states
as follows:

1. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment (Phase I). I am a board-certified obstetrician/gynecologist (ob/gyn) licensed to practice medicine in Mississippi. I received my M.D. from Albany Medical College in 1999. After

my residency in obstetrics and gynecology, I completed a fellowship in family planning at Boston University Medical Center in Boston, Massachusetts, which included training in abortion. I also hold a master's degree in public health from Boston University. My curriculum vitae, which sets forth my expertise and credentials in greater detail, is attached as Exhibit A.

2. The opinions in this declaration are my expert opinions, based on my education, clinical experience, attendance at conferences, and familiarity with the relevant medical literature.

Background

3. I have been providing abortion services since 1999. Over the course of my medical career, I have regularly provided both first trimester and second trimester abortions, including abortions after 15 weeks.

4. I joined Jackson Women's Health Organization ("the Clinic") in 2014 and became Medical Director in April 2015. To the best of my knowledge, the Clinic is the only regular provider of legal abortion in Mississippi.

5. As Medical Director, I oversee the Clinic's medical practice, including reviewing and establishing medical policies and protocols.

6. I am also one of the Clinic's clinicians and provide contraceptive and abortion services to the Clinic's patients. At the Clinic, I provide medication abortion up to 10 weeks from a patient's last menstrual period (LMP), consistent with current evidence-based medical practice, and aspiration (surgical) abortions up to 16 weeks 0 days LMP.

7. Over the last several years, the Clinic has provided more than 2,000 abortions per year.

8. The Clinic is open six days per week, but abortion procedures are typically offered on only two to three days per week. In general, each week, the Clinic provides abortion to at least one woman after 14 weeks 6 days LMP.

H.B. 1510 Bans Abortion Prior to Viability

9. I have reviewed Mississippi House Bill 1510, which bans abortion after 15 weeks LMP. As a ban on abortion after 15 weeks LMP, H.B. 1510 prohibits abortions months before the time in pregnancy when a fetus may be viable, by which I mean that in the judgment of the attending clinician on the particular facts of the case before him or her, there is a reasonable likelihood of the fetus's sustained survival outside the womb, with or without artificial support.

10. If the ban takes effect, the Clinic will have to stop providing abortions after 14 weeks 6 days LMP because neither I nor the Clinic's other clinicians can risk the civil and other penalties that the ban imposes. Patients seeking abortion in Mississippi after 14 weeks 6 days will either be forced to carry their pregnancy to term against their will or have to leave the state to obtain care.

11. Viability is medically impossible at 15 weeks LMP. Based on my education, training, and decades as a practicing ob-gyn, it is my medical opinion that viability does not occur in a normally developing pregnancy until at least 23 weeks LMP, and that some fetuses are never viable.

12. Several factors determine whether a particular fetus is viable, including the gestational age of the

fetus; the size of the fetus; the sex of the fetus; whether the fetus has any abnormalities; and whether it is a singleton or a multiple. Whether a particular fetus is viable also depends on whether the pregnant woman has been administered antenatal corticosteroids.¹

13. The American College of Obstetricians and Gynecologists (ACOG) and the Society for Maternal-Fetal Medicine define “perivable birth” as delivery between 20.0 and 25.6 weeks LMP. Perivable infants do not survive without life-sustaining intervention immediately after birth.²

14. Recent studies, including from studies about infants born at several academic medical centers and reported to the National Institute for Child Health and Human Development Neonatal Research Network inform a recent consensus paper on perivable birth published in the American Journal of Obstetrics and Gynecology.³ The consensus paper lists survival to hospital discharge of 5-6% between 22 and 23 weeks LMP for infants born at Level III or Level IV neonatal intensive care units (NICUs).⁴ That low survival rate does not indicate a reasonable likelihood of sustained

¹ Am. Coll. of Obstetricians & Gynecologists & Soc’y for Maternal-Fetal Med., *Obstetric Care Consensus No. 6: Perivable Birth*, 130 *Obstetrics & Gynecology* e187 (Oct. 2017) (Interim Update) (“ACOG”), <https://www.acog.org/-/media/Obstetric-Care-Consensus-Series/occ006.pdf>.

² ACOG, at e187 & 191.

³ ACOG, at e188; *see also* Eunice Kennedy Shriver National Institute of Child Health and Human Development, NICHD Neonatal Research Network (NRN): Extremely Preterm Birth Outcome Data, https://www1.nichd.nih.gov/epbo-calculator/Pages/epbo_case.aspx.

⁴ ACOG, at e188.

survival outside the womb, with or without artificial aid.⁵

15. Accordingly, guidance from the ACOG and the Society for Maternal-Fetal Medicine provides that only for infants at or greater than 24 weeks LMP is neonatal assessment for resuscitation recommended. For infants born at 22 weeks and before 24 weeks, neonatal assessment for resuscitation can be considered. Neonatal assessment for resuscitation is “not recommended” for periviable infants born prior to 22 weeks LMP.⁶

16. The ban presents me with an impossible choice: to face potential civil penalties and loss of my Mississippi medical license for continuing to safely provide abortion care or to stop providing my patients the care they seek and deserve.

⁵ Studies that report survival across the population have found lower rates between 22-23 weeks. *See* ACOG, e197, n.20.

⁶ ACOG, at e194.

Exhibit A**Curriculum Vitae
Sacheen Nathan, MD, MPH****ACADEMIC TRAINING:**

5/1995 BS Union College, Schenectady,
NY; Biology and Chemistry
5/1999 MD Albany Medical College, Albany,
NY
12/2005 MPH Boston University, Boston,
MPH; Biostatistics

POSTDOCTORAL TRAINING:

7/1999-6/2003 Residency in Obstetrics and
Gynecology, New York Medical
College, New York, NY
7/2003-6/2005 Fellowship in Family Planning
and Public Health, Boston
Medical Center, Boston, MA

ACADEMIC APPOINTMENTS:

2/2010-4/2014 Assistant Professor of Obstetrics
and Gynecology, Boston Univer-
sity School of Medicine, Boston,
MA
7/2005-2/2010 Instructor of Obstetrics and
Gynecology, Boston University
School of Medicine, Boston, MA

HOSPITAL APPOINTMENTS:

7/2005-4/2014 Attending Gynecologist, Boston
Medical Center, Boston, MA

HOSPITAL AFFILIATION:

4/2014-Present Refer and follow privilege, Boston
Medical Center, Boston, MA

OTHER PROFESSIONAL AND VOLUNTEER EXPERIENCE:

6/1997-8/1997 Internship, New York State
Department of Health, Bureau
of Women's Health, New York,
NY

11/2003-2008 Quincy Teen Mothers, Quincy
High School, Quincy, MA

9/2004-Present Healing Our Community
Collaborative, Asylum Network,
Boston, MA

7/2005-Present Clinician, Planned Parenthood
League of Massachusetts,
Boston MA

2/2005 Clinical Workshops and Health
Clinics, Marie Stopes Kenya,
Nairobi Kenya

4/2005 Clinician Training in abortion
and miscarriage management.
Mexico City, Mexico

5/2013-12/2015 Clinician, Four Women Health
Services, Attleboro MA

7/2014-4/2017 Clinician, Planned Parenthood
South East, Atlanta GA

9/2014-Present Clinician, Whole Women's
Health, Baltimore MD

9/2015-Present Clinician, Reproductive Health
Services, Montgomery AL

1/2016-Present Clinician, West Alabama
Women's Center, Tuscaloosa AL

10/2014-Present Medical Director, Jackson
Women's Health, Jackson MS

HONORS:

1999 Dr. George C. Carter Award for
growth and development of the
Minority Affairs department,
Albany Medical College, Albany,
NY

2003 Resident Humanism Award,
New York Medical College

2003 3rd Prize, Resident Research
Award, New York Medical
College

2003 Wyeth Pharmaceuticals New
Leaders Award

2004 Wyeth Pharmaceuticals New
Leaders Award

2008 CREOG Faculty Award for
Excellence in Resident Teach-
ing, Department of Obstetrics
and Gynecology, Boston Univer-
sity School of Medicine, Boston,
MA

LICENSES AND CERTIFICATION:

5/2003 Massachusetts License #216743

4/2014 New York License # 274959-1

4/2014 Georgia License #72378

5/2014 Maryland License #D77891

6/2014 Alabama License #MD.33448

9/2014 Mississippi License #23483

1/2007 American Board of Obstetrics
and Gynecology, Diplomate
#9007221

DEPARTMENTAL AND UNIVERSITY COMMITTEES:

11/2005-4/2014 Member, Ethics Committee,
Boston Medical Center, Boston,
MA

3/2013-4/2014 Board Member, Boston Univer-
sity OB/GYN Foundation,
Boston, MA

TEACHING EXPERIENCE AND RESPONSIBILITIES:

7/2005-4/2014 Core Faculty in Family Plan-
ning Fellowship, Boston Medical
Center, Boston, MA

7/2005-4/2014 Resident Teaching in Family
Planning and General Gynecol-
ogy, Boston Medical Center,
Boston, MA

7/2005-4/2014 Medical Student Teaching in
Family Planning and General
Gynecology, Boston Medical
Center, Boston, MA

MAJOR ADMINISTRATIVE RESPONSIBILITIES:

7/2005-4/2014 Director for 1st and 2nd year
Medical Students in Medical
Student for Choice-Sponsored
Summer Rotation in Family
Planning, Boston Medical Cen-
ter, Boston, MA

7/2007-4/2014 Clinical Director of Family Plan-
ning, Boston Medical Center,
Boston, MA

7/2008-4/2014	Director, 4th Year Boston University Medical Student Elective in Family Planning, Boston Medical Center, Boston, MA
7/2009-6/2013	Faculty Advisor for Ob/Gyn Residency Class of 2013
7/2008-7/2010	Faculty Advisor for OB/Gyn Pre-operative conference, Boston University Obstetrics and Gynecology. Boston Medical Center, Boston, MA
7/2009-4/2014	Director, Ryan Program in Resident Teaching in Family Planning, Boston Medical Center, Boston, MA
7/2009-4/2014	Co Director, Fellowship in Family Planning, Boston Medical Center, Boston, MA
4/2015-present	Medical Director Jackson Women's Health Organization, Jackson MS

MAJOR ADMINISTRATIVE PROJECTS:

7/2005	Development of the outpatient sterilization program. Boston University Obstetrics and Gynecology. Boston Medical Center
7/2006	Planning Committee for Gynecologic Procedure Unit. Boston University Obstetrics and Gynecology. Boston Medical Center, Boston, MA
7/2009-4/2014	Scheduling for Family Planning Clinics. Boston University Ob-

	stetrics and Gynecology. Boston Medical Center, Boston, MA
7/2009-4/2014	Family Planning Billing Project, Boston University Obstetrics and Gynecology, Boston Medical Center, Boston, MA
7/2011-4/2014	Family Planning Protocol Updates, Boston University Obstetrics and Gynecology, Boston Medical Center, Boston, MA
5/2013-5/2014	Family Planning Project with homeless women in Boston, MHSA Scattered Sites, Dorchester, MA

OTHER PROFESSIONAL ACTIVITIES:

PROFESSIONAL SOCIETIES: MEMBERSHIPS, OFFICES, AND COMMITTEE ASSIGNMENTS

1999-2008	Junior Fellow, American Congress of Obstetricians and Gynecologists
2003-Present	Association of Reproductive Health Providers
2006-Present	Massachusetts Medical Society
2009-Present	Fellow, American Congress of Obstetricians and Gynecologists
2013-Present	Affiliate Fellow, Society of Family Planning

MAJOR COMMITTEE ASSIGNMENTS:**Private/Foundation**

9/2005-6/2009	Executive Board Member, Abortion Access Project, Cambridge, MA
1/2011-8/2014	Board Member, Black Women's Health Imperative, Washington, DC
2/2014-present	Board Member, Population Connection, Washington DC

Invited Lectures and Presentations:

1999	Female Sexual Function. Grand Rounds. Metropolitan Hospital, New York, NY.
2000	Adolescent Pregnancy and Abstinence Only Education. Grand Rounds. Metropolitan Hospital, New York, NY.
2002	Unwanted Pregnancy and Title X of the Public Health Service Act. Grand Rounds. Westchester Medical Center, Valhalla, NY.
2003	Implants and Injectables. Avances Recientes en Anticoncepcion. Bogotá, Colombia.
2003	Barrier Methods. Avances Recientes en Anticoncepcion. Bogotá, Colombia.
2003	Withdrawal, A good alternative? Avances Recientes en Anticoncepcion. Bogotá, Colombia.
2003	Medical Abortion. 7h Annual New England Regional Conference Health Profession Students for Choice. Boston, MA.

- 2004 Mifepristone Training for Primary Care Practitioners. Boston University Department of Family Medicine and the Abortion Access Project. Boston, MA.
- 2004 Why Emergency Contraception is Important to Your Practice: Key Facts for Providers. The New Hampshire Reproductive Health Association and Dartmouth-Hitchcock Medical Center. Laconia, NH.
- 2004 Intrauterine Contraception. East Boston Neighborhood Health Center. Boston MA.
- 2008 Long Acting Reversible Contraception. Family Planning Fellowship Meeting. New Orleans, LA.
- 2008 Overcoming Cultural Barriers in Contraceptive Care. Grand Rounds. Boston Medical Center, Boston, MA.
- 2009 Update on Long Acting Reversible Contraception. Grand Rounds. Tufts Medical Center, Boston, MA.
- 2010 Medication Abortion: Clinical Evidence and Managing Complications. Webinar. Ryan Training Program
- 2010 Clinical Conundrums: Contraception and the complicated Patient. Grand Rounds. Washington Hospital Center, Washington DC.
- 2010 Values Clarification Workshop. Washington Hospital Center, Washington DC
- 2010 The Modern IUD. Grand Rounds. Beverly Hospital, Beverly Massachusetts

Bibliography:**TEXTBOOK CHAPTERS:**

1. Stubblefield P, Carr-Ellis S, Kapp N. Family Planning. In *Berek & Novak's Gynecology 14th ed.* Lippincott Williams and Wilkins, Philadelphia, PA, 2007.

ORIGINAL, PEER REVIEWED ARTICLES:

1. Carr-Ellis S, Kapp N, Vragovic O, Borgatta L. Randomized trial of buccal vs. vaginal misoprostol for induction of second trimester abortion. *Contraception* 2010;81(5):441-445
2. Stubblefield P, Carr-Ellis S, Borgatta L. Methods for induced abortion. *Obstet Gynecol.* 2004;104(1):174-185.
3. Kapp N, Borgatta L, Carr-Ellis S, Stubblefield P. Simultaneous very low dose mifepristone and vaginal misoprostol for medical abortion. *Contraception* 2006;73(5):525-7.
4. Green J, Borgatta L, Sia M, Kapp N, Saia K, Carr-Ellis S, Vragovic O. Intervention rates for placental removal following induction abortion with misoprostol. *Contraception* 2007;76(4):310-3.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF
MISSISSIPPI NORTHERN DIVISION**

Case No. 3:18cv171-CWR-FKB

JACKSON WOMEN'S HEALTH ORGANIZATION,
on behalf of itself and its patients,

and

SACHEEN CARR-ELLIS, M.D., M.P.H.,
on behalf of herself and her patients,

Plaintiffs,

v.

MARY CURRIER, M.D., M.P.H.,
in her official capacity as State
Health Officer of the Mississippi
Department of Health, *et al.*

Defendants.

DECLARATION OF MARTINA BADELL, M.D.,
IN SUPPORT OF PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT
(PHASE I)

Martina Badell, M.D., declares and states the following:

1. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment (Phase I). I am a board-certified obstetrician/gynecologist (OB/GYN) and a board-certified maternal-fetal medicine specialist, with years of experience in obstetrics, high risk pregnancies, ultrasound and prenatal diagnosis.

Maternal-fetal medicine (also called perinatology) is an area of obstetrics that focuses on the medical management of high-risk pregnancy. My background and qualifications are set out in further detail below, as well as in my curriculum vitae, which is attached as Exhibit A.

2. The opinions in this declaration are my expert opinions, based on my education, research, clinical experience, attendance at conferences, and familiarity with the medical literature that is recognized as reliable in the medical profession. I offer the following opinions in my individual capacity and not as a representative of the institution at which I practice.

H.B. 1510 Bans Abortion Prior to Viability

3. I am familiar with Mississippi's ban on abortion after 15 weeks of pregnancy (the "ban"). The ban prohibits abortion before the point in pregnancy when a fetus is viable.

4. It is my medical opinion that a fetus is not viable after only 15 weeks of pregnancy, as measured from the last day of a woman's last menstrual period (LMP). It is also my opinion that, in a normally progressing pregnancy, a fetus does not have a reasonable likelihood of sustained survival outside the womb, with or without assistance, until at least 23 weeks, and that some fetuses are never viable.

5. Viability means there is a reasonable likelihood that a fetus will be able to survive for a sustained period of time outside the womb, either on its own or with assistance. The determination of viability is made in the judgment of the attending physician, based on the particular facts of the case before him or her.

6. Many factors determine whether a particular fetus is viable. These include the gestational age of the fetus; the weight of the fetus, and if there are any structural or genetic abnormalities. In addition, when a pregnant woman at risk for a pre-term delivery is administered antenatal corticosteroids prior to delivery, the fetus may be more likely to survive than if the pregnant woman is not provided antenatal corticosteroids.

7. Some fetuses are never viable because of certain abnormalities, such as anencephaly, osteogenesis imperfecta (perinatal lethal form), and short-rib polydactyly syndrome. As a result of these conditions, a fetus typically dies in utero or very soon after birth.

8. Even were all these factors aligned and in optimal circumstances—if, for example, the fetus has no abnormalities, and is normally grown—no fetus is viable at 15 weeks LMP.

9. Reported survival rates for periviable infants help inform physicians about when a fetus is typically viable, and what factors influence whether a particular fetus is viable. A consensus paper from the American College of Obstetricians and Gynecologists (ACOG) and the Society for Maternal-Fetal Medicine (SMFM) defines the periviable period as delivery between 20.0 and 25.6 weeks LMP. A variety of factors influence whether a periviable fetus is able to survive, including whether the pregnant woman has been administered antenatal corticosteroids before delivery, and the type of equipment and medical care available to care for the infant after delivery. A periviable infant cannot survive without life-sustaining intervention immediately after birth.

10. The ACOG/Society for Maternal-Fetal Medicine consensus paper on periviable birth reports survival to discharge from the hospital at rates of 5-6% for fetuses between 22-23 weeks LMP. A recent large NICHD NRN study by Younge, et al., aimed to evaluate the changes over time in survival and neurodevelopmental outcomes among infants born at 22-24 weeks. That study found the rate of survival without neurodevelopmental impairment showed a small increase between 2000-2011. However, between 2008 and 2011, the study showed a 1% rate of survival for infants at 22 weeks without neurodevelopmental impairment; the survival rate for infants at 22 weeks with neurodevelopmental impairment was 2%. Such low rates of survival do not reflect a reasonable likelihood that a fetus will be able to survive outside the womb. Even with extraordinary medical intervention and under optimal circumstances, a fetus between 22-23 weeks LMP has an extremely small chance of survival.

11. Extraordinary, life-sustaining intervention is not generally possible before 22 weeks LMP. Before 22 weeks, for example, the lungs are not developed enough to allow for successful oxygenation even with the use of highly specialized ventilators, the arteries and veins are too small and fragile to support required access, and the skin is too fragile to protect the baby and maintain body temperature. Extracorporeal membrane oxygenation machines, which can support the heart and lungs in event of cardiopulmonary failure, cannot be utilized in deliveries prior to 34 weeks given requirement for full anticoagulation which cannot be safely done in very premature infants. In addition, the estimated fetal weight at 16 weeks is only 200 grams.

12. The National Institute for Child Health and Human Development (NICHD) Neonatal Research Network (NRN) created a tool to estimate outcomes for periviable births based on information collected from births at 22 to 25 weeks LMP in several academic Level III or Level IV neonatal intensive care units (NICU) centers. Level III or Level IV NICUs are high level facilities with specialized physicians, nurses, and equipment to care for preterm or critically ill infants. The NICHD Neonatal Research Network endorsed calculator can be used to assess extremely preterm birth outcomes using 5 factors (gestational age, birth weight, sex, singleton or twin pregnancy and administration of corticosteroids) which researchers determined to predict neonatal outcomes. The lowest gestational age for which outcomes can be predicted is 22 weeks as prior to that gestational age survival is not currently possible.

13. In light of these low survival rates, current recommendations, as endorsed by ACOG and SMFM, state that neonatal assessment for resuscitation is “recommended” for infants at or beyond 24 weeks LMP, and can be “considered” for infants between 22 and 24 weeks. Prior to 22 weeks, neonatal assessment for resuscitation is “not recommended.”

14. Consistent with these recommendations, medical centers typically do not require resuscitation for infants less than 23 weeks LMP. For instance, where I practice, resuscitation is indicated for infants born at or after 24 weeks. Between 22-24 weeks, the decision whether to resuscitate is shared between the parents and the attending physicians, and physicians will not consider resuscitation unless the parents wish them to. Families are counseled about the likelihood of sustained survival at these gestational ages, including

the low chance of survival at 22 weeks. Further, the decision whether to resuscitate is based on circumstances that vary with each case, taking into account the likelihood of survival of a particular infant.

15. My opinions are based on my education, experience, research, and expertise in obstetrics, gynecology, and maternal-fetal medicine. The sources I have considered in forming my opinions include, but are not limited to:

- Am. Coll. of Obstetricians & Gynecologists & Soc’y for Maternal-Fetal Med., *Obstetric Care Consensus No. 6: Periviable Birth*, 130 *Obstetrics & Gynecology* e187 (Oct. 2017) (Interim Update), <https://www.acog.org/-/media/Obstetric-Care-Consensus-Series/occ006.pdf>;
- National Institute of Child Health and Development, *NICHD Neonatal Research Network (NRN): Extremely Preterm Birth Outcome Data*, https://www1.nichd.nih.gov/v/epbo-calculator/Pages/epbo_case.aspx;
- National Institute of Child Health and Development, *NICHD Neonatal Research Network (NRN): Extremely Preterm Birth Outcome Data*, <https://www.nichd.nih.gov/about/org/der/branches/ppb/programs/epbo/dataShow>;
- Noelle Younge, et al., *Survival and Neurodevelopmental Outcomes Among Periviable Infants*, 376 *N. Eng. J. Med.* 617 (2017);
- Matthew A. Rysavy, et al., *Between-Hospital Variation in Treatment and Outcomes*

in *Extremely Preterm Infants*, 372 N. Eng. J. Med. 1801 (2015);

- Pierre-Yves Ancel, et al., *Survival and Morbidity of Preterm Children Born at 22 Through 34 Weeks' Gestation in France in 2011 Results of the EPIPAGE-2 Cohort Study*, 169 JAMA Pediatrics 230 (2015);
- Jon E. Tyson, *Intensive Care for Extreme Prematurity — Moving beyond Gestational Age*, 358 N. Eng. J. Med. 1672 (2008);
- Lillian R. Blackmon, *The Biologic Limits of Viability*, 4 NeoReviews e140 (2003);
- Keith Moore, et al., *The Developing Human: Clinically Oriented Embryology* (10th edition)

16. I am an Assistant Professor in the Department of Obstetrics and Gynecology at the Emory University School of Medicine, where I provide care to patients as a Maternal-Fetal Medicine specialist. My medical practice focuses women whose pregnancies are high risk, whether because the woman has an underlying maternal condition that is exacerbated by pregnancy, a pregnancy-related condition that puts the pregnancy at risk, or the pregnancy is affected by a fetal abnormality. I am also the Director of the Emory University Hospital Midtown Perinatal Center. In that capacity, I supervise a busy perinatal center with multiple perinatal sonographers, genetic counselors, and high-risk nurses. We perform detailed fetal ultrasounds, offer prenatal genetic testing, and perform inpatient and outpatient high risk pregnancy consultations. Additionally, I train maternal fetal medicine fellows and obstetrics and gynecology residents. As part of

my medical practice it is my responsibility to counsel patients with complicated pregnancies requiring very early delivery about the expected perinatal outcomes. I work closely with my neonatology colleagues at Emory and collaborate with them in counseling and developing management plan for periviable fetuses.

17. I do not ordinarily provide abortion care and refer patients to abortion providers if an abortion is indicated based on maternal risk with pregnancy or fetal abnormalities diagnosed during prenatal care. I do perform selective reductions if a woman who is carrying higher-order multiple fetuses desires reduction in an attempt to improve the perinatal outcomes of the remaining fetuses.

18. I received my medical degree in 2006 from the University of Rochester School of Medicine and Dentistry. I completed my residency in Obstetrics and Gynecology at the Emory University School of Medicine and then held a three-year fellowship in Maternal-Fetal Medicine at Emory. In 2015, I became the Assistant Director of the Maternal-Fetal Medicine Fellowship and have trained many medical students, residents, and fellows to be OB/GYNs and Maternal-Fetal Medicine physicians.

19. My research focuses on high-risk pregnancy, including HIV and pregnancy, and congenital heart defects in pregnancy. I have authored dozens of articles in peer-reviewed journals on diagnosis and pregnancy care for women with various medical conditions.

20. I am a member of several professional organizations, including ACOG, the Society for Maternal-Fetal Medicine, the American Institute of Ultrasound Medicine, and the Georgia Obstetrical and Gynecological Society.

I declare under penalty of perjury that the foregoing is true and correct

/s/ Martina Badell
Martina Badell, M.D.

Executed on August 20, 2018 at 2:15 pm Atlanta, Georgia

Exhibit A**CURRICULUM VITAE**

Name: Martina L. Badell, M.D.

Address: 8th floor Medical Office Tower,
Perinatal Center
Emory University Hospital
Midtown
Atlanta, GA 30308

Telephone: [REDACTED]

Fax: [REDACTED]

E-mail Address: [REDACTED]

Birthplace: Glasgow, Scotland

Citizenship: United States of America

Licensures: Georgia Composite State Board of
Medical Examiners, 2010

Boards: American Board of Obstetrics and
Gynecology, 2011
Subspecialty board certified,
American Board of Obstetrics and
Gynecology, Maternal Fetal
Medicine, 2015

Current Title and Affiliation:

Primary: Assistant Professor of
Gynecology and Obstetrics, Divi-
sion of Maternal-fetal Medicine,
Emory University School of Medi-
cine, 2013

Joint and Secondary**Appointments:**

Guest Researcher, Center for Disease Control and Prevention, 2016

Clinical Appointments:

Director, Emory University Hospital Midtown Perinatal Center, 2014

Other Administrative**Appointments:**

Assistant Fellowship Director, Maternal-fetal Medicine Fellowship, 2015

Education:

- | | |
|-------------|---|
| 1997 – 2001 | B.A. in Biochemistry with Honors, University of Texas, Austin, TX |
| 1999 – 2000 | Biochemistry Certificate, Queen Mary, University of London School of Biological Sciences, London, England |
| 2001 – 2006 | M.D. with Distinction in Community Service, University of Rochester School of Medicine and Dentistry, Rochester, NY |

Postgraduate Training:

- | | |
|-------------|---|
| 2004 – 2005 | Clinical Research Fellowship in Obstetrics and Gynecology Baylor College of Medicine, Houston, TX
Mentor: Laura Goetzl, M.D., M.P.H.
The University of Texas Health Science Center at Houston, TX
Mentor: Susan M. Ramin, M.D. |
|-------------|---|

2006 – 2010	Internship/Residency in Gynecology and Obstetrics Emory University School of Medicine, Atlanta, GA
2010 – 2013	Fellowship in Maternal Fetal Medicine Emory University School of Medicine, Atlanta, GA

Honors and Awards:

University of Texas at Austin

Top Graduate from a Texas High School Valedictorian Scholarship, 1997

Alpha Epsilon Delta, Premedical Honor Society, 1998

Du Pont Enrichment Scholarship in Biochemistry, 1998-1999

University of Texas College Scholar, 1998-2000

Phi Beta Kappa, 2001

University of Rochester School of Medicine and Dentistry

Office of Medical Education International Research Grant (Quito, Ecuador), 2002

Hoffman Day Group Volunteer Award, 2003

URSMD Class of 1996 Community Service Award, 2004

Gold Humanism Honor Society, 2004

Office of Medical Education Fellowship Award in Clinical Research, 2004-2005

Alpha Omega Alpha, 2005

Emory University School of Medicine Residency

“Best Intern” Award, 2007

Golden Apple Award, 2007-2009

Bayer Healthcare Pharmaceutical Best Teaching Resident, 2008

John D. Thompson 42nd Resident Research Day, 2nd Place Research Proposal, 2008
CREOG Highest Score Award, 2008
Emory Gyn/Ob Class Representative, 2008-2009
Association of Professors of Gynecology and Obstetrics Resident Scholar, 2009
CREOG Honor Roll, 2009
John D. Thompson 43rd Resident Research Day, 2nd Place Research Project, 2009
Chief Administrative Resident, 2009-2010
Outstanding Clinician Award in Maternal-Fetal Medicine, 2010

Emory University School of Medicine Fellowship

Outstanding Clinical Research Proposal by a Fellow, 2011
Annual NICHD Aspen Conference on Maternal-Fetal-Reproductive Medicine Participant, 2011
Excellence in Teaching Residents Award 2012, 2013

Emory University School of Medicine Faculty

Excellence in Teaching, Maternal-Fetal Medicine Award, 2015
Council on Resident Education in Obstetrics and Gynecology National Faculty Award, 2015
Faculty Recognition Award, "Hidden Gem", 2015
Excellence in Teaching, Maternal-Fetal Medicine Award, 2016
Doctors Day, Featured Doctor, 2017

Committee:**Regional:**

Georgia Fetal and Infant Mortality Review for HIV, Member, 2015-present
 Perinatal HIV Services Coordination Committee, Member, 2015- present

Institutional:

Clinical Competency Committee, Emory University Department of Gynecology and Obstetrics, Member, 2013- present

Gynecology and Obstetrics Residency Selection Committee, 2013

Emory University Hospital Midtown Quality Enhancement Committee, Member 2014-present

Program Evaluation Committee, Emory University Department of Gynecology and Obstetrics, Member, 2013- present

Program Evaluation Committee, Emory University Department of Gynecology and Obstetrics, Member, Maternal-fetal Medicine fellowship 2017- present

Clinical Competency Committee, Emory University Department of Gynecology and Obstetrics, Member, Maternal-fetal medicine fellowship 2016- present

Society Memberships:

Fellow of the American Congress of Obstetricians and Gynecologists Society for Maternal Fetal Medicine

Georgia Obstetrical and Gynecological Society

American Institute of Ultrasound Medicine, 2016-present

Grant Support:

Federally Funded:

Co-Primary Investigator, HHSN27520130003C
NICHD International and Domestic Pediatric
and Maternal HIV Studies 09/01/14-current,
Pediatric and Adolescent HIV/AIDS research
program at Emory University School of Medicine
Co-Investigator, Agency Award ID:
2UG1HD027851-26 Eunice Kennedy Shriver
NICHD Cooperative Multicenter Neonatal
Research Network Award PI: Carlton, David
04/01/2016-03/31/2021

Private Foundation Funded:

Co-Investigator, Katz Foundation, Decoding
Preeclampsia, 09/01/2014-current

Bibliography:**Published and Accepted Articles in Refereed Journals:**

- 1) **Badell ML**, Ramin SM, Smith JA. Treatment options for nausea and vomiting during pregnancy. *Pharmacotherapy*. 2006 Sep;26(9):1273-87.
- 2) Goetzl L, Zigelboim I, **Badell M**, Rivers J, Mastrangelo MA, Tweardy D, Suresh MS. Maternal corticosteroids to prevent intrauterine exposure to hyperthermia and inflammation: a randomized, double-blind, placebo-controlled trial. *Am J Obstet Gynecol*. 2006 Oct;195(4):1031-7.
- 3) Navo M, Kunthur A, **Badell ML**, Coffey LW, 2nd, Markman M, Brown J, Smith JA. Evaluation of the incidence of carboplatin

- hypersensitivity reactions in cancer patients. *Gynecol Oncol*. 2006 Nov;103(2):608-13.
- 4) Goetzl L, Rivers J, Zigelboim I, Wali A, **Badell M**, Suresh MS. Intrapartum epidural analgesia and maternal temperature regulation. *Obstet Gynecol*. 2007 Mar;109(3):687-90.
 - 5) **Badell ML**, Lathrop E, Haddad LB, Goedken P, Nguyen M, Cwiak C. Reproductive healthcare needs and desires in a cohort of HIV positive women. *Infect Dis Obstet Gynecol* 2012;2012: 107878
 - 6) **Badell ML**, Lindsay M. Thirty years later: Pregnancies in females perinatally infected with human immunodeficiency virus-1. *AIDS Res Treat*. 2012;2012:418630.
 - 7) Smith JA, **Badell ML**, Kunther A, Palmer JL, Tang, J, Dalrymple JL, Ramin SM. Utilization of Complementary and Alternative Medication in Obstetrics and Gynecology Clinics. *J Reprod Med*. 2012 57(9-10)390-6
 - 8) **Badell ML**, Kachikis A, Haddad LB, Nguyen ML, Lindsay M. Comparison of Pregnancies between Perinatally and Sexually HIV-Infected Women: An Observational Study at an Urban Hospital. *Infect Dis Obstet Gynecol* 2013 Sept: 301763
 - 9) Rahangdale L, Stewart A, Stewart RD, **Badell M**, Levison J, Ellis P, Cohn SE, Kempf MC, Lazenby GB, Tandon R, Rana A, Nguyen ML, Sturdevant MS, Cohan D; HOPES (HIV and OB Pregnancy Education Study). Pregnancy Intentions Among Women Living With HIV in the United States. *J Acquir Immune Defic Syndr* 2014 Mar 1;65(3):306-11

- 10) Martin A, Krishna I, **Martina B**, Samuel A. Can the quantity of cell-free fetal DNA predict preeclampsia: a systematic review. *Prenat Diagn.* 2014 Jul;34(7):685-91
- 11) Martin A, Krishna I, Ellis J, Paccione R, **Badell M**. Super obesity in pregnancy: difficulties in clinical management. *Journal of perinatology* 2014;34(7):495-502. PMID: 24503915
- 12) Meaney-Delman D, Zotti ME, Creanga AA, Misegades LK, Wako E, Treadwell TA, Messonnier NE, Jamieson DJ; Workgroup on **Anthrax** in Pregnant and Postpartum Women. *Emerg Infect Dis.* 2014 Feb;20(2).
- 13) Rachel Shulman, Jane Ellis, Eileen Shore, Frederick S. Kaplan, **Martina L. Badell** Maternal Genetic Skeletal Disorders: Lessons Learned From Cases of Maternal Osteogenesis Imperfecta and Fibrodysplasia Ossificans Progressiva. *J Clin Gynecol Obstet.* 2015;4(1):184-187
- 14) **Badell ML**, Meaney-Delman D, Tuuli MG, Rasmussen SA, Petersen BW, Sheffield JS, Beigi RH, Damon IK, Jamieson DJ. Risks associated with smallpox vaccination in pregnancy: A systematic review and meta-analysis. *Obstet Gynecol.* 2015 Jun;125(6):1439- 51.
- 15) Rimawi BH, Krishna I, Sahu A, **Badell ML**. Pregnancy in a Previously Conjoined Thoracopagus Twin with a Crisscross Heart. *Case Rep Obstet Gynecol.* 2015; Epub 2015 Jul 27.
- 16) Rahangdale L, Cates J, Potter J, **Badell ML**, Seidman D, Miller ES, Coleman JS, Lazenby GB, Levison J, Short WR, Yawetz S, Ciaranello A, Livingston E, Duthely L, Rimawi BH, Anderson JR, Stringer EM; HOPES (HIV OB Pregnancy Education Study) Group. Integrase

- inhibitors in late pregnancy and rapid HIV viral load reduction. *Am J Obstet Gynecol.* 2016 Mar;214(3):385
- 17) Krishna I, **Badell M**, Loucks TL, Lindsay M, Samuel A. Adverse perinatal outcomes are more frequent in pregnancies with a low fetal fraction result on noninvasive prenatal testing. *Prenat Diagn.* 2016 Mar;36(3):210-5
 - 18) **Badell ML**, Lindsay M, Loucks T, Arluck J, Book W. Perinatal outcomes among women with congenital heart disease. *J Rep Med* 2016 *Accepted*
 - 19) Rahangdale L, Cates J, Potter J, **Badell ML**, Seidman D, Miller ES, Coleman JS, Lazenby GB, Levison J, Short WR, Yawetz S, Ciaranello A, Livingston E, Duthely L, Rimawi BH, Anderson JR, Stringer EM; HOPES (HIV OB Pregnancy Education Study) Group. Integrase inhibitors in late pregnancy and rapid HIV viral load reduction. *Am J Obstet Gynecol.* 2016 Mar;214(3):385.e1-7
 - 20) Rimawi BH, Haddad L, **Badell ML**, Chakraborty R. Management of HIV Infection during Pregnancy in the United States: Updated Evidence-Based Recommendations and Future Potential Practices. *Infect Dis Obstet Gynecol.* 2016; Epub 2016 Jul 18
 - 21) Rimawi BH, Smith S, **Badell ML**, Zahedi-Sprung L, Sheth A, Haddad L, Chakraborty R. HIV and reproductive healthcare in pregnant and postpartum HIV infected women: adapting successful strategies. *Future Virology*; Epub 2016 Sept
 - 22) Rimawi BH, Johnson E, Rajakumar A, Tao S, Jiang Y, Gillespie S, Schinazi RF, Mirochnick M, **Badell ML**, Chakraborty R. Pharmacoki-

- netics and Placental Transfer of Elvitegravir, Dolutegravir, and Other Antiretrovirals during Pregnancy. *Antimicrob Agents Chemother.* 2017 May 24;61(6)
- 23) Blackwell CO, Sheth AN, Nguyen ML, **Badell ML**. Successful Treatment of Azole-Resistant Candida Esophagitis in an Immunocompromised Pregnant Woman Using Anidulafungin. *Ann Pharmacother.* 2017 Jun 1 Epub
- 24) Parra-Saavedra M, Reefhuis J, Piraquive JP, Gilboa SM, **Badell ML**, Moore CA, Mercado M, Valencia D, Jamieson DJ, Beltran M, Sanz-Cortes M, Rivera-Casas AM, Yepez M, Parra G, Ospina Martinez M, Honein MA. Serial Head and Brain Imaging of 17 Fetuses With Confirmed Zika Virus Infection in Colombia, South America. *Obstet Gynecol.* 2017 Jul;130(1):207-212
- 25) Adebajo T, Godfred-Cato S, Viens L, Fischer M, Staples JE, Kuhnert-Tallman W, Walke H, Oduyebo T, Polen K, Peacock G, Meaney-Delman D, Honein MA, Rasmussen SA, Moore CA; Contributors. Update: Interim Guidance for the Diagnosis, Evaluation, and Management of Infants with Possible Congenital Zika Virus Infection - United States, October 2017. *MMWR Morb Mortal Wkly Rep.* 2017 Oct 20;66(41):1089-1099.
- 26) Rao AK, Lin NH, Griese SE, Chatham-Stephens K, **Badell ML**, Sobel J. Clinical Criteria to Trigger Suspicion for Botulism: An Evidence-Based Tool to Facilitate Timely Recognition of Suspected Cases During Sporadic Events and Outbreaks. *Clin Infect Dis.* 2017 Dec 27;66(suppl_1):S38-S42.

- 27) **Badell ML**, Rimawi BH, Rao AK, Jamieson DJ, Rasmussen S, Meaney-Delman D. Botulism During Pregnancy and the Postpartum Period: A Systematic Review. *Clin Infect Dis*. 2017 Dec 27;66(suppl_1):S30-S37
- 28) Gibbs Pickens CM, Kramer MR, Howards PP, **Badell ML**, Caughey AB, Hogue CJ. Term Elective Induction of Labor and Pregnancy Outcomes Among Obese Women and Their Offspring. *Obstet Gynecol*. 2018 Jan;131(1):12-22
- 29) Meade CM, Hussen SA, Momplaisir F, **Badell M**, Hackett S, Sheth AN. Long term engagement in HIV care among postpartum women with perinatal HIV infection in the United States.. *AIDS Care*. 2018 Apr;30(4):488-492
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Poster Presentations:

1. **Badell M,** Jones S, Williams G. Smoking perceptions in Quito, Ecuador, Univ. of Rochester Graduate Student Poster Day, Rochester, NY. May 2003

2. **Badell M**, Kunther A, Boyd M, Smith JA. Preliminary Analysis of Complementary and Alternative Medication Usage in Ob/Gyn Out-patient Clinics. Univ. of Rochester Graduate Student Poster Day, Rochester NY. May 2003
3. **Badell M**, Lathrop E, Goedken P, Nash S, Nguyen M, Cwiak C. Reproductive needs and desires in a cohort of HIV positive women. Association of Reproductive Health Professionals Annual Meeting, Atlanta, GA. Sept 2010
4. **Badell M**, Lathrop E, Haddad L, Goedken P, Nguyen M, Cwiak C. Contraception and STI protection among HIV positive women. National HIV Prevention Conference, Atlanta, GA. Aug 2011
5. **Badell M**, Kappa D, Horowitz A, Veldar E, Book W. Risk of preterm birth and low birth weight in women with congenital heart disease. Society for Maternal Fetal Medicine, Dallas, Tx. Feb 2012.
6. Thomason, L, Veledar E, **Badell ML**, Book W. Predicting Cardiac Complications during Pregnancy in Women with Congenital Heart Disease. American Heart Association Scientific Session 2012. Hot Topics in Adult Congenital Heart Disease Los Angeles, Ca. Dec 2012
7. Nair N, **Badell ML**, Tepper N. Intermittent Airway Obstruction in an Obstetrical Patient Requiring Emergency Surgery. South Atlantic Association of Obstetricians and Gynecologists (SAAOG) Meeting, West Virginia, Jan 2013.
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 11. Hackett S, Camacho A, Ford J, **Badell ML**, Blue J, Sheth A. Optimizing HIV Care Engagement among Postpartum HIV-infected Women in Atlanta: A Multidisciplinary Approach. *Accepted: the HIV/AIDS Bureau and the 2016 National Ryan White Conference on HIV Care*
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March 2018

15. Venkataraman D, Smith AK, **Badell ML**, Neil S, Rajakumar A. Decidual Stromal Cells of Preeclamptic Placenta Exhibit Inadequate Decidualization and Increased sFlt1 Expression. Society for Reproductive Investigation's 65th Annual Scientific Meeting, San Diego, CA March 2018
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18. Sheth A, Hackett S, Meade C, Davis J, Ford J, Blue J, Curtin L, Camacho-Gonzalez A, Chahroudi A, Chakraborty R, Palmore A, **Badell ML**. Improved Postpartum HIV Outcomes after Care Coordination Team Intervention. 2018 Conference on Retroviruses and Opportunistic Infections (CROI) Boston, MA March 2018

Work Groups

1. Delman DM, Jamieson D, **Badell ML** et al. Workgroup for Anthrax in Pregnant and Postpartum Women at Special Considerations for Pregnant and Postpartum Women meeting, Atlanta, GA. Aug 2013

2. Botulism Antitoxin Use and the Clinical Management of Botulism Workshop, Centers for Disease Control and Prevention, Atlanta, GA June 2016
3. Forum on the Diagnosis, Evaluation, and Management of Zika Virus Infection in Pregnant Women and Infants, Centers for Disease Control and Prevention, Atlanta, GA Aug 2017

Oral Presentations:

2018 National Birth Defects Prevention Network Meeting Annual Meeting March 2018 Atlanta GA. Prenatal Diagnosis: Disorders of sex development

2017 National Birth Defects Prevention Network Meeting Virtual Annual Meeting, October 2017 Congenital Infections: Imaging

Panel Discussion

Beyond the Rheumatologist and Gastroenterologist: Understanding the entire Management of Pregnant Woman Suffering from Severe Immunological Diseases, UCB. September, 2016

Forum on the Diagnosis, Evaluation, and Management of Zika Virus Infection Among Infants on August 30-31, 2017

**UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

Civil Action No. 3:18-CV-171—CWR-FKB

JACKSON WOMEN’S HEALTH ORGANIZATION, *et al.*
Plaintiffs

vs.

**MARY CURRIER, M.D., M.P.H., in her official
capacity as State Health Officer of the
Mississippi Department of Health, *et al.***
Defendants

**DR. MARY CURRIER’S RESPONSES TO
PLAINTIFFS’ FIRST SET OF REQUESTS
FOR ADMISSION TO DEFENDANTS**

COMES NOW Defendant, Mary Currier, M.D., M.P.H., in her official capacity as State Health Officer of the Mississippi Department of Health, by and through counsel, pursuant to Rules 26, 36, and other applicable provisions of the Federal Rules of Civil Procedure, and respond to the First Set of Requests for Admission propounded by Plaintiffs, as follows, to-wit:

GENERAL OBJECTIONS AND LIMITATIONS

The following General Objections and Limitations apply to and are incorporated in each individual Response, whether or not expressly incorporated by reference in such Response:

1. Defendant objects to each Definition and Request to the extent that it purports to impose obligations that exceed or differ from those imposed by the Federal Rules of Civil Procedure, the Local Uniform Civil Rules of the United States District Court for the Southern District of Mississippi, or other applicable law or rules.

2. Defendant objects to the Requests to the extent that they seek information that is not relevant to or proportional to the needs of Phase I of the case, considering the importance of the issues at stake in Phase I, the parties' relative access to relevant information, the parties' resources, and the importance of the discovery in resolving Phase I of the case.

3. Defendant objects to the Requests to the extent they seek information protected by the attorney/client privilege, the work product doctrine, or other applicable privilege. Defendant further objects to the extent answering the Requests would require disclosure of the mental impressions, conclusions, opinions of defense counsel, and/or prematurely disclose the trial strategies of defense counsel. Defendant will make required disclosures at the time and in the manner provided by the Local Rules, other relevant rules, or as directed by the Court.

4. Defendant objects to each Request to the extent that it is overly broad, unduly burdensome, vague, and/or ambiguous.

5. Defendant incorporates all other documents, objections and/or limitations asserted in all other filings and discovery responses in this action. The fact that such contentions, objections and/or limitations may not be repeated here shall not be deemed a waiver of any kind.

6. No Objection or Limitation, or lack thereof, made in these Responses and Objections shall be deemed (i) an admission by Defendant as to the existence or non-existence of the information sought; or (ii) a waiver of Defendant's right to assert such Objection or Limitation at any future time in connection with the Requests or otherwise. In responding to these Requests, Defendant neither waives nor intends to waive, and expressly reserves any and all objections to the relevance, competence, susceptibility to discovery, materiality or admissibility of any information provided.

7. Defendant reserves the right to supplement or modify these Responses and Objections to the Requests if she discovers any additional responsive information, and as other facts emerge from the discovery process, or if otherwise appropriate under the Federal Rules of Civil Procedure.

8. All of these General Objections and Limitations shall be deemed to be incorporated within the Responses and Objections to specific Requests that follow, even where not further referred to in such Responses. The failure to include any General Objection or Limitation in any specific Response does not waive any General Objection or Limitation to that Request.

**RESPONSES TO FIRST SET OF
REQUESTS FOR ADMISSION**

REQUEST FOR ADMISSION No. 1: Admit that the Department posted a new version of its Informed Consent Information booklet on its website on March 19, 2018.

**RESPONSE TO REQUEST FOR ADMISSION
No. 1:** Admitted.

REQUEST FOR ADMISSION No. 2: Admit every version of the Department’s Informed Consent Information booklet available between 1996 and prior to March 2018 stated that between 14-16 weeks LMP a fetus has “no chance of survival outside the womb.”

RESPONSE TO REQUEST FOR ADMISSION No. 2: Admitted.

REQUEST FOR ADMISSION No. 3: Admit that the Department eliminated the statement that at 14-16 weeks as measured from a woman’s last menstrual period (imp), a fetus has “no chance of survival outside the womb” from the Informed Consent Information booklet posted in March 2018.

RESPONSE TO REQUEST FOR ADMISSION No. 3: Defendant objects to the term “eliminated,” as argumentative.

Without waiving, and limited by that objection, Defendant admits only that the language “no chance of survival outside the womb,” in connection with a gestational age of 14-16 weeks LMP, was included in the previous version of the Informed Consent Information booklet, but does not appear in the current version of the booklet published in March 2018.

REQUEST FOR ADMISSION No. 4: Admit that, prior to March 2018, information in the Department’s Informed Consent Information booklet about the ability of a fetus to survive outside the womb had not changed since 1996.

RESPONSE TO REQUEST FOR ADMISSION No. 4: Admitted.

REQUEST FOR ADMISSION No. 5: Admit that, based on public health and vital statistics data col-

lected and maintained by the Department, there is no data indicating that any baby born in Mississippi before 22 weeks as dated from a woman's last menstrual period (lmp) has survived to hospital discharge.

RESPONSE TO REQUEST FOR ADMISSION

No. 5: Admitted. However, there is data indicating that one baby born in Mississippi at exactly 22 weeks LMP has survived to hospital discharge.

This, the 20th day of July, 2018.

**MARY CURRIER, in her official
capacity as State Health Officer
of the Mississippi Department of
Health**

AS TO OBJECTIONS ONLY:

By: /s/ Wilson Minor
PAULE. BARNES, MSB No. 99107
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SUPREME COURT OF THE UNITED STATES

No. 19-1392

THOMAS E. DOBBS, STATE HEALTH OFFICER OF THE
MISSISSIPPI DEPARTMENT OF HEALTH, *et al.*

Petitioners

v.

JACKSON WOMEN'S HEALTH ORGANIZATION, *et al.*,

Respondents

ON PETITION FOR WRIT OF CERTIORARI
to the United States Court of Appeals
for the Fifth Circuit,
No. 18-60868

The petition for a writ of certiorari is granted limited
to Question 1 presented by the petition.

May 17, 2021

Scott S. Harris, Clerk