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August 5, 2021

BY MESSENGER

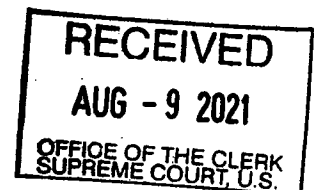
Mr. Scott Harris  
Clerk  
Supreme Court of the United States  
One First Street, N.E.  
Washington, DC 20543

Re: *Schmitt v. Reproductive Health Services of Planned Parenthood of the St. Louis Region, Inc.*, No. 21-3

Dear Mr. Harris:

I am counsel for Respondents in the above-captioned case. The petition for a writ of certiorari in this case was docketed on July 2, 2021. That Petition seeks review of a June 9, 2021 judgment of the United States Court of Appeals for the Eighth Circuit, which affirmed two orders granting preliminary injunctive relief entered by the United States District Court for the Western District of Missouri.

However, on July 13, 2021, the Eighth Circuit *sua sponte* granted rehearing *en banc* and vacated the judgment that is the subject of the Petition. See Order, *Reproductive Health Services of Planned Parenthood of the St. Louis Region, Inc. v. Parson*, No. 19-2882 (8th Cir. July 13, 2021) ("The opinion and judgment dated June 9, 2021 are hereby vacated.") (attached hereto). Because that order vacated the previous judgment and opinion, counsel for Respondents called this office to inquire how to handle the matter, and were advised that Petitioners should notify this Court of the new procedural posture. Respondents' counsel notified counsel for Petitioners of this directive on July 21, 2021, and on that day, Petitioners' counsel



indicated that he would research the appropriate procedural course and notify this Court.<sup>1</sup>

On August 2, 2021, Petitioners' counsel advised counsel for Respondents that Petitioners did not intend to withdraw the Petition despite the vacatur of the judgment from which they sought review, but instead asked for Respondents' consent to a forthcoming motion to defer consideration of the Petition and hold the briefing schedule in abeyance pending a decision by the *en banc* Eighth Circuit. Respondents did not consent to this request in advance of seeing Petitioners' motion.

Respondents intend to oppose Petitioners' motion to defer consideration if it is made. Should this Court grant the yet-unfiled motion to defer, Petitioners respectfully request 60 days to file a brief in opposition to the Petition following this Court's re-scheduling of the Petition for consideration.

Thank you for your consideration in this matter.

Yours sincerely,

Claudia Hammerman

cc: D. John Sauer, Esq.  
Dawn M. Parsons, Esq.  
Jim Michaels, Esq.

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<sup>1</sup> At the same time, Petitioners' counsel agreed to Respondents' earlier request for a 60-day extension of their time to oppose the Petition, "[t]o the extent it is still an issue."

UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

No: 19-2882

Reproductive Health Services of Planned Parenthood of the St. Louis Region, Inc., on behalf of  
itself, its physicians, its staff, and its patients and DO, MSCI, FACOG Colleen P. McNicholas,  
on behalf of herself and her patients

Appellees

v.

Michael L. Parson, in his official capacity as Governor of the State of Missouri and Eric Stephen  
Schmitt, in his official capacity as Attorney General of the State of Missouri

Appellants

Kimberly Gardner, in her official capacity as the Circuit Attorney for the City of St. Louis

MD Jade D. James, in her official capacity as President of the Missouri State Board of  
Registration for the Healing Arts, et al.

Appellants

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Alliance Defending Freedom

Amicus on Behalf of Appellant(s)

Constitutional Law Scholars, et al.

Amici on Behalf of Appellee(s)

No: 19-3134

Reproductive Health Services of Planned Parenthood of the St. Louis Region, Inc., on behalf of  
itself, its physicians, its staff, and its patients and DO, MSCI, FACOG Colleen P. McNicholas,  
on behalf of herself and her patients

Appellees

v.

Michael L. Parson, in his official capacity as Governor of the State of Missouri and Eric Stephen  
Schmitt, in his official capacity as Attorney General of the State of Missouri

Appellants

Kimberly Gardner, in her official capacity as the Circuit Attorney for the City of St. Louis

MD Jade D. James, in her official capacity as President of the Missouri State Board of  
Registration for the Healing Arts, et al.

Appellants

-----  
Alliance Defending Freedom

Amicus on Behalf of Appellant(s)

Constitutional Law Scholars, et al.

Amici on Behalf of Appellee(s)

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Appeals from U.S. District Court for the Western District of Missouri - Jefferson City  
(2:19-cv-04155-BP)

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**ORDER**

On the court's own motion, rehearing en banc is granted. Judge Colloton did not participate in the consideration or decision of this matter. The opinion and judgment dated June 9, 2021 are hereby vacated. These cases will be placed on a calendar for oral argument. Counsel will be notified at a later date of the exact date and time of argument. Counsel shall, within ten days, submit 30 additional copies of previously filed briefs and 8 additional copies of the appendix. Additional briefs for rehearing due on 07/23/2021.

July 13, 2021

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans

IN THE SUPREME COURT OF THE UNITED STATES

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No. 21-3

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ERIC S. SCHMITT, ATTORNEY GENERAL OF MISSOURI, ET AL.,  
PETITIONERS

v.

REPRODUCTIVE HEALTH SERVICES OF PLANNED PARENTHOOD OF THE ST.  
LOUIS REGION, INC., ET AL.

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CERTIFICATE OF SERVICE

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I, Claudia Hammerman, counsel for respondent, certify that, on August 5, 2021, one copy of the Respondents' August 5, 2021 Letter in the above-captioned case was sent, by third-party commercial carrier for delivery overnight and by electronic mail, to the following counsel:

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I further certify that all parties required to be served have  
been served.

A handwritten signature in black ink, appearing to read 'Claudia Hammerman', written over a horizontal line.

Claudia Hammerman