

IN THE SUPREME COURT OF THE STATE OF KANSAS

HODES & NAUSER, MDs., P.A. et al.,)	
)	
Plaintiffs-Appellees,)	Case No.15-114153-A
vs.)	
)	
DEREK SCHMIDT, in his official)	
capacity as Attorney General of the)	
State of Kansas, et al.,)	
)	
Defendants-Appellants.)	
.....)	

APPLICATION TO FILE *AMICUS* BRIEF

COMES NOW, The American Association of Pro-Life Obstetricians and Gynecologists ("AAPLOG"), the American College of Pediatricians ("ACPeds") and the Catholic Medical Association ("CMA") through their attorneys, Richard J. Peckham and Liberty Counsel, and respectfully move this court for leave to file an amicus brief.

AAPLOG, ACPeds and CMA bring this application under the authority of Rule 6.06 of the Rules of this Court. Rule 6.06 provides that a brief of an amicus curiae may be filed when: "1) an application to file the brief is served on all parties and filed with the clerk of the appellate courts; and 2) the appellate court enters an order granting the application." AAPLOG, ACPeds and CMA respectfully request that this Court grant leave to file an amicus curiae brief in support of Defendants-Appellants based upon the following:

Identity and Interest of Proposed Amici

AAPLOG is an organization whose purpose is to affirm the unique value and dignity of individual human life in all stages of growth and development. AAPLOG is extremely concerned about the potential long-term adverse consequences of abortion on women's future health and is committed to educating abortion-vulnerable patients, the general public, pregnancy center counselors, and medical colleagues regarding the medical and psychological complications associated with induced abortion, as evidenced in the scientific literature. AAPLOG members have reviewed and continue to review data from around the world regarding abortion-associated complications to provide a realistic appreciation of abortion-related health risks. AAPLOG respectfully seeks to provide some of that research to this Court, so that the Court has critical information pointing to the necessity for the "Unborn Child Protection from Dismemberment Abortion Act."

ACPeds is a national organization of pediatricians and other healthcare professionals dedicated to the health and well-being of children. The College's members have extensive experience in treating adolescents and young women who have been affected by abortion and have studied the long-term effects of the procedure. The College believes that Kansas' law banning D&E abortions is critically necessary to protect the health and well-being of young women, and respectfully seeks to provide some of that information to the Court.

Catholic Medical Association (CMA) is a non-profit national organization comprised of over 2,200 members representing over 75 medical specialties. The CMA helps to educate the medical profession and society at large about issues in medical ethics, including abortion and maternal health, through its annual conferences and quarterly bioethics journal, *The Linaere Quarterly*. As Catholic physicians and medical professionals, the members of the

CMA have a profound interest in providing the best health care to their patients and all Americans, including women and the unborn. The CMA believes that Kansas' law, the "Unborn Child Protection from Dismemberment Abortion Act," is vitally important for protecting the health and safety of women, and hereby offers information to the Court that is crucial to the analysis of this Act.

Information to be Provided in Proposed Brief

AAPLOG, ACPeds and CMA respectfully propose to provide the Court with information unique from the facts and legal argument presented by the parties. AAPLOG, ACPeds and CMA anticipate presenting the Court with scientific research and peer reviewed studies examining the psychological, physical and emotional effects that abortion in general, and dismemberment abortion techniques in particular, have on pregnant women. AAPLOG, ACPeds and CMA propose to present scientifically-based evidence that the type of abortions prohibited by the Kansas law under consideration carry a greatly increased risk of death for the woman than does bringing a baby to birth. AAPLOG, ACPeds and CMA will present studies showing that dismemberment abortions are particularly dangerous for women, because the crushing of fetal bones results in sharp fragments which can easily perforate the woman's womb or pierce blood vessels, resulting in massive hemorrhage, and can also pierce the nearby bowels and bladder, resulting in overwhelming infection and death.

AAPLOG, ACPeds and CMA further propose to present research showing that dismemberment abortions carry a greatly increased risk of damaging women's uteruses and cervixes so that they might be unable to carry future pregnancies to term and suffer other adverse consequences. AAPLOG, ACPeds and CMA's proposed brief will also provide evidence that unborn children in the second trimester experience pain, making


the prohibited procedure particularly gruesome. AAPLOG, ACPeds and CMA thus wish to demonstrate that the passage of the Act furthers Kansas' "compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain," as evidenced in the Legislature's enactment of the prohibition against abortions on unborn children capable of feeling pain. Kansas Statutes §§ 65-6722-65-6724.

Finally, proposed Amici will provide research showing that elective dismemberment abortions are not necessary to save any woman's life, but, in fact, banning elective dismemberment abortions will improve the lives and health of women by eliminating the deaths and permanent damage to women which come from this procedure.

Based upon the foregoing, AAPLOG, ACPeds and CMA respectfully request that this Court grant their application for leave to file an amicus brief.

Dated: December 16, 2016.

Respectfully submitted,



Richard J. Peckham
Kansas Bar # 10480
105 Rhondda
Andover, KS 67002
(316) 733-0066
peckhamrj@aol.com
Attorney for AAPLOG and ACPeds

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document was deposited in the United States Mail, first class, postage prepaid, on the 9th day of January, 2017, addressed as follows:


Robert V. Eye
Brett A. Jarmer
Robert V. Eye Law Office, LLC
123 SE 6th Avenue, Ste 200
Topeka, Kansas 66603
Attorneys for Appellees

Lee Thompson
Thompson Law Firm, LLC
106 E 2nd Street
Wichita, Kansas 67202

Erin Thompson
Foland, Wickens, Eisfelder,
Roper & Hofer
1200 Main St.
Kansas City KS 64105
Attorneys for Appellees

Jeffrey A. Chanay
Chief Deputy Attorney General
Dennis D. Depew
Deputy Attorney General
Office of the Attorney General
Memorial Building 3rd Floor
120 SW Tenth Ave
Topeka, Kansas 66612-1597
Attorneys for Appellants

Shon D. Qualseth
Stephen R. McAllister
Sarah E. Warner
Thompson Ramsdell & Qualseth PA
333 West 9th Street
PO Box 1264
Lawrence, Kansas 66044-2803
Attorneys for Appellants



Richard J. Peekham