

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION**

EMW WOMEN’S SURGICAL CENTER,  
P.S.C., *et al.*,

Plaintiffs,

v.

ANDREW G. BESHEAR *et al.*,

Defendants.

Case No.: 3:18-cv-00224-JHM

**JOINT CONSENT ORDER**

1. This matter involves a challenge to House Bill 454, 2018 Gen. Assemb., Reg. Sess. (Ky. 2018) (hereinafter “the Act”), which was signed into law on April 10, 2018, and took effect immediately pursuant to its emergency clause.

2. The Plaintiffs are EMW Women’s Surgical Center, P.S.C.; Ashlee Bergin, M.D., M.P.H.; and Tanya Franklin, M.D., M.S.P.H. (collectively “Plaintiffs” hereinafter). The Defendants are Andrew G. Beshear, in his official capacity as Attorney General of the Commonwealth of Kentucky; Scott Brinkman, in his official capacity as interim Secretary of the Cabinet for Health and Family Services; Michael S. Rodman, in his official capacity as Executive Director of the Kentucky Board of Medical Licensure; and Thomas B. Wine, in his official capacity as Commonwealth’s Attorney for the 30<sup>th</sup> Judicial Circuit of Kentucky (collectively “Defendants” hereinafter).

3. Plaintiffs filed their complaint the day the Act was signed (Docket No. 1); they moved for a temporary restraining order and/or preliminary injunctive relief the next morning, April 11, 2018 (Docket No. 6). On April 12, 2018, the Court convened a telephonic hearing on

the motion, at which Plaintiffs and Defendants agreed to the entry of this consent order suspending enforcement of the Act according to the terms set forth below until the Court rules on Plaintiffs' motion for preliminary injunctive relief.


4. Defendants hereby agree that they—along with their agents, employees, all those acting in concert with them, and their successors in office—shall take no actions to enforce the Act in any manner until such time as the Court rules upon Plaintiffs' motion for temporary restraining order and/or preliminary injunctive relief (Docket No. 6). Defendants further agree that if the constitutionality of the Act (or any provision thereof) is ever upheld at any later date, neither Defendants nor their agents, employees, those acting in concert with them, or their successors in office shall take any action to enforce the Act against Plaintiffs for conduct undertaken during the period that this Order suspends the Act's operation—that is, from the date of this Order's entry until such time as the Court rules upon Plaintiffs' motion for preliminary injunctive relief.

5. Defendants' brief in opposition to Plaintiffs' motion shall be due on May 2, 2018 (21 days after the filing of Plaintiffs' motion). Plaintiffs' reply in further support of their motion shall be due May 17, 2018 (14 days after the filing of Defendants' opposition brief).

6. The evidentiary hearing on Plaintiffs' motion for preliminary injunctive relief will be held at 9:00 a.m. on June 5, 2018.

7. On May 22, 2018, the parties shall exchange lists containing all witnesses who will testify at the June 5, 2018, preliminary injunction hearing.

Dated: April 12, 2018

  
Joseph H. McKinley, Jr., Chief Judge  
United States District Court

April 13, 2018

Seen and Approved:

/s/ M. Stephen Pitt  
M. Stephen Pitt  
S. Chad Meredith  
Matthew F. Kuhn  
Office of the Governor  
700 Capital Avenue, Suite 101  
Frankfort, Kentucky 40601  
(502) 564-2611  
Steve.Pitt@ky.gov  
Chad.Meredith@ky.gov  
Matt.Kuhn@ky.gov

Hans Herklotz  
Cabinet for Health and Family Services  
275 E. Main Street, 5W-B  
Frankfort, Kentucky 40621  
Hans.herklotz@ky.gov

Lesley Bilby  
Kentucky Personnel Cabinet  
501 High Street  
Frankfort, Kentucky 40601  
(502) 564-7430  
Lesley.Bilby@ky.gov

*Counsel for Defendant Scott Brinkman*

/s/ La Tasha Buckner  
La Tasha Buckner  
Matt James  
Assistant Deputy Attorney General  
Office of the Attorney General  
700 Capital Avenue, Suite 118  
Frankfort, KY 40601

/s/ Amy D. Cubbage  
Amy D. Cubbage  
Interim Legal Director  
ACLU of Kentucky  
401 West Main Street, Suite 1200  
Louisville, Kentucky 40202  
(502) 583-7400  
acubbage@ackersonlegal.com

Heather L. Gatnarek  
Legal Fellow  
ACLU of Kentucky  
315 Guthrie Street, Suite 300  
Louisville, KY 40202  
(502) 581-9746  
heather@aclu-ky.org

Andrew Beck\*  
Susan Talcott Camp\*  
Elizabeth Watson\*  
American Civil Liberties Union Foundation  
125 Broad Street, 18th Floor  
New York, New York 10004  
(212) 549-2633  
abeck@aclu.org  
tcamp@aclu.org  
ewatson@aclu.org

*\*Motion for pro hac vice granted*

*Counsel for Plaintiffs*

latasha.buckner@ky.gov  
matt.james@ky.gov  
(502) 696-5300  
Fax: (502) 564-2894  
*Counsel for Defendant Andrew G. Beshear*

/s/ S. Travis Mayo  
S. Travis Mayo  
Executive Director  
Marc G. Farris  
Assistant Attorney General  
Office of Civil and Environmental Law  
OFFICE OF THE ATTORNEY GENERAL  
700 Capital Avenue, Suite 118  
Frankfort, KY 40601  
travis.mayo@ky.gov  
marc.farris@ky.gov  
(502) 696-5300  
*Counsel for Defendant Michael Rodman*

/s/ Thomas B. Wine  
Commonwealth Attorney  
Office of Commonwealth's Attorney  
514 W. Liberty Street  
Louisville, Kentucky 40202  
(502) 595-2340  
(502)-595-4650 (fax)  
tbwine@louisvilleprosecutor.com