

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

**Jerry Rodriguez and Isabella Irene
Rodriguez,**

Plaintiffs,

v.

Remy Coeytaux,

Defendant.

Case No. 3:26-cv-207

**PLAINTIFFS' MOTION FOR ENTRY OF JUDGMENT UNDER
RULE 54(b)**

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Plaintiff Jerry Rodriguez and Isabella Irene Rodriguez respectfully ask this Court to enter judgment under Rule 54(b) and permanently enjoin Remy Coeytaux from filing “clawback” lawsuits against them or their attorneys under California’s abortion-shield law. *See* Cal. Civil Code § 1798.300 *et seq.* (attached as Exhibit 1). The plaintiffs are seeking entry of judgment only on their request for an anti-clawback injunction¹ and not on any of their remaining claims against Coeytaux. *See* Fed. R. Civ. P. 54(b) (authorizing courts to “direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay.”).

A partial final judgment under Rule 54(b) is needed to ensure that the plaintiffs’ attorneys can zealously represent their clients in this lawsuit without exposing themselves and their clients to ruinous civil liability under California’s clawback law. And the plaintiffs and their lawyers need that assurance at the outset of this litigation, before they take actions that increase their liability for treble damages under California’s statute. There is “no just reason for delay” in resolving the plaintiffs’ request for a permanent injunction against the enforcement of this clawback regime, especially when Texas law requires this Court to permanently enjoin the filing of clawback lawsuits “on request.” Tex. Health & Safety Code § 171A.151(c).

BACKGROUND

California’s shield law allows abortion providers to file revenge lawsuits against anyone who sues or prosecutes them over their illegal abortion-pill shipments into other states. *See* Cal. Civil Code § 1798.300 *et seq.* (attached as Exhibit 1). It authorizes these lawsuits even when the abortion provider is sued or prosecuted in a state

1. *See* Complaint, ECF No. 1, at ¶¶ 37–42.

or federal court outside California—and even when the provider is sued or prosecuted for conduct that indisputably violates the laws of another state or the federal laws that criminalize abortion-pill shipments.² *See* Cal. Civil Code § 1798.300(a)(1)–(2).

California allows these lawsuits to be filed against any person who “engages or attempts to engage”³ in this litigation against Coeytaux, which includes not only Mr. and Ms. Rodriguez but anyone who testifies as a witness or otherwise assists the plaintiffs in litigating their claims. If Coeytaux were to sue the plaintiffs (or anyone else) under this clawback provision, California law would entitle Coeytaux to recover three times the amount of any judgment that the plaintiffs obtain against him in this lawsuit—plus three times the amount of any “expenses, costs, or reasonable attorney’s fees” or other “actual damages” that Coeytaux incurs on account of that lawsuit. *See* Cal. Civil Code § 1798.305. These damages are mandatory, and Coeytaux would be entitled to collect this amount in each of the lawsuits that he files against each individual who “engages or attempts to engage” in this litigation.

The plaintiffs’ complaint seeks a permanent antisuit injunction that will restrain Coeytaux from suing Mr. or Ms. Rodriguez, their attorneys, or any person providing legal representation or any type of assistance to the plaintiffs under these clawback provisions. *See* Complaint, ECF No. 1, at ¶¶ 37–42. The plaintiffs are entitled to a permanent injunction because the law of Texas applies to this case,⁴ and it requires this Court to enjoin Coeytaux from suing the plaintiffs or any person providing legal

2. *See* 18 U.S.C. § 1461–1462.

3. Cal. Civil Code § 1798.303.

4. *See* Tex. Health & Safety Code § 171A.151(b).

representation or any type of assistance to the plaintiffs under these clawback provisions. *See* Tex. Health & Safety Code § 171A.151(c) (requiring a permanent anti-clawback injunction to issue “on request”).

THE COURT SHOULD ENTER JUDGMENT UNDER RULE 54(b)

Rule 54(b) allows this Court to enter final judgment on the plaintiffs’ request for an anti-clawback injunction if it “expressly determines that there is no just reason for delay.” Fed. R. Civ. P. 54(b). The full text of the rule provides:

When an action presents more than one claim for relief—whether as a claim, counterclaim, crossclaim, or third-party claim—or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.

Fed. R. Civ. P. 54(b).

There is “no just reason” to delay entry of judgment on the plaintiffs’ anti-clawback claim because: (1) The law of Texas unambiguously entitles the plaintiffs to a permanent antisuit injunction “on request”;⁵ (2) The ongoing threat of clawback lawsuits makes it impossible for the plaintiffs and their attorneys to litigate their claims without exposing themselves to ruinous liability; and (3) a final judgment with res judicata effect is needed to ensure that Coeytaux will not file retaliatory lawsuits against the plaintiffs or their lawyers.

5. *See* Tex. Health & Safety Code § 171A.151(c).

I. THERE IS NO JUST REASON TO DELAY ENTRY OF JUDGMENT BECAUSE THE PLAINTIFFS ARE ENTITLED TO A PERMANENT ANTI-CLAWBACK INJUNCTION “ON REQUEST”

The law of Texas applies to this diversity action,⁶ and section 171A.151(c) of the Texas Health and Safety Code requires this Court to permanently enjoin Coeytaux from suing the plaintiffs under California’s clawback provisions “on request.” *See* Tex. Health & Safety Code § 171A.151(c) (attached as Exhibit 2). So the plaintiffs are entitled to an immediate and permanent injunction, and the law requires this Court to enter that injunction without waiting until the end of these proceedings.

A. The Law Of Texas Applies To This Case

A federal diversity court must apply the choice-of-law rules of the forum state. *See Klaxon Co. v. Stentor Electric Manufacturing Co., Inc.*, 313 U.S. 487, 496–97 (1941). And Texas’s HB 7 makes clear that Texas law applies not only to Ms. Rodriguez’s qui tam claim against Coeytaux,⁷ but also to any ancillary litigation surrounding the enforceability of California’s clawback law against the plaintiffs or any person providing them with legal representation or assistance.

Section 171A.151 of the Texas Health and Safety Code provides, in relevant part:

(a) For purposes of this section, the term “clawback provision” refers to any law of another state or jurisdiction that authorizes the bringing of a civil action against a person for:

(1) bringing or engaging in an action authorized by this chapter, including Subsection (f);

-
6. *See* Tex. Health & Safety Code § 171A.151(b); *Klaxon Co. v. Stentor Electric Manufacturing Co., Inc.*, 313 U.S. 487, 496–97 (1941) (federal diversity courts must apply the forum state’s choice-of-law rules).
 7. *See* Tex. Health & Safety Code § 171A.106(b) (“Notwithstanding any other law, the law of this state applies to an action brought under Section 171A.101 to the maximum extent permitted by the Texas Constitution and federal law, including the United States Constitution.”).

- (2) bringing or engaging in an action that alleges a violation of Section 171A.051;
 - (3) attempting, intending, or threatening to bring or engage in an action described by Subdivision (1) or (2); or
 - (4) providing legal representation or any type of assistance to a person who brings or engages in an action described by Subdivision (1) or (2).
- (b) Notwithstanding any other law and except as otherwise provided by federal law or the Texas Constitution, the laws of this state apply to:
- (1) conduct described by Subsection (a);
 - (2) an action brought against a person for engaging in conduct described by Subsection (a);
 - (3) an action brought under a clawback provision against a resident of this state; and
 - (4) an action brought under Subsection (f).

Tex. Health & Safety Code § 171A.151(a)–(b). After subsection (a) defines “clawback provision,” subsection (b) declares that Texas law will govern:

- The “bringing” of or the “engaging in” the action filed by the plaintiffs against Coeytaux;⁸
- The provision of “legal representation or any type of assistance” to the plaintiffs in their lawsuit against Coeytaux;⁹ and
- Any clawback action that might be brought against the plaintiffs or those providing legal representation or any type of assistance to the plaintiffs in this litigation.¹⁰

8. See Tex. Health & Safety Code § 171A.151(b)(1).

9. See Tex. Health & Safety Code § 171A.151(b)(1).

10. See Tex. Health & Safety Code § 171A.151(b)(2).

So the enforceability of California's clawback provision against the plaintiffs or any person providing legal representation or any type of assistance to the plaintiffs in this litigation is governed by Texas law. *See Klaxon*, 313 U.S. at 496–97.

B. Texas Law Entitles The Plaintiffs To A Permanent Anti-Clawback Injunction “On Request”

Section 171A.151(c) of the Texas Health and Safety Code requires courts to issue, on request, a permanent anti-clawback injunction in any case that asserts a claim for relief under HB 7:

(c) Notwithstanding any other law, in an action described by Subsection (a)(1) or (2), the court shall, on request, issue a temporary, preliminary, or permanent injunction that restrains each defendant in the action, each person in privity with the defendant, and each person with whom the defendant is in active concert or participation from:

(1) bringing an action under any clawback provision against a claimant or prosecutor, a person in privity with the claimant or prosecutor, or a person providing legal representation or any type of assistance to the claimant or prosecutor; and

(2) continuing to litigate an action under any clawback provision that has been brought against a claimant or prosecutor, a person in privity with the claimant or prosecutor, or a person providing legal representation or any type of assistance to the claimant or prosecutor.

Tex. Health & Safety Code § 171A.151(c).

The provisions of California law that authorize Coeytaux to file retaliatory lawsuits against the plaintiffs meet the definition of “clawback provision” in subsection (a). The plaintiffs have brought “an action authorized by this chapter”¹¹ because Ms. Rodriguez is suing Coeytaux under section 171A.101(a) of the Texas Health and

11. *See* Tex. Health & Safety Code § 171A.151(a)(1).

Safety Code,¹² and California’s shield law authorizes Coeytaux to bring a civil action against the plaintiffs for “engaging”¹³ in this action. *See* Cal. Civil Code § 1798.303 (authorizing retaliatory lawsuits against anyone who “engages or attempts to engage in abusive litigation that infringes on or interferes with, or attempts to infringe on or interfere with, a legally protected health care activity”); Cal. Civil Code § 1798.300(d) (defining “legally protected health care activity” to include the mailing of abortion pills from California to patients in other states); Cal. Civil Code § 1798.300(a) (defining “abusive litigation” to encompass “litigation or other legal action to deter, prevent, sanction, or punish a person engaging in legally protected health care activity by . . . (1) Filing or prosecuting an action in a state other than California where liability, in whole or part, directly or indirectly, is based on a legally protected health care activity that was legal in the state in which it occurred, including an action in which liability is based on a theory of vicarious, joint, or several liability.”).

The plaintiffs are therefore entitled to a permanent antisuit injunction that restrains Coeytaux from suing the plaintiffs, a person in privity with the plaintiffs, or any person providing legal representation or any type of assistance to the plaintiffs under California’s shield law or any similar “clawback” provision. *See* Tex. Health & Safety Code § 171A.151(c). And there is “no just reason for delay” in entering this permanent injunction under Rule 54(b), because the plaintiffs are statutorily entitled to entry of a permanent injunction “on request.” *See id.*

12. *See* Complaint, ECF No. 1, at ¶¶ 32–35.

13. *See* Tex. Health & Safety Code § 171A.151(a)(1).

II. THERE IS NO JUST REASON TO DELAY ENTRY OF JUDGMENT BECAUSE THE THREAT OF CLAWBACK LAWSUITS WILL DETER THE PLAINTIFFS AND THEIR ATTORNEYS FROM ZEALOUSLY PURSUING THEIR CLAIMS IN THIS LITIGATION

Even apart from the statutory command of section 171A.151(c), there is “no just reason for delay” in entering judgment under Rule 54(b) because neither the plaintiffs nor their attorneys should have to litigate this case under the threat of clawback lawsuits posed by California’s abortion-shield law. Our courts and our system of justice depend on an adversarial presentation of the issues, in which opposing litigants vigorously contest the facts and law, hammer the perceived weaknesses in their opponents’ arguments, and present their competing positions for a judge to resolve. Attorneys are ethically obligated to zealously represent the interests of their clients so courts can make accurate decisions when adjudicating facts and the law. The clawback provisions in California’s shield law are designed to deter and punish the zealous advocacy and adversarial litigation that the judiciary relies upon.

Consider the situation from the perspective of the plaintiffs. Without an antisuit injunction, the plaintiffs will be facing the risk of a future clawback lawsuit from Coeytaux in which they will have to pay three times the amount of any judgment that they win against Coeytaux in this case—*plus* three times the amount of any “expenses, costs, or reasonable attorney’s fees” or other “actual damages” that Coeytaux incurs on account of this lawsuit. The plaintiffs will face clawback liability *even if they win* their lawsuit against Coeytaux; indeed, they will face *greater* liability under California’s clawback law if they prevail in this litigation because California’s law requires them to fork out three times the amount of any monetary judgment that they win against Coeytaux in this case. California’s clawback law is designed to deter

and punish litigants who bring *meritorious* claims against California’s abortion providers, and it punishes successful litigants more than those who bring meritless claims that are quickly dispatched by the courts. A prompt and permanent injunction against the filing of clawback lawsuits is needed at the outset of this case to ensure that Rodriguez will not be deterred from pursuing and litigating meritorious claims and arguments that will increase his exposure to liability under California’s clawback law.

The situation is even worse from the standpoint of the plaintiffs’ counsel. The plaintiffs’ attorney is ethically obligated as counsel to his clients and as an officer of this Court to zealously represent Mr. and Ms. Rodriguez, vigorously pursue discovery, and present whatever reasonable arguments can be made on his clients’ behalf. Yet if the plaintiffs’ lawyer follows through on his ethical duties, he will face clawback liability of his own, as California’s law authorizes retaliatory lawsuits against anyone who “engages or attempts to engage”¹⁴ in this litigation against Coeytaux—regardless of whether someone “engages” as a litigant or as an attorney. The plaintiffs’ lawyer will also face a conflict of interest if this Court denies a permanent injunction. If he zealously represents his clients and wins a favorable judgment on their behalf, that will *increase* the clawback liability that he will face if Coeytaux decides to file a revenge lawsuit for treble damages. California’s clawback regime means that a lawyer’s success on behalf of his client winds up *increasing* the lawyer’s exposure (and his client’s exposure) to clawback liability, while a lawyer who loses or bungles the job *reduces* the treble-damages liability that he (and his client) will face in a subsequent clawback lawsuit. It is hard to see how a lawyer can ethically represent a client

14. Cal. Civil Code § 1798.303.

under these circumstances, which only underscores the need for an immediate and permanent anti-clawback injunction under Rule 54(b).

III. THERE IS NO JUST REASON TO DELAY ENTRY OF JUDGMENT EVEN IF THIS COURT DECIDES TO GRANT THE PLAINTIFFS' MOTION FOR A PRELIMINARY ANTI-CLAWBACK INJUNCTION

The plaintiffs have already moved for a preliminary injunction that would restrain Coeytaux from filing clawback lawsuits during the pendency of this litigation. *See* Mot. for Prelim. Inj., ECF No. 5. But even if this Court grants the requested preliminary injunction, there still will be “no just reason for delay” in entering partial final judgment under Rule 54(b).

A preliminary injunction lasts only until the conclusion of litigation in the district court, and it cannot stop Coeytaux from filing retaliatory lawsuits against the plaintiffs or their attorneys after the litigation ends. More importantly, a preliminary injunction or a permanent injunction issued at the end of the lawsuit can be vacated on appeal, and if that happens the erstwhile injunction will do nothing to shield Rodriguez or his attorneys from clawback liability that was incurred while the injunction was in effect. *See Lake v. HealthAlliance Hospital Broadway Campus*, 738 F. Supp. 3d 208, 220 n.14 (N.D.N.Y. 2024) (“[I]f an injunction is dissolved the State may enforce the statute against violators for conduct that occurred while the injunction was in place.”); *see also Edgar v. MITE Corp.*, 457 U.S. 624, 648–53 (1982) (Stevens, J., concurring in part and concurring in the judgment).

It is therefore imperative that the Court enter final judgment on the clawback issue now—before the parties litigate the wrongful-death and HB 7 claims—so that the issue can be appealed and resolved as soon as possible by the appellate courts. And if no appeal is taken from the entry of judgment under Rule 54(b), then the

court's judgment will have res judicata effect. A favorable and unappealed final judgment under Rule 54(b) will provide assurance that the plaintiffs and their attorneys can "engage" in this litigation without facing subsequent clawback lawsuits from Coeytaux. And an unfavorable final judgment under Rule 54(b) will facilitate appellate review of the clawback issue before substantial liability is incurred. There is no just reason for delaying entry of judgment on the plaintiffs' anti-clawback claim, whichever way the Court decides to rule.

CONCLUSION

The motion for entry of final judgment under Rule 54(b) should be granted.

Respectfully submitted.

/s/ Jonathan F. Mitchell

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CERTIFICATE OF WORD COUNT

I certify that this motion contains 2,996 words.

/s/ Jonathan F. Mitchell
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CERTIFICATE OF CONFERENCE

I certify that I have conferred with Christopher M. Odell, counsel for the defendant, and we were unable to agree about the disposition of this motion.

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TITLE 2. HEALTH



SUBTITLE H. PUBLIC HEALTH PROVISIONS



CHAPTER 171A. ABORTION-INDUCING DRUGS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 171A.001. DEFINITIONS. In this chapter:

- (1) "Abortion" has the meaning assigned by Section [245.002](#).
- (2) "Abortion-inducing drug" has the meaning assigned by Section [171.061](#).
- (3) "Delivery network company," "delivery person," "digital network," "digitally prearranged delivery," "digitally prearranged ride," "driver," and "transportation network company" have the meanings assigned by Section [2402.001](#), Occupations Code.
- (4) "Health care facility" has the meaning assigned by Section [108.002](#), except the term does not include a hospital.
- (5) "Health care provider" means an individual who is licensed, certified, or otherwise authorized by this state to diagnose, prevent, alleviate, or cure a human illness or injury. The term does not include a physician.
- (6) "Hospital" means:
 - (A) a hospital licensed under Chapter [241](#) or [577](#); or
 - (B) a hospital owned, maintained, or operated by this state.
- (7) "Medical emergency" means a condition described by Section

(8) "Physician" means an individual licensed to practice medicine in this state, including a medical doctor and a doctor of osteopathic medicine.

(9) "Physician group" means an entity, including an entity described in the definition of "physician" under Section 74.001, Civil Practice and Remedies Code, that is formed by a physician or group of physicians to provide medical services.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

Sec. 171A.002. APPLICABILITY AND CONSTRUCTION OF CHAPTER. (a) This chapter does not apply to and a civil action under this chapter may not be brought against:

- (1) a hospital;
- (2) a health care facility licensed, owned, maintained, or operated by this state;
- (3) a health care provider, other than a provider against whom a qui tam action may be brought in accordance with Section 171A.101(d)(8);
- (4) a physician, other than a physician against whom a qui tam action may be brought in accordance with Section 171A.101(d)(8);
- (5) a physician group;
- (6) an Internet service provider or the provider's affiliates or subsidiaries;
- (7) an Internet search engine;
- (8) a cloud service provider solely providing access or connection to or from an Internet website or other information or content on the Internet or on a facility, system, or network that is not under the provider's control, including transmission, downloading, intermediate storage, access software, or other services; or
- (9) a person who manufactures, distributes, mails, transports, delivers, prescribes, provides, or possesses abortion-inducing drugs in this state solely for one or more of the following purposes:
 - (A) treating a medical emergency;
 - (B) removing an ectopic pregnancy;
 - (C) removing a dead, unborn child whose death was caused by spontaneous abortion; or

(D) a purpose that does not include performing, inducing, attempting, or assisting an abortion, other than an abortion performed in response to a medical emergency.

(b) This chapter may not be construed to require the actual performance, inducement, or attempted performance of an abortion in order for a person to bring a civil action authorized by this chapter.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

SUBCHAPTER B. PROTECTION FROM ABORTION-INDUCING DRUGS

Sec. 171A.051. PROHIBITIONS RELATED TO ABORTION-INDUCING DRUGS. (a) Except as provided by Subsection (b) or Section 171A.002, a person may not:

(1) manufacture or distribute an abortion-inducing drug in this state; or

(2) mail, transport, deliver, prescribe, or provide an abortion-inducing drug in any manner to or from any person or location in this state.

(b) Subsection (a) does not prohibit:

(1) speech or conduct protected by the First Amendment to the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment to the United States Constitution, or protected by Section 8, Article I, Texas Constitution;

(2) conduct a pregnant woman takes in the course of aborting or attempting to abort the woman's unborn child;

(3) the manufacture, distribution, mailing, transport, delivery, prescribing, provision, or possession of an abortion-inducing drug solely for one or more of the purposes described by Section 171A.002(a)(9); or

(4) conduct a person takes under the direction of a federal agency, contractor, or employee to carry out a duty under federal law, if prohibiting that conduct would violate the doctrine of preemption or intergovernmental immunity.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

LAW. (a) This subchapter may be enforced only through a qui tam action brought under Subchapter C.

(b) No other direct or indirect enforcement of this subchapter may be taken or threatened by this state, a political subdivision of this state, a district or county attorney, or any officer or employee of this state or a political subdivision of this state against any person, by any means whatsoever, except as provided in Subchapter C.

(c) This section does not preclude or limit the enforcement of any other law or regulation against conduct that is independently prohibited by the other law or regulation and that would remain prohibited by the other law or regulation in the absence of this subchapter.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

SUBCHAPTER C. QUI TAM ENFORCEMENT OF PROHIBITIONS RELATING TO ABORTION-INDUCING DRUGS

Sec. 171A.101. QUI TAM ACTION AUTHORIZED. (a) A person, other than this state, a political subdivision of this state, or an officer or employee of this state or a political subdivision of this state, has standing to bring and may bring a qui tam action against a person who:

- (1) violates Section 171A.051; or
- (2) intends to violate Section 171A.051.

(b) An action brought under this section must be brought in the name of the qui tam relator, who is an assignee of this state's claim for relief. Notwithstanding any other law, the transfer of this state's claim to the qui tam relator is absolute, with the state retaining no interest in the subject matter of the claim.

(c) A qui tam relator may not bring an action under this section if the action is preempted by 47 U.S.C. Section 230(c).

(d) A qui tam action may not be brought under this section:

- (1) against a woman for using, obtaining, or seeking to obtain abortion-inducing drugs to abort or attempt to abort her unborn child;
- (2) against a person acting under the direction of a federal agency, contractor, or employee who is carrying out a duty under federal law if the

imposition of liability would violate the doctrine of preemption or intergovernmental immunity;

(3) by any person who:

(A) impregnated a woman through conduct constituting sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B) committed an offense for which an affirmative finding of family violence was made under Article 42.013, Code of Criminal Procedure;

(C) provided an abortion-inducing drug to a pregnant woman for the purpose of performing, inducing, or attempting an abortion without the woman's consent or knowledge;

(D) has been convicted of an offense under Section 42.072, Penal Code; or

(E) acts in concert or participation with a person described by this subdivision;

(4) against a transportation network company or a driver for using a transportation network company's digital network to provide a digitally prearranged ride;

(5) against a delivery network company or a delivery person for using a delivery network company's digital network to provide a digitally prearranged delivery;

(6) against an air carrier conducting domestic or flag operations under 14 C.F.R. Part 121 or a foreign air carrier conducting scheduled operations under 14 C.F.R. Part 129;

(7) against a person to whom this chapter does not apply and against whom a civil action under this chapter may not be brought under Section 171A.002(a);

(8) against a health care provider or physician, unless the qui tam relator pleads and proves that the provider or physician engaged in conduct constituting a violation of Section 171A.051 while located outside this state; or

(9) against a pharmaceutical manufacturer, pharmaceutical distributor, or common carrier, unless the qui tam relator pleads and proves that the defendant failed to adopt and implement a policy to not distribute, mail, transport, deliver, provide, or possess abortion-inducing drugs other than for one or more of the purposes described by Section 171A.002(a)(9).

(e) Notwithstanding any other law, including rules of civil procedure adopted under Chapter 26, Civil Practice and Remedies Code, an action brought under this section may not be litigated on behalf of a claimant class or a

(f) In an action brought under this chapter, a qui tam relator or a defendant against whom an action is brought under this section may not, without the consent of the person to whom the information belongs, publicly disclose or improperly obtain:

(1) any personally identifiable information of a pregnant woman who sought or obtained an abortion-inducing drug from a defendant against whom a qui tam action is brought under this section, including any written, electronic, audio, or visual document or media that identifies the pregnant woman;

(2) any information protected from public disclosure under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and regulations adopted under that Act; or

(3) any personal data of a pregnant woman who sought or obtained an abortion-inducing drug from a defendant against whom a qui tam action is brought under this section that is protected from public disclosure under federal or state law.

(g) Notwithstanding any other law, a court may not order in response to the filing of a petition by a qui tam relator the taking of a deposition under Rule 202, Texas Rules of Civil Procedure, of a woman who is the subject of a violation of Section 171A.051 unless the woman consents to the deposition.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

Sec. 171A.102. DEFENSES. (a) It is an affirmative defense to an action brought under Section 171A.101 that the defendant:

(1) was unaware the defendant was engaged in the conduct prohibited by Section 171A.051; and

(2) took reasonable precautions to ensure the defendant would not violate Section 171A.051.

(b) It is an affirmative defense to an action brought under Section 171A.101 that:

(1) the imposition of civil liability on the defendant will violate the defendant's rights under federal law, including the United States Constitution;

(2) the defendant:

(A) has standing to assert the rights of a third party under

the tests for third-party standing established by the United States Supreme Court; and

(B) demonstrates that the imposition of civil liability on the defendant will violate the third party's rights under federal law, including the United States Constitution;

(3) the imposition of civil liability on the defendant will violate the defendant's rights under the Texas Constitution; or

(4) the imposition of civil liability on the defendant will violate limits on extraterritorial jurisdiction imposed by the United States Constitution or the Texas Constitution.

(c) The defendant has the burden of proving an affirmative defense under this section by a preponderance of the evidence.

(d) The following are not defenses to an action brought under Section 171A.101:

(1) a defendant's ignorance or mistake of law, including a defendant's mistaken belief that the requirements or provisions of this chapter are unconstitutional or were unconstitutional;

(2) a defendant's reliance on a state or federal court decision that is not binding on the court in which the action has been brought;

(3) a defendant's reliance on a federal agency rule or action that has been repealed, superseded, or declared invalid or unconstitutional, even if the federal agency rule or action had not been repealed, superseded, or declared invalid or unconstitutional when the cause of action accrued;

(4) the laws of another state or jurisdiction, including an abortion shield law, unless the Texas Constitution or federal law compels the court to enforce that law;

(5) non-mutual issue preclusion or non-mutual claim preclusion;

(6) sovereign immunity, governmental immunity, or official immunity, other than sovereign immunity, governmental immunity, or official immunity applicable to:

(A) a hospital owned, maintained, or operated by this state that facilitates the availability of or makes available abortion-inducing drugs solely for one or more of the purposes described by Section 171A.002(a)(9);

(B) a political subdivision of this state, including a hospital district, that facilitates the availability of or makes available abortion-inducing drugs solely for one or more of the purposes described by Section 171A.002(a)(9); or

(C) a physician or health care professional employed by a

hospital owned or operated by this state or a political subdivision of this state, including a hospital district, acting within the scope of the physician's or professional's employment who prescribes, distributes, administers, or otherwise makes available abortion-inducing drugs solely for one or more of the purposes described by Section 171A.002(a)(9);

(7) a claim that the enforcement of this chapter or the imposition of civil liability against the defendant will violate the constitutional or federally protected rights of third parties, except as provided by Subsection (b); or

(8) consent to the abortion by the claimant or the unborn child's mother.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

Sec. 171A.103. STATUTE OF LIMITATIONS. A person may bring an action under Section 171A.101 not later than the sixth anniversary of the date the cause of action accrues.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

Sec. 171A.104. REMEDIES. (a) Notwithstanding any other law and except as provided by Subsection (b), if a qui tam relator prevails in an action brought under Section 171A.101, the court shall award to the relator:

(1) injunctive relief sufficient to prevent the defendant from violating Section 171A.051;

(2) an amount of not less than \$100,000 for each violation of Section 171A.051, to be allocated in accordance with Subsection (b); and

(3) costs and reasonable attorney's fees.

(b) In awarding the amount described by Subsection (a)(2), the court shall ensure that:

(1) the qui tam relator receives the entire amount awarded under Subsection (a)(2) for an action in which the relator is:

(A) a woman who was pregnant at the time the woman obtained or received an abortion-inducing drug that was manufactured, distributed, mailed, transported, delivered, prescribed, provided, or possessed in violation of Section 171A.051; or

(B) the father, sibling, or grandparent of the unborn child with which the woman described by Paragraph (A) was pregnant at the time the woman obtained or received the abortion-inducing drug; and

(2) for an action in which the qui tam relator is a person other than a person described by Subdivision (1):

(A) the relator receives \$10,000 of the total amount awarded under Subsection (a)(2); and

(B) the remainder of the amount awarded under Subsection (a)(2) is held in trust by the relator for the benefit of a charitable organization designated by the relator, except that the relator may not designate a charitable organization under this paragraph from which the relator or any of the relator's family members receives a salary, stipend, or any type of remuneration or financial benefit.

(c) A court may not award relief under Subsection (a)(2) or (3) in response to a violation of Section 171A.051 if the defendant demonstrates that:

(1) a court previously ordered the defendant to pay an amount under Subsection (a)(2) in another action for that particular violation; and

(2) the court order described by Subdivision (1) has not been vacated, reversed, or overturned.

(d) A court may not award costs or attorney's fees under the Texas Rules of Civil Procedure or any other rule adopted by the supreme court under Section 22.004, Government Code, to a defendant against whom an action is brought under Section 171A.101.

(e) Subsection (d) does not preclude a court from:

(1) awarding sanctions under Chapter 10, Civil Practice and Remedies Code; or

(2) sanctioning a litigant or attorney for frivolous, malicious, or bad-faith conduct.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

Sec. 171A.105. COORDINATED ENFORCEMENT PROHIBITED. (a)

This state, a political subdivision of this state, or an officer or employee of this state or a political subdivision of this state may not:

(1) act in concert or participation with a qui tam relator bringing an action under Section 171A.101;

(2) establish or attempt to establish any type of agency or fiduciary relationship with a qui tam relator bringing an action under Section 171A.101;

(3) attempt to control or influence a person's decision to bring an action under Section 171A.101 or that person's conduct of the litigation; or

(4) intervene in an action brought under Section 171A.101.

(b) This section does not prohibit this state, a political subdivision of this state, or an officer or employee of this state or a political subdivision of this state from filing an amicus curiae brief in an action brought under Section 171A.101 if this state, the political subdivision, the officer, or the employee does not act in concert or participation with the qui tam relator.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

Sec. 171A.106. JURISDICTION; APPLICABILITY OF STATE LAW.

(a) Notwithstanding any other law, including Subchapter C, Chapter 17, Civil Practice and Remedies Code, the courts of this state have personal jurisdiction over a defendant sued under Section 171A.101 to the maximum extent permitted by the Fourteenth Amendment to the United States Constitution, and the defendant may be served outside this state.

(b) Notwithstanding any other law, the law of this state applies to an action brought under Section 171A.101 to the maximum extent permitted by the Texas Constitution and federal law, including the United States Constitution.

(c) Notwithstanding any other law, any contractual provision that requires or purports to require application of the laws of a different jurisdiction, or that requires or purports to require a qui tam action under Section 171A.101 to be litigated in a particular forum, is void based on this state's public policy and is not enforceable in any court.

(d) Notwithstanding any other law, Chapter 27, Civil Practice and Remedies Code, does not apply to an action brought under Section 171A.101.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

Sec. 171A.107. APPEALS. The Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction over any appeal or original

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

Sec. 171A.108. APPLICATION OF OTHER LAW. Notwithstanding any other law, a court may not apply the law of another state or jurisdiction to any qui tam action brought under Section 171A.101 unless the Texas Constitution or federal law compels the court to apply that law.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.

SUBCHAPTER D. PROTECTION FROM CERTAIN COUNTERACTIONS

Sec. 171A.151. EFFECT OF CLAWBACK PROVISIONS. (a) For purposes of this section, the term "clawback provision" refers to any law of another state or jurisdiction that authorizes the bringing of a civil action against a person for:

- (1) bringing or engaging in an action authorized by this chapter, including Subsection (f);
 - (2) bringing or engaging in an action that alleges a violation of Section 171A.051;
 - (3) attempting, intending, or threatening to bring or engage in an action described by Subdivision (1) or (2); or
 - (4) providing legal representation or any type of assistance to a person who brings or engages in an action described by Subdivision (1) or (2).
- (b) Notwithstanding any other law and except as otherwise provided by federal law or the Texas Constitution, the laws of this state apply to:
- (1) conduct described by Subsection (a);
 - (2) an action brought against a person for engaging in conduct described by Subsection (a);
 - (3) an action brought under a clawback provision against a resident of this state; and
 - (4) an action brought under Subsection (f).
- (c) Notwithstanding any other law, in an action described by Subsection

(a)(1) or (2), the court shall, on request, issue a temporary, preliminary, or permanent injunction that restrains each defendant in the action, each person in privity with the defendant, and each person with whom the defendant is in active concert or participation from:

(1) bringing an action under any clawback provision against a claimant or prosecutor, a person in privity with the claimant or prosecutor, or a person providing legal representation or any type of assistance to the claimant or prosecutor; and

(2) continuing to litigate an action under any clawback provision that has been brought against a claimant or prosecutor, a person in privity with the claimant or prosecutor, or a person providing legal representation or any type of assistance to the claimant or prosecutor.

(d) Notwithstanding any other law, the doctrines of res judicata and collateral estoppel preclude a defendant against whom a judgment is entered in an action described by Subsection (a)(1) or (2) and each person in privity with the defendant from litigating or relitigating any claim or issue under any clawback provision against a claimant, prosecutor, or person in privity with the claimant or prosecutor that was raised or could have been raised as a claim, cross-claim, counterclaim, or affirmative defense under the federal or this state's rules of civil procedure.

(e) Notwithstanding any other law, a court of this state may not enforce an out-of-state judgment obtained in an action brought under a clawback provision unless federal law or the Texas Constitution requires the court to enforce the judgment.

(f) Notwithstanding any other law, if an action is brought or judgment is entered against a person under a clawback provision based wholly or partly on the person's decision to engage in conduct described by Subsection (a), that person is entitled to injunctive relief and damages from any person who brought the action or obtained the judgment or who sought to enforce the judgment. Notwithstanding any other law, the relief described by this subsection must include:

(1) compensatory damages, including money damages in an amount equal to the judgment damages and costs, expenses, and reasonable attorney's fees spent in defending the action;

(2) costs, expenses, and reasonable attorney's fees incurred in bringing an action under this subsection;

(3) additional amounts consisting of the greater of:

(A) twice the sum of the damages, costs, expenses, and fees

(B) \$100,000; and

(4) injunctive relief that restrains each person who brought the action under the clawback provision, each person in privity with the person, and each person acting in concert or participation with the person from:

(A) bringing further actions under any clawback provision against the person against whom the action was brought, each person in privity with the person, or any person providing legal representation or any type of assistance to the person;

(B) continuing to litigate any actions brought under a clawback provision against the persons described by Paragraph (A); and

(C) enforcing or attempting to enforce any judgment obtained in any actions brought under a clawback provision against the persons described by Paragraph (A).

(g) It is not a defense to an action brought under Subsection (f) that:

(1) the claimant failed to seek recovery under Subsection (f) in an action brought against the claimant under a clawback provision; or

(2) a court in a preceding action brought against the claimant declined to recognize or enforce Subsection (f) or held any provision of that subsection invalid, unconstitutional, or preempted by federal law, notwithstanding the doctrines of issue or claim preclusion.

(h) Notwithstanding any other law, Chapter 27, Civil Practice and Remedies Code, does not apply to an action brought under Subsection (f).

(i) The Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction over any appeal or original proceeding arising out of a civil action brought under Subsection (f) in the courts of this state.

Added by Acts 2025, 89th Leg., 2nd C.S., Ch. 5 (H.B. 7), Sec. 2, eff. December 4, 2025.