IN THE SUPREME COURT OF FLORIDA

CASE NO. SC2022-1050

PLANNED PARENTHOOD OF SOUTHWEST AND CENTRAL FLORIDA, on behalf of itself, its staff, and its patients, *ET AL.*,

Petitioners,

v.

STATE OF FLORIDA, *ET AL.*,

Respondents.

Discretionary Proceeding to Review Decision of the First District Court of Appeal

Consolidated With Case No. SC2022-1127
Lower Tribunal Nos. 1D22-2034; 2022-CA-912

PETITIONERS' REPLY BRIEF

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitutional Provisions

Statutes

Other Authorities

INTRODUCTION

For more than forty years, Florida's constitution has protected an individual's fundamental privacy right to decide whether to carry a pregnancy to term or have an abortion. House Bill 5 ("HB 5") openly flouts that protection and decades of this Court's precedents. Unable to justify HB 5's extreme ban under existing law, the State instead asks this Court to abandon precedent and overrule a fundamental constitutional right that generations of Floridians have relied on. This radical request—which is unsupported by plain language, history, or law—would defy the will of the people and threaten to upend this Court's privacy jurisprudence well beyond abortion.

Florida's recent enactment of a more restrictive 6-week ban[1] underscores that the State's disregard for fundamental rights does not stop with HB 5. To preserve the rule of law and Floridians' constitutional rights, Plaintiff-Petitioners ("Plaintiffs") request that this Court uphold precedent, reverse the Appellate Court, and reinstate the injunction barring enforcement of HB 5.

[1] Ch. 2023-21, §4, Fla. Laws (2023).

ARGUMENT

I. The Privacy Clause Protects the Fundamental Right to Decide to Terminate a Pregnancy Before Viability.

A. The Privacy Clause Does Not Protect *Only* Informational Privacy.

The State spends the bulk of its brief arguing that the Privacy Clause protects informational privacy—an uncontroversial position irrelevant to this case. What the State fails to provide is any textual basis, legal authority, or contemporaneous evidence that the Privacy Clause protects informational privacy *to the exclusion* of decisional privacy rights like abortion. The State acknowledges (at 31-32, 49) that, at the time of enactment, the Clause's terms and the right of privacy had established meanings embracing *both* forms of privacy. Reading the Clause's broad language to silently exclude one of these established meanings would violate principles of constitutional interpretation—and the sovereign will of Florida voters who both ratified the Clause in 1980 and rejected an attempt to remove abortion protections from the state Constitution in 2012. It also

would undermine decades of this Court's precedent applying the Privacy Clause to numerous other decisional privacy contexts.[2]

1. Plain Text.

The crux of the State's argument is that this Court should restrict the Privacy Clause's broad language protecting an individual's "private *life*" from "government *intrusion*" to narrowly protect only private *information* from government *snooping*. But even the State's proffered definitions carry broader meanings encompassing decisional autonomy. Ans. Br. 15 (defining "to be let alone" as freedom from unwanted "interference," not just snooping; and private "life" as "activities, relationships, and interests collectively," not solely private information); *accord* Initial Br. 48-51.

The State's constrained reading also violates "the well-established tenet" that courts should not read unwritten limitations

[2] These include medical decision-making, *In re Guardianship of Browning*, 568 So.2d 4 (Fla. 1990); *Public Health Trust of Dade Cty. v. Wons*, 541 So.2d 96 (Fla. 1989), parental rights, *D.M.T. v. T.M.H.*, 129 So.3d 320 (Fla. 2013); *Glob. Travel Mktg., Inc. v. Shea*, 908 So.2d 392 (Fla. 2005); *Von Eiff v. Azicri*, 720 So.2d 510 (Fla. 1998); *Beagle v. Beagle*, 678 So.2d 1271 (Fla. 1996), consensual sexual conduct, *B.B. v. State*, 659 So.2d 256 (Fla. 1995), juvenile curfews, *State v. JP*, 907 So.2d 1101 (Fla. 2004), and child custody, *Richardson v. Richardson*, 766 So.2d 1036 (Fla. 2000).

into broad text. *See Lawnwood Med. Ctr., Inc. v. Seeger*, 990 So.2d 503, 512 (Fla. 2008) ("Because the drafters did not limit the term 'privilege' by including a reference to only economic privileges, we conclude that the term 'privilege' encompasses more."). Nor does the public records exclusion in the Clause's second sentence restrict the otherwise broad language it follows. A specific term narrows broad language in the same provision only when "the enumeration of specifics *precede[s]* the general words." *Adv. Op. re Implementation of Am. 4, Voting Restoration Amendment*, 288 So.3d 1070, 1080 (Fla. 2020).

2. Historical and Legal Context.

The State agrees that the established legal meaning of key terms in the Privacy Clause at the time of passage informs their interpretation. Ans. Br. 26 (quoting *Fla. Highway Patrol v. Jackson*, 288 So.3d 1179, 1183 (Fla. 2020)); *see* 48A Fla. Jur. Statutes §139 (words and phrases with established legal meaning "are presumed to have been used according to their legal meaning"). By 1980, the right

to privacy generally, and the Privacy Clause's language specifically,[3] were firmly established as encompassing not only informational privacy but also decisional autonomy, including the right to abortion. *See* Initial Br. 55-56 (citing Black's Law Dictionary and abortion and contraception cases using "right to privacy," "right to be let alone," and "freedom from governmental intrusion"); Law Professors' Br. 8-13; *see also Poe v. Gerstein*, 517 F.2d 787, 796 (5th Cir. 1975) (striking Florida abortion restrictions based on "fundamental right to privacy"), *aff'd*, *Gerstein v. Coe*, 428 U.S. 901 (1976); *Fla. Women's Med. Clinic v. Smith*, 478 F.Supp. 233, 235-36 (S.D. Fla. 1979) (same); *Scheinberg v. Smith*, 482 F.Supp. 529, 533 (S.D. Fla. 1979) (same); Att'y Gen. Op. AGO 78-08 (Jan. 10, 1978) (interpreting Florida abortion laws in light of "right of privacy"). The State (at 27-28) asks this Court to ignore half this established meaning based on: a law review article predating the Clause's enactment by nearly *a century*; and case law predating the U.S. Supreme Court's 1965 *Griswold v. Connecticut* decision, the foundation of decisional privacy

[3] As shown in Plaintiffs' Initial Brief (at 55-56), the State is incorrect that terms used in the Clause had no federal "analogue." Ans. Br. 39. Decisional law repeatedly linked these terms to intimate decision-making and abortion.

jurisprudence. This selective reliance on older sources cannot supplant evidence much closer to 1980 demonstrating an established legal meaning that encompassed decisional privacy.

This Court's pre-Privacy Clause jurisprudence, explicitly recognizing decisional privacy and abortion as part of privacy rights, likewise confirms that the Clause protects abortion. *See Shevin v. Byron, Harless, Schaffer, Reid & Assocs., Inc.*, 379 So.2d 633, 636-37 (Fla. 1980); *Laird v. State*, 342 So.2d 962, 963-64 (Fla. 1977). The State agrees (at 38) that the Clause was enacted in response to the holding of these cases that Florida lacked a "general right of privacy," but then incorrectly argues the Clause protected *only* those rights not protected by federal law at the time. That is facially illogical, given the breadth of the phrase "*general* right of privacy." Moreover, nothing in *Laird* (which was not an informational privacy case) or *Shevin* remotely suggests that a "general" right would be limited to informational privacy or exclude abortion or other established privacy rights.

The State's final argument—that understanding the Privacy Clause to reach rights protected under federal law would be impermissible surplusage—fundamentally misunderstands our

system of federalism. State constitutions frequently provide independent protection for individual rights, including rights covered by the federal Constitution. *E.g.*, Art. I, §§3, 8, 9, Fla. Const. (protecting religious freedom, right to bear arms, and due process). Indeed, it is well established that state law, as here, can provide *stronger* protection than the federal floor. Initial Br. 40-42.

3. Public Understanding.

Nor should the Court adopt the State's flawed corpus linguistics analysis, which, in any event, does not support its claims about the Privacy Clause's meaning.

Corpus linguistics is "a difficult and complex exercise" best left to qualified experts with "specialized training necessary to make a reliable and neutral judgment" in interpreting and categorizing often-ambiguous results. *Wilson v. Safelite Group, Inc.*, 930 F.3d 429, 446-47 (6th Cir. 2019) (Stranch, J., concurring). Properly done, it requires "rigorous experimentation" according to a "replicable" methodology involving selection of corpora, careful designation of search terms, and precise interpretation of results. Thomas R. Lee & Stephen C. Mouritsen, *Judging Ordinary Meaning*, 127 Yale L.J. 788, 829-36 (2018). Legal advocates who lack specialized training are ill-

equipped to conduct this kind of technical, scientific analysis in an objective fashion. *See id.* at 866 (cautioning against "the potential for subjectivity or even strategic manipulation" in corpus linguistics); *Wilson*, 930 F.3d at 447 ("Encouraging litigants to take on that same role would make the [bias] problem worse, not better.").

Here, serious flaws undermine the validity and utility of the State's analysis—reinforcing the importance of developing corpus linguistics evidence with expert assistance in the trial court. Corpus linguistics is valuable only to the extent it "present[s] reliable, probative evidence" in a "transparent, reliable way." Thomas R. Lee & Stephen C. Mouritsen, *The Corpus and the Critics*, 88 U. Chi. L. Rev. 275, 308, 351 (2021); *cf. In re Amends. to Fla. Evidence Code*, 278 So.3d 551, 554 (Fla. 2019) ("[S]cientific testimony or evidence admitted [must be] not only relevant, but reliable."). The State does not explain how it selected search terms or categorized results, nor why it excluded hundreds of results as "irrelevant, or without enough information" and all but a "sample" of the thousands of results referring to "right to/of privacy." Ans. Br. 24 nn.30-31. Moreover, the State's ultimate thesis—that relevant terms mean "informational privacy" based on frequency alone—suffers from two

fallacies that corpus linguistics experts repudiate: the Frequency Fallacy, *i.e.*, assuming "the more commonly used sense of a term … is the better candidate for ordinary meaning"; and the Uncommon Use Fallacy, *i.e.*, assuming "the relative rarity" of a use "evinces that this use is outside of a law's ordinary meaning." Kevin Tobia, *The Corpus and the Courts*, 3/5/2021 U. Chi. L. Rev. Online 1, 11-12 (2021); *accord* Lee & Mouritsen (2021) at 334, 342. Given the lack of transparency and critical interpretive errors, the Court should disregard the State's analysis.

In any event, the State's analysis does not support its argument. The State documents (at 24) a significant, secondary meaning of relevant terms that encompasses decisional autonomy. According to the State, nearly *one-quarter* of the results for freedom from "governmental intrusion" and *one in five* for "right to be let alone" concerned decisional autonomy. Far from evidence that these terms *excluded* that meaning, these findings are consistent with Plaintiffs' interpretation and contemporaneous usage that routinely linked the proposed amendment and the right of privacy to decisional autonomy and abortion. Initial Br. 57-58; *see also* Pets.' Appendix ("Pets.'

App.") 8-37 (collecting relevant news articles); Ans. Br. 20 (conceding that media reports "did discuss decisional autonomy").

4. Legislative Record.

Where, as here, words are "clear and unambiguous," courts give them "their plain meaning without resort to external sources cited in support of a litigant's view of what the legislators … intended." *Fla. Dep't of Health v. Florigrown, LLC*, 317 So.3d 1101, 1111 (Fla. 2021). As this Court warned, considering matters "extraneous" to the text can impermissibly "contract[]" the meaning, "result[ing] in the judicial imposition of a meaning the text cannot bear." *Voting Restoration Amendment*, 288 So.3d at 1078. That is precisely what the State seeks here: an artificial contraction of the Privacy Clause's broad language based on individual legislators' purported intent. But "[i]t is the *law* that governs us; not the intent of the lawmaker." Antonin Scalia, A Matter of Interpretation 17 (1997). Claims about what individual legislators "had in mind," Ans. Br. 2, cannot displace plain text.

Regardless, as the State concedes (at 36-37), the legislative record discusses the proposed amendment as covering both informational *and* decisional privacy. *E.g.*, Pets.' App. 38-45

(Feb. 7, 1980, staff memo to House Committee on Governmental Operations identifying decisional autonomy as a core part of the federal privacy right and citing *Roe*); Pets.' App. 46-52 (similar in memo to House Subcommittee on Executive Reorganization)[4]; Proceedings of the Fla. House, Subcomm. on Exec. Reorg., Comm. on Governmental Operations, at 21:20 (Mar. 11, 1980) (available at Fla. Dep't of State, Fla. State Archives, Series S414, Box 296, Tape 1) (Pat Dore testimony that right of privacy was "well established" to include "the right to intimate decision-making"); State's App. 211 (Gerald Cope presentation to Constitutional Revision Commission that "we use the term 'right of privacy' as a … shorthand for that zone of autonomy which we believe every individual should have"). This legislative record reveals that decisional autonomy, including abortion, was understood as part of the right to privacy. *See* Ans. Br. 12-13 (agreeing Privacy Clause established constitutional right of privacy). If legislators intended to exclude decisional privacy from the

[4] Plaintiffs provide these historical documents in an appendix, for the Court's convenience.

Privacy Clause's scope, they needed to do so explicitly or use narrower language.[5] They did neither.

B. No Basis Exists to Exclude Abortion From the Privacy Clause's Scope.

There is no basis to find the Privacy Clause incorporates decisional privacy but somehow excludes abortion, an established part of privacy rights in 1980, and a profoundly personal decision. *See* Initial Br. 51-54; Nat'l Council Jewish Women Br.; Am. Coll. of Obstetricians and Gynecologists ("ACOG") Br. 19. Again, the State relies heavily on suggestions that a few individual legislators personally opposed abortion. But "subjective intent" cannot displace the plain, broad text. *See supra* p. 10.

Nor is the State's claim that the "harm principle" limits the Privacy Clause a reason to artificially constrain the text. First, this argument flips the evidence on its head: the trial court documented

[5] The exchange between Senators Gordon and Dunn, Ans. Br. 43-44, is mixed evidence at best. At minimum, it confirms that some Senators understood the Privacy Clause to reach abortion and that federal abortion rights were based on privacy. *See* Proceedings of the Fla. Senate, at 18:30 (May 14, 1980) (available at Fla. Dep't of State, Fla. State Archives, Series S1238, Box 57) (statement of Senator Gordon) ("The [c]onstitutional basis of [*Roe*] … had to do with the right of privacy….").

severe harms HB 5 inflicts *on pregnant people* by subjecting them to the serious pains and risks of pregnancy and childbirth against their will. Initial Br. 37-38, 52-53; *see also* Floridians for Reproductive Freedom ("FRF") Br.; ACOG Br. 7-14; LatinoJustice Br. 8-18; Sanctuary for Families Br.; Elected Representatives Br. 7-22. The State ignores these indisputable harms and indeed (at 55) abandons any defense of HB 5 based on maternal health.[6] Second, the determination that pre-viability abortion is a fundamental right already incorporates and balances the State's interest in fetal life. *See Roe v. Wade*, 410 U.S. 113, 163-64 (1973); *In re T.W.*, 551 So.2d 1186, 1193 (Fla. 1989). This interest is not an extrinsic *constraint* on the right; rather, it is already accounted for in drawing the line at viability.

[6] The State's extreme and implausible parade of horribles (at 25-26) elides the crux of Plaintiffs' argument: that profoundly personal decisions about pregnancy and abortion without question fall within the Privacy Clause's broad protections for decisional privacy. With the exception of assistance in dying—which this Court held *does* implicate fundamental privacy rights, *Krischer v. McIver*, 697 So.2d 97, 100-04 (Fla. 1997)—the State offers no basis in text, logic, or law to suggest the same is true of its alarmist examples.

Finally, even assuming this Court finds the Privacy Clause ambiguous, precedents correctly construed it broadly. If ambiguous, constitutional text must receive the "broader and more liberal construction." *Brinkmann v. Francois*, 184 So.3d 504, 510 (Fla. 2016). This is especially so where, as here, the electorate ratified these precedents. In 2006, voters enacted an amendment that overruled a narrow aspect of precedent but *affirmed* that abortion otherwise implicated the state Constitution's right of privacy. Art. X, §22, Fla. Const. (permitting legislature to require parental notification for abortion "*[n]otwithstanding* a minor's right of privacy provided in Section 23 of Article I" (emphasis added)); *see* Law Professors' Br. 14-16. And, in 2012, voters rejected a more sweeping effort to overrule precedent and exclude abortion rights from state constitutional protection. Law Professors' Br. 16-19. This repeatedly-expressed "will of the people" to protect abortion rights is paramount. *See Graham v. Haridopolos*, 108 So.3d 597, 603 (Fla. 2013); *Brinkmann*, 184 So.3d at 510 (constitution must not be construed "to defeat [its] underlying objectives").

II. HB 5 Violates the Privacy Clause.

The State's remaining merits arguments ask this Court to reject precedent, eviscerate strict scrutiny, and ignore the trial court's factual findings.

A. HB 5 Infringes the Fundamental Right of Privacy.

The State claims (at 53-54) HB 5 does not infringe a "reasonable expectation of privacy" because it is not a "significant restriction." This argument conflates two inquiries that this Court has already settled. The first is about the right's *scope*, which precedent confirms encompasses "a reasonable expectation of privacy in deciding whether to continue [a] pregnancy[.]" *N. Fla. Women's Health & Counseling Servs., Inc. v. State*, 866 So.2d 612, 621 (Fla. 2003). The second is what constitutes infringement, and, as the State concedes (at 53), precedent rejects any threshold requirement to show a "significant restriction." *Gainesville Woman Care, LLC v. State*, 210 So.3d 1243, 1255-56 (Fla. 2017); *see also T.W.*, 551 So.2d at 1195 ("[T]he Florida Constitution requires a 'compelling' state interest *in all cases* where the privacy right is *implicated*." (emphases added)); *Richardson*, 766 So.2d at 1042 (statutes implicating fundamental

rights are "unconstitutional *under any circumstance* unless the State satisfies" strict scrutiny (emphasis added)).

Even if Plaintiffs must show a "significant" restriction, HB 5—an outright *ban* on pre-viability abortion—unquestionably qualifies. That most abortions occur before 15 weeks is irrelevant. The State concedes HB 5 will ban *some* individuals from accessing abortion, ROA 63-64,[7] yet asks this Court to ignore those constitutional violations because they will affect a minority of Floridians. But fundamental rights are "guaranteed to *each Floridian* against government intrusion." *Traylor v. State*, 596 So.2d 957, 963 (Fla. 1992) (emphasis added). This Court "make[s] no distinction between a small violation of the Constitution and a large one. Both are equally invalid." *Bush v. Holmes*, 919 So.2d 392, 398 (Fla. 2006) ("relatively small number of students affected" did not render statute constitutional).

[7] The State's reliance (at 53-54) on mere say-so and a solo, non-binding concurrence to claim 15 weeks is "sufficient time" to access an abortion falls far short of what is required to disturb a trial court's factual findings.

B. HB 5 Fails Strict Scrutiny.

The State concedes (at 7, 54-55) strict scrutiny applies where fundamental rights are implicated, but falls far short of its heavy burden under this standard. *See Chiles v. State Emps.' Att'ys Guild*, 734 So.2d 1030, 1033 (Fla. 1999); *Winfield v. Div. of Pari-Mutuel Wagering*, 477 So.2d 544, 548 (Fla. 1985). It offers no basis to overturn the trial court's well-supported factual findings that HB 5 advances no compelling interest and is not narrowly tailored. *See* ROA 32, 40-51, 60-67 (finding that HB 5 will likely harm patient health, scientific evidence contradicts speculative claims about fetal pain, and less restrictive means exist to encourage early abortions); Initial Br. 36-39; *see also* ACOG Br. 7-14, 20-21.

Instead, the State asks this Court to ignore the evidence and just defer to the legislature. But strict scrutiny "shifts the burden of proof to the state to *justify* an intrusion on privacy." *Winfield*, 477 So.2d at 547 (emphasis added). If legislative deference could discharge the State's heavy burden, the promises of strict scrutiny as protection against "unjust encroachment of state authority," *Traylor*, 596 So.2d at 963, would be illusory. This Court has never simply deferred to the legislature when fundamental rights are at

stake. *See Chiles*, 734 So.2d at 1034-36 (subjecting legislative "conclusions" to "judicial scrutiny" and rejecting them based on evidence); *N. Fla. Women's Health*, 866 So.2d at 627 (holding courts "must conduct their own [factual] inquiry"); *Krischer*, 697 So.2d at 102-04 (looking to medical ethical authorities in evaluating constitutional privacy challenge); *cf. State v. Presidential Women's Ctr.*, 937 So.2d 114, 116-20 (2006) (upholding abortion statute only after construing its provisions to align with medical principles of informed consent).

Nor is there any basis to recede from precedent holding that the interest in fetal life is compelling only *after* viability. As the State concedes (at 58), the Privacy Clause's original meaning provided *more* protection for privacy rights than federal law at the time. Under that original meaning, the Clause must protect abortion at least as strongly as federal law, which, in 1980, held that an interest in potential life cannot become compelling until viability. Initial Br. 38 n.9; *Roe*, 410 U.S. at 163-64.

III. Plaintiffs Demonstrated Irreparable Harm and Third-Party Standing.

The State's meager, four-paragraph defense of the Appellate Court's decision fails to offer any support for that court's novel approach severing third-party standing from injunctive relief. Nor does the State even attempt to justify disregarding the trial court's well-supported factual findings establishing standing and irreparable harm. Initial Br. 26-27, 31.

A. Irreparable Harm.

The State does not contest that HB 5 irreparably harms Plaintiffs' patients by denying them constitutionally-protected medical care. Instead, it repeats the Appellate Court's erroneous conclusion that such harms cannot support injunctive relief. But neither the State nor the Appellate Court identified a *single* authority denying injunctive relief because the plaintiffs asserted irreparable harms to third parties whose rights they had standing to raise.[8] Initial Br. 29-30.

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[8] The State's quotation from Justice Gorsuch's concurrence in *Collins v. Yellen*, is especially misleading: the State changed the original emphasis from "injury-in-fact" to "plaintiffs'," but the case had nothing to do with a distinction between a plaintiff's injuries and third-party injuries. Instead, Justice Gorsuch's point, that "standing

In any event, Plaintiffs demonstrated their own irreparable harms—damage to their physician-patient relationships and ability to fulfill their professional and ethical obligations. Initial Br. 22-24; ACOG Br. 14-20; FRF Br. 4-19. The State identifies no adequate remedy for such harms, contending instead that its authority to set medical standards supersedes these harms. But that authority "is not unrestricted," *State Bd. of Med. Examiners of Fla. v. Rogers*, 387 So.2d 937, 939 (Fla. 1980), and "is at all times circumscribed by the Constitution." *Bush*, 919 So.2d at 398. As Plaintiffs have shown, HB 5 exceeds constitutional boundaries, so there is no basis to ignore the very real harms Plaintiffs suffer.[9]

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and remedies are joined at the hip," 141 S.Ct. 1761, 1796 n.1 (2021), supports *Plaintiffs'* argument that, because they have third-party standing to raise their patients' privacy rights, they can obtain a remedy for irreparable injuries to those rights. The remaining cases the State cites (at 61) did not involve third-party standing, concerned only economic damages, or both.

[9] The State's preposterous comparison (at 60) of Plaintiffs' harms to being prevented from "prescrib[ing] heroin for a cold" gets things precisely backwards: it is the State, not Plaintiffs, that claims a prerogative to set standards of care wholly untethered to professional mores or medical science.

B. Third-Party Standing.

Plaintiffs also suffer an "immediate and real" injury-in-fact from being coerced to comply with HB 5 under threat of felony and licensing penalties. *See Lake Carriers' Ass'n v. MacMullan*, 406 U.S. 498, 508 (1972). "[W]here threatened action by *government* is concerned, we do not require a plaintiff to expose himself to liability before bringing suit to challenge … the constitutionality of a law threatened to be enforced." *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128-29 (2007).[10]

With respect to hindrance, it has never been the rule that the existence of *any* abortion case involving pregnant litigants "disproves" hindrance, as the State claims (at 63). Initial Br. 32-35. Plaintiffs proved numerous practical barriers to suit. Initial Br. 32-33. Nor does the capable-of-repetition exception to mootness negate these barriers. That exception provides only a basis for a court to rule *after* a pregnant individual has been irrevocably harmed by being forced to carry a pregnancy to term against her will. *See Burton*

[10] Plaintiffs did not "disclaim" economic injury from disruptions to their operations, as the State misstates (at 62). Plaintiffs argued that interference with the physician-patient relationship was a distinct, non-economic injury. Initial Br. 22-26; ROA 54-55.

v. State, 49 So.3d 263, 264 (Fla. 1st DCA 2010). Where, as here, a law impairs a third party's constitutional rights by directly imposing duties and penalties on someone else, the party subject to those duties and penalties—here, Plaintiffs—is the "obvious claimant" and "least awkward challenger" best situated to vigorously litigate the issues. *Craig v. Boren*, 429 U.S. 190, 196-97 (1976).

CONCLUSION

The Court should reverse the Appellate Court and reinstate the injunction.

Respectfully submitted this 28th day of April, 2023.

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of Petitioners' Reply Brief has been furnished by electronic mail to all counsel of record by filing the document with service through the e-Service system, Fla. R. Jud. Admin. 2.516(b)(1), this 28th day of April, 2023.

/s/ Whitney Leigh White

CERTIFICATE OF COMPLIANCE FOR COMPUTER-GENERATED BRIEFS

I certify that this brief complies with the applicable form and font requirements under Florida Rule of Appellate Procedure 9.045. I further certify that this brief complies with the word limit for computer-generated briefs stated in Florida Rule of Appellate Procedure 9.210(a)(2)(A).

/s/ Whitney Leigh White