

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

RACHEL WELTY, et al.,)	
)	
Plaintiffs,)	
)	Case No. 3:24-cv-00768
v.)	
)	
BRYANT C. DUNAWAY, et al.,)	
)	
Defendants.)	

**DEFENDANTS’ RESPONSE TO PLAINTIFFS’
STATEMENT OF ADDITIONAL MATERIAL FACTS**

Pursuant to Middle District of Tennessee Local Rule 56.01(d), Defendants submit this Response to Plaintiffs’ Statement of Additional Material Facts, D.E. 72.

Additional Fact #1: Plaintiff Rachel Welty serves on the board of an abortion fund that gives block grants to abortion clinics outside of Tennessee that are earmarked for Tennessee residents, provides resources to minors seeking abortions, and “connect[s] those minors with clinics out of state[.]” Doc. 35 at 14:1-15.

RESPONSE: Undisputed for purposes of summary judgment.

Additional Fact #2: Plaintiff Rachel Welty intentionally provides accurate information about abortion to her minor clients, knowing that such information persuades some of those clients to have an abortion. *Id.* at 31:7–14.

RESPONSE: It is undisputed for purposes of summary judgment that Plaintiff Rachel Welty provides accurate information about abortion to her minor clients. Doc. 39-1 at 7:19-22,

31:7-9. It is further undisputed for purposes of this motion that the information provided by Plaintiff Welty about abortion persuades some of her minor clients to choose abortion. *Id.* at 31:7-17. It is further undisputed that Plaintiff Welty’s intent in providing her minor clients with information about abortion is “never to persuade someone,” but instead “to give them options and then let them make their own decision.” *Id.* at 24:12-18. To the extent this asserted fact implies anything to the contrary, it is disputed.

Additional Fact #3: Plaintiff Behn intentionally validates, supports, and encourages her clients’ decision to get an abortion if they decide they want one. *Id.* at 45:1–22.

RESPONSE: Objection. This asserted fact, even if true, is immaterial for summary-judgment purposes. *See McLemore v. Gumucio*, 619 F. Supp. 3d 816, 826 (M.D. Tenn. 2021) (noting that a statement asserting an immaterial fact “is not properly included in a Rule 56.01 statement”). Plaintiffs challenge only the Act’s “recruiting” provision. Providing validation, support, or encouragement to minors *after* “they decide they want [an abortion],” Doc. 39-1 at 45:1-22, cannot plausibly be described as recruiting under the Act. While that type of conduct might theoretically constitute “transporting” or “harboring,” depending on the facts involved, Plaintiffs do not challenge these separate provisions of the Act. Subject to and without waiving that objection, this asserted fact is undisputed for purposes of this motion.

Additional Fact #4: When the Plaintiffs’ clients decide they want an abortion, the Plaintiffs intentionally support them, encourage them, and act for the purpose of helping them procure one legally or obtain one medically. *Id.* at 9:22–10:5, 45:1–22.

RESPONSE: Objection. This asserted fact, even if true, is immaterial for summary-judgment purposes. *See McLemore, supra*. Plaintiffs challenge only the Act’s “recruiting” provision. Providing encouragement and support to minors *after* they “decide they want an abortion,” Doc. 39-1 at 9:22-10:5, 45:1-22, cannot plausibly be described as recruiting under the Act. While that type of conduct might theoretically constitute “transporting” or “harboring,” depending on the facts involved, Plaintiffs do not challenge these separate provisions of the Act. Subject to and without waiving that objection, this asserted fact is undisputed for purposes of this motion.

Dated: February 13, 2025

Respectfully submitted,

/s/ Steven J. Griffin
STEVEN J. GRIFFIN (BPR# 040708)
Senior Counsel for Strategic Litigation
MATTHEW D. CLOUTIER (BPR# 036710)
Assistant Solicitor General
OFFICE OF TENNESSEE ATTORNEY GENERAL
P.O. Box 20207
Nashville, TN 37202
(615) 741-9598
Steven.Griffin@ag.tn.gov
Matt.Cloutier@ag.tn.gov

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2025, a copy of the foregoing document was filed using the Court's electronic court-filing system, which sent notice of filing to the following counsel of record:

Daniel A. Horwitz
Melissa Dix
Sarah L. Martin
HORWITZ LAW, PLLC
4016 Westlawn Dr.
Nashville, TN 37209
(615) 739-2888
daniel@horwitz.law
melissa@horwitz.law
sarah@horwitz.com

Counsel for Plaintiffs

/s/ Steven J. Griffin
STEVEN J. GRIFFIN