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By Electronic Filing

Honorable Scott S. Harris
Clerk of the Court
Supreme Court of the United States
1 First Street, NE
Washington, D.C. 20543

RE: ***Thomas E. Dobbs, et al., v. Jackson Women's Health Organization, et al.***
No. 19-1392

**AMENDED MOTION FOR EXTENSION OF TIME AND MOTION FOR
LEAVE TO FILE *AMICUS CURIAE* BRIEF WITH REFERENCE TO THE
28TH AMENDMENT, THE EQUAL RIGHTS AMENDMENT, AS A
TEXTUAL BASIS FOR REPRODUCTIVE RIGHTS AND TO PROVE
SEX-BASED DISCRIMINATION, IN SUPPORT OF RESPONDENTS**

Dear Mr. Harris:

Attorney Gina Collias, Esq. and I represent the proposed *Amicus Curiae*, ERA-NC Alliance, in the above-captioned case. I write to respectfully move for and request an extension of time, for preferably thirty (30) days from the date of an order granting such extension, and, in addition to a Motion for Leave to File an *Amicus Curiae* Brief, incorporated herein as if fully set forth, state the reasons why this requested Extension and also the Motion for Leave to File an *Amicus Curiae* Brief should be granted considering the extraordinary circumstances set forth.

ERA-NC Alliance is a statewide North Carolina 501(c)(4) corporation, located in Winston-Salem, North Carolina, the purpose of which includes includes advocating for the ratification of the federal Equal Rights Amendment by North Carolina, and to reach that goal it collaborates and has been involved nationally with issues regarding the ERA.

Per SUP. CT. R. 37.3(a), both the Petitioners and the Respondents have consented to the filing of any amicus curiae brief in support of either party or of neither party and the Petitioner

added “at any stage of the proceedings.”

The proposed Amicus Curiae provide the following reasons for its request to be allowed an extension of time, pursuant to SUP. CT. R. 30.4 (2019), and include the Motion for Leave to File *Amicus Curiae* Brief filed separately, which is incorporated herein as if fully set forth. In short, the reason for the extension is necessary and appropriate is:

1. The deadlines for filing the briefs have passed and the oral arguments were held on December 1, 2021, but the Equal Rights Amendment (“ERA”) was not effective before that date. Per U.S. CONST. art. V, the ERA legally became the 28th Amendment (aka “ERA”) to the U.S. Constitution, U.S. CONST. AMEND, XXVIII, on January 27, 2020 (“Ratification Date”) when the last necessary state, the Commonwealth of Virginia, ratified the ERA. *Dillon v. Gloss*, 256 U.S. 368, 376 (1921). Yet by its own terms, U.S. CONST. amend. XXVIII, § 3, the ERA did not take effect until two years after the Ratification Date, meaning that it was not able to be used until January 27, 2022;
2. The proposed majority opinion by Justice Samuel Alito was leaked and released to the public on or about May 2, 2022, in which the Justice Alito wrote that *Roe* and *Casey* were wrongly decided and were overruled because, “... no such right to abortion is implicitly protected by any constitutional provision...” *Thomas E. Dobbs, et al., v. Jackson Women’s Health Organization, et al.*, ___ U.S. ___, (20 __) (leaked draft majority opinion, at 5, February 10, 2022) (“leaked opinion”).
 - a. This leaked opinion put the ERA-NC Alliance on notice that since the ERA is the 28th Amendment and became effective on January 27, 2022, that statement is in error;
 - b. Upon information and belief, neither the parties, nor the amicus briefs, fully briefed the issues in the instant case, as they are effected by the ERA. The ERA is critical to a proper outcome in the instant case;
 - c. In SUP. CT. R. 37.1 (2019), it states: “**An amicus curiae brief that brings to the attention of the Court relevant matter not already brought to its attention by the parties may be of considerable help to the Court.**” [Emphasis supplied];
3. Upon information and belief, Justice Alito and approximately four other Justices of the Supreme Court are “textualists.” In U.S. CONST. amend. XXVIII, §1. (unpublished), the ERA’s text states: “**Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.**”

- a. The Mississippi law’s 15-week ban on abortion is a violation of the actual text of the ERA, because Mississippi has discriminated against women and girls on the basis of sex because, it is axiomatic that the ability to get pregnant is a sex-based trait, and because Mississippi does not regulate the equivalent axiomatic sex-based trait of men and boys, the ability to emit sperm. There is no Mississippi law mandating vasectomies men or boys, which would be regulating their reproductive choices, yet the Mississippi law does regulate the reproductive choices of women and girls.
- b. Further, the ERA does implicitly protect women’s Reproductive Choices, which includes, but is not limited to, abortion and contraception. The ERA moreover provides a fundamental right for women’s Reproductive Choice, in short because, the ability of a woman to control her reproduction is a necessary element of her ability to be an equal citizen, which is the intent and the requirement of the ERA. The Supreme Court has ruled that “What is reasonably implied is as much a part of [the Constitution] as what is expressed.” *Dillon*, at 373 (internal citations set out at footnote 2a omitted) (“What is reasonably implied is as much a part of [the Constitution] as what is expressed.” More will be said about the ERA as a basis for this fundamental right in the Motion for Leave to File an Amicus Brief.

3. Thus, the proposed majority opinion is in error, and the Court must consider the entire Constitution, which legally includes the 28th Amendment, the ERA, as it is has been effective as of January 27, 2022. U.S. CONST. amend. XXVIII.

Wherefore, the ERA-NC Alliance respectfully seeks an extension of time to file an *Amicus Curiae* brief in support of the Respondents.

Thank you for your consideration.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorneys of record by the ECF filing system.

Dated: May 16, 2022



Arlaine Rockey, Esq.
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