

**IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS
CIVIL COURT DEPARTMENT**

LILY LOE, by and through her parent and
next friend Lisa Loe; LISA LOE; RYAN
ROE, by and through his parent and next
friend Rebecca Roe; REBECCA ROE,

Plaintiffs,

v.

STATE OF KANSAS, *ex rel* KRIS KO-
BACH, Attorney General of the State of
Kansas,

Defendants.

Case No. DG-2025-CV-000241

Division No. 7

K.S.A. Chapter 60

DEFENDANT’S REPLY IN SUPPORT OF HIS MOTION TO DISMISS

In *Skremetti*, the Supreme Court of the United States shut the door on Plaintiffs’ equal protection claim. *Skremetti* definitively held that the constitutional guarantee of equal protection does not prohibit Tennessee, or Kansas, or any other state, from protecting children from harmful gender-transition interventions. Kansas’s Help Not Harm Act prohibits the same interventions that Tennessee prohibited and which were challenged in *Skremetti*. Plaintiffs have no real response except to ignore *Skremetti* and argue that the Kansas Constitution’s guarantee of equal protection is not coextensive with the Fourteenth Amendment. But *Skremetti* is effectively binding because “Kansas courts *shall* be guided by United States Supreme Court precedent interpreting and applying the equal protection guarantees of the Fourteenth Amendment of the federal Constitution

when we are called upon to interpret and apply the *coextensive* equal protection guarantees of section 2 of the Kansas Constitution Bill of Rights.” *Rivera v. Schwab*, 315 Kan. 877, 894, 512 P.3d 168, 180 (2022) (emphasis added). Just as Tennessee’s law regulates medical procedures by age and condition, so does Kansas’s Help Not Harm Act. Under the analysis of *Skremetti*, the Kansas Act does not classify on the basis of sex or transgender status.

In tacit recognition that they have no viable equal protection claim after *Skremetti*, Plaintiffs’ response brief leads with their alternative theory: that the Plaintiffs’ parental rights allow them to access dangerous medical treatments for their children, regardless of state medical regulation. But Plaintiffs have no legal support for this radical claim. Courts allow legislatures to prohibit and regulate medical treatments for minors. The cases Plaintiffs rely on to support this claim concern a wholly different species of constitutional right, the right to refuse medical treatment. Giving credence to Plaintiffs’ novel theory of parental rights would call into question all medical regulations in the State of Kansas affecting children.

Because Plaintiffs’ rights to equal protection of the laws and to the parent-child relationship are legally immaterial to the validity of the Help Not Harm Act, dismissal with prejudice is warranted.

I. Plaintiffs’ equal protection claims have no merit.

Plaintiffs have no legal basis for their Kansas constitutional equal protection claim. They assert that their equal protection claims arise under Section 1 of the Kansas Constitution Bill of Rights. Yet that assertion disregards binding Supreme Court of Kansas precedent and invites the Court to disregard dispositive authority from the Supreme Court of the United States in *Skremetti*. Plaintiffs fail to address Defendant’s chief arguments regarding the statutory classifications in the Act. As a result, their equal protection claims fail as a matter of law and must be dismissed.

a. Plaintiffs misapprehend Kansas’s equal protection jurisprudence.

Plaintiffs argue their equal protection claims arise under Section 1 of the Kansas Constitution Bill of Rights. (Pls. Resp. at 10, 22) (noting that “Minor Plaintiffs adequately allege that SB 63 violates the Kansas Constitution’s equal protection guarantee set forth in Section 1” and again that “Plaintiffs anchored their equal protection claims in Section 1”). Because Section 1 “has no textual counterpart in the U.S. Constitution,” the Supreme Court of Kansas has found it “has its own independent meaning and effect.” (Pls. Resp. at 22) (quoting *Rivera v. Schwab*, 315 Kan. 877, 893 (2022)). Plaintiffs thus urge the Court to “deviate from the federal courts’ equal protection analysis,” including *Skarmetti*, and accuse Defendant of “mislead[ing] the court by suggesting” that the Kansas and federal equal protection guarantees are coextensive. (Pls. Resp. at 22, 24) (quoting *Rivera v. Schwab*, 315 Kan. 877, 893 (2022).) But it is Plaintiffs who are misreading the relevant precedent. (*See* Pls. Resp. at 10, 24.)

Contrary to Plaintiffs’ contentions, the Supreme Court of Kansas recently clarified that Kansas’s equal protection guarantees are grounded in Section 2 of the Kansas Constitution Bill of Rights, not Section 1, and found that the rights guaranteed thereunder are “coextensive” with the equal protection guarantees of the Fourteenth Amendment. *Rivera*, 315 Kan. at 894, 512 P.3d at 180 (“[I]t is clear that the textual grounding of equal protection guarantees contained in the Kansas Constitution Bill of Rights is **firmly rooted in the language of section 2.**” (emphasis added)). Because the federal and Kansas equal protection guarantees are coextensive, “Kansas courts **shall** be guided by United States Supreme Court precedent interpreting and applying the equal protection guarantees of the Fourteenth Amendment of the federal Constitution when we are called upon to interpret and apply the **coextensive** equal protection guarantees of section 2 of the Kansas Constitution Bill of Rights.” *Id.* (emphases added). These principles—that state equal protection flows

from Section 2 (not Section 1) and that Kansas’s guarantee or equal protection is coextensive with the Fourteenth Amendment’s Equal Protection Clause—come from the authority that Plaintiffs purport to rely on. (*See* Pls. Resp. at 22, 24.)

If Plaintiffs only intend to assert their equal protection claims pursuant to Section 1 of the Kansas Constitution Bill of Rights, then their claim must be dismissed because there are no equal protection guarantees in Section 1. *See Rivera*, 315 Kan. at 894, 512 P.3d at 180 (“After our decision in *Hodes* (giving a substantive rights effect to section 1), it is clear that the textual grounding of equal protection guarantees contained in the Kansas Constitution Bill of Rights is firmly rooted in the language of section 2.”) Under Section 2, which is the actual source of Kansas’s equal protection guarantees, Plaintiffs’ claims fail under governing precedent from the Supreme Court of the United States: *Skrmetti*. Either way, Plaintiffs’ equal protection claims must be dismissed.¹

b. *Skrmetti* is indistinguishable and should be followed by the Court.

Skrmetti upheld a nearly identical² Tennessee law to Kansas SB 63 that prevents minors

¹ Plaintiffs repeatedly argue that they have “adequately allege[d] their claims . . . under Kansas notice pleading standards.” (Pls. Resp. at 21.) But Plaintiffs misapprehend the nature of Defendant’s motion and the standard of review. Defendant has not claimed that dismissal is warranted simply because Plaintiffs have failed to plead sufficient predicate facts to support their equal protection and parental rights claims. Plaintiffs’ claims must instead be dismissed because “the allegations in the petition clearly demonstrate that [Plaintiffs] do[] not have” a cognizable *legal* claim. *Kudlacik v. Johnny’s Shawnee, Inc.*, 309 Kan. 788, 790, 440 P.3d 576, 579 (2019). The question for the Court is whether Plaintiffs “petition raises [any] legally supportable claims.” *Minjarez-Almeida v. Kansas Bd. of Regents*, 63 Kan. App. 2d 225, 232, 527 P.3d 931, 938 (2023) (affirming dismissal of claims which satisfied notice-pleading standard but which failed as a matter of law). Because Plaintiffs’ petition has failed to plead any cognizable legal theory, it should be dismissed.

² *See* Def. Mot. at 12 n.2 (demonstrating similarities of the statute challenged in *Skrmetti* and the Act).

from having access to hormonal and surgical interventions to “transition” to another gender, because the law only made classifications based on age and medical use:

On its face, SB1 incorporates two classifications. First, SB1 classifies on the basis of age. Healthcare providers may administer certain medical treatments to individuals ages 18 and older but not to minors. Second, SB1 classifies on the basis of medical use. Healthcare providers may administer puberty blockers or hormones to minors to treat certain conditions but not to treat gender dysphoria, gender identity disorder, or gender incongruence. Classifications that turn on age or medical use are subject to only rational basis review. . . . Neither of the above classifications turns on sex. Rather, SB1 prohibits healthcare providers from administering puberty blockers and hormones to minors for certain medical uses, regardless of a minor’s sex.

United States v. Skrametti, 145 S. Ct. 1816, 1829 (2025).³ The Help Not Harm Act is identical to the Tennessee law in *Skrametti*. It classifies based on age and medical use by prohibiting certain interventions for children while allowing them for adults and the treatment of other medical conditions. S.B. 63 § 3(a)–(d). Plaintiffs’ response does not even attempt to grapple with *Skrametti*’s conclusion or Defendant’s arguments on these points.

Plaintiffs instead insist the Court should depart from the *Skrametti* ruling because the Kansas Act prohibits public property from being used to “promote the use of social transitioning” “[e]xcept to the extent required by the first amendment” and prohibits “[a] state employee whose official duties include the care of children . . . while engaged in those official duties” from

³ Plaintiffs argue that the Court cannot take into account the factual discussion in *Skrametti* because to do so would disregard the allegations in Plaintiffs’ petition. But this argument ignores that *Skrametti*’s relevance is legal, not factual. Of note, *Skrametti* establishes that “there is medical and scientific uncertainty” regarding the efficacy of gender-transition interventions for minors and thus the Legislature has discretion to make policy without running afoul of the state or federal constitution. *Gonzales v. Carhart*, 550 U.S. 124, 163 (2007); see also *Kansas v. Hendricks*, 521 U.S. 346, 360 n.3 (1997) (finding that “disagreements [among psychiatric professionals] ... do not tie the State’s hands in setting the bounds of its civil commitment laws,” because “it is precisely where such disagreement exists that legislatures have been afforded the widest latitude in drafting such statutes”).

“promot[ing] the use of social transitioning or [ing] or promot[ing] medication or surgery . . . as a treatment for a child whose perceived gender or perceived sex is inconsistent with such child’s sex.” The Help Not Harm Act, S.B. 63 §§ (1)(b)(10), (d), (e), (f), 2025–2026 Leg. Reg. Sess. (“S.B. 63”); Pls. Resp. at 25–26. This is the only difference between the Help Not Harm Act and the Tennessee law at issue in *Skremetti* identified by the Plaintiffs, and it is a red herring. Plaintiffs’ argument fails for at least two reasons.

First, because this provision regulates governmental property and employees, Plaintiffs have not alleged any harm arising from it. *See Skremetti*, 145 S. Ct. at 1832; Pls. Pet., ¶¶ 79–81 (mentioning the social transition provisions when summarizing the Act but alleging no harm from them). Plaintiffs thus lack standing to challenge this aspect of the Act because they have not been (and could not be) harmed by those provisions of the Act. *Gannon v. State*, 298 Kan. 1107, 1123, 319 P.3d 1196, 1210 (2014) (to establish a cognizable injury for purposes of standing, the injury “must affect the plaintiff” and “must be more than . . . a general interest common to all members of the public”).

Second, the Kansas Act’s social transition provisions “do[] not regulate any other behavior in which minors might engage for the purpose of expressing their gender identity,” *Skremetti*, 145 S.Ct. at 1859 (Alito, J., concurring). The provisions instead prevent certain public employees in the context of their work and public buildings from being used to “promote” social transitioning. *Compare* Pls. Resp. at 26 *with* S.B. 63 §§ (b)(10), (d), (f). That is, the social transition provisions regulate the conduct of government, not private citizens. They do not prohibit any minor from social transitioning. Nor do they regulate any minor’s conduct or clothing in any manner whatsoever. Thus, to the extent the social transition provisions make any classifications whatsoever, they

are classifications of governmental property and governmental employees. *See Adderley v. State of Fla.*, 385 U.S. 39, 47 (1966) (“The State, no less than a private owner of property, has power to preserve the property under its control for the use to which it is lawfully dedicated.”); *Gen. Motors Corp. v. State Comm’n of Revenue & Tax’n*, 182 Kan. 237, 241, 320 P.2d 807, 810 (1958) (“[T]he government at all times possessed the complete and absolute right to” control its property).

The only question, therefore, is whether the Act violates the equal protection guarantees of the Kansas Constitution by prohibiting clinicians from providing hormonal or surgical interventions to minors to “change their gender.” As demonstrated by the Supreme Court’s reasoning in *Skremetti*, the arguments in Defendant’s motion to dismiss, and Plaintiffs’ failure to dispute either in their response, it does not.

c. The Act does not discriminate on the basis of sex or transgender status.

Notwithstanding the Supreme Court’s ruling in *Skremetti*, Plaintiffs insist the Act’s prohibition of performing hormonal and/or surgical interventions on minors to facilitate gender “transition” necessarily “treats minors differently based on their sex assigned at birth” because the “prohibitions depend on whether a minor’s gender identity is different from their sex assigned at birth.” (Pls. Resp. at 12.) Plaintiffs claim the Act “contains a transgender status classification, which is necessarily a sex classification.” (Pls. Resp. at 12; *see also id.* (“It is logically impossible to classify based on transgender status without necessarily classifying based on sex.”).) Not so.

In finding that the Tennessee law at issue only made age and medical use classifications, the Court in *Skremetti* expressly rejected the argument that prohibiting minors from using hormones and surgeries to facilitate gender “transition” constituted a classification based on sex. Like Tennessee’s law, the Help Not Harm Act prohibits clinicians from providing certain medical interventions to minors, regardless of their sex. *See Skremetti*, 145 S. Ct. at 1829. That fact does not change

simply because the Act defines the prohibited interventions based on a minor’s sex: “[s]ome medical treatments and procedures are uniquely bound up in sex” and so “the mere use of sex-based language does not sweep a statute within the reach of heightened scrutiny.” *Id.* at 1829–30. The Act instead references sex to clearly articulate the approved medical indications that the hormones and surgeries may be used to treat and those that are prohibited. Accordingly, “[t]he application of that prohibition does not turn on sex.” *Id.* at 1831. Nor does the State’s concern about subjecting minors to “potentially irreversible medical procedures” constitute “a form of [sex] stereotyping.” *Id.* at 1832 (quoting *L. W. by & through Williams v. Skremetti*, 83 F.4th 460, 485 (6th Cir. 2023)).

Skremetti also rejected the contention that the law at issue classified based on transgender status and refrained from recognizing transgender status as a classification triggering heightened scrutiny altogether. *Id.* at 1832–33 (majority opinion); *id.* at 1851–55 (Barrett, J., concurring). Transgender-identifying minors can access the regulated hormonal and surgical interventions for approved medical uses like all other minors. S.B. 63 § (3)(c)–(d). Clinicians are barred from providing the interventions to all minors for certain uses but can provide the interventions to adults of any gender identity to address gender-related psychological conditions. S.B. 63 § (3)(a)–(d). In short, the Act “does not exclude any individual from medical treatments on the basis of transgender status but rather removes one set of diagnoses . . . from the range of treatable conditions” for minors. *Skremetti*, 145 S. Ct. at 1833 (majority opinion).

Plaintiffs also argue that the Act’s allowance of the proscribed interventions to treat “medically verifiable disorder[s] of sex development,” S.B. 63 § (3)(c), such as intersex conditions, constitutes transgender status discrimination because such treatments are simply intended to “affirm[] a child’s gender identity” and “conform their bodies *with* traditional expectations of male

or female,” so long as it matches their biological sex.⁴ (Pls. Resp. at 10, 12, 16, 20–21.) Again, this argument was tried and rejected in *Skremetti*. Intersex and similar diagnoses are “medically *verifiable*” disorders, whereas Plaintiffs demand access to these irreversible and experimental interventions to affirm a patient’s *non-verifiable* “deeply felt, internal, intrinsic sense of their own gender.” (Pls. Pet. ¶ 15.) One of these is not like the other. *See Skremetti*, 145 S.Ct. at 1834–35 (finding Tennessee’s differentiation between interventions used to treat verifiable sex disorders and those used to affirm a patient’s gender identity constituted a valid regulation of medical use, rather than a classification based on transgender status).

Finally, Plaintiffs insist that even if the Act does not facially discriminate based on sex or transgender status, heightened scrutiny is nonetheless warranted because the law was purportedly enacted for an “invidious discriminatory purpose.” (Pls. Resp. at 14.) Plaintiffs’ only evidence of this purported animus is that law allegedly “prevent[s] transgender people from living or being treated as their gender, both in terms of social and medical transition.” (Pls. Resp. at 21.) But this is a misrepresentation of the Act’s terms. The Act only prevents minors from accessing certain hormonal and surgical interventions because they are intended for an experimental purpose and beset with serious and irreversible side effects. The Act does not prevent minors from socially transitioning or adults from accessing these medications and surgical interventions. Nor does it prohibit these interventions for adults. In contrast to Plaintiffs’ conclusory allegations of animus, (*see* Pls. Pet. ¶ 121), the legislative record (of which the Court can take judicial notice) is full of

⁴ When assessing the effects of these procedures on individuals seeking treatment for sex development disorders, Plaintiffs abandon euphemism and simply refer to the procedures as “sterilizing surgeries.” (*Compare* Pls. Resp. at 10, 21 *with* Pet. *generally* (nowhere discussing the side effects of surgical interventions) and Pet. ¶ 51.2 (discussing a potential “loss of fertility” arising from hormone treatment, rather than the more forthright term, “sterilization”)).

testimony highlighting the very real concerns which led to bipartisan support for the Act. (*See* Def. Mot. to Dismiss at 14–15, 14 n.3.). Plaintiffs’ attempts to invoke animus fare no better. In light of *Skrmetti*, the Court need not accept as true Plaintiffs’ allegation that the Kansas Legislature acted with animus when enacting the law. (Pls. Resp. at 17, 20.) To do so would necessarily impute the same motive to the Supreme Court of the United States.

Because the Act only makes classifications based on medical use and age, it is not subject to heightened scrutiny and easily survives rational basis review. Prohibiting clinicians from subjecting children to experimental and irreversible medical interventions with no proven benefit is plainly rationally related to the legitimate governmental interests of protecting children and the integrity of the medical profession, along with others. *State v. Wilson*, 267 Kan. 550, 559, 987 P.2d 1060, 1067 (1999); *Washington v. Glucksberg*, 521 U. S. 702, 731 (1997); *Skrmetti*, 145 S.Ct. at 1836 (finding the nearly identical Tennessee law’s “age- and diagnosis-based classifications are plainly rationally related to these findings and the State’s objective of protecting minors’ health and welfare.”)

II. Plaintiffs’ proposed expansion of parental rights is radical and unsupported by any legal authority.

Plaintiffs’ response reveals the complete lack of legal support for their parental rights claims. The Response cites four cases to support Plaintiffs’ theory, but none are helpful to their claim. Moreover, in further explaining their legal theory, Plaintiffs have confirmed that they believe every medical regulation in Kansas should be subject to strict scrutiny. This is an untenable interpretation of the law.

a. Plaintiffs’ theory of parental rights would upend medical regulations in Kansas.

Plaintiffs ask the Court to hold that parents have a fundamental right to choose and obtain the medical treatments of their choice for their children, regardless of state regulation. (*See* Pls. Resp. at 8.) In this case, the treatments are for the purpose of facilitating the gender “transition” of minors. But Plaintiffs’ expansive theory would necessarily mean that parents would have a fundamental right to access *any* medical treatment of their choosing for their children and that all laws preventing access to medical treatments for minors are subject to strict scrutiny, if there is a single parent who sincerely desires that treatment for their child. Plaintiffs’ theory would end the state’s ability to regulate the medical profession.

In a decision written by Judge Sutton, the Sixth Circuit rejected this exact theory in *L. W. by & through Williams v. Skrmetti*, 83 F.4th 460, 475 (6th Cir. 2023):

The government has the power to reasonably limit the use of drugs, as just shown. If that’s true for adults, it’s assuredly true for their children, as also just shown. This country does not have a custom of permitting parents to obtain banned medical treatments for their children and to override contrary legislative policy judgments in the process. Any other approach would not work. If parents could veto legislative and regulatory policies about drugs and surgeries permitted for children, every such regulation—there must be thousands—would come with a springing easement: It would be good law until one parent in the country opposed it.

83 F.4th 460, 475 (6th Cir 2023).

Consider how Plaintiffs’ theory would work in practice. Kansas bans the use of medical marijuana as a schedule I controlled substance, *see* K.S.A. § 65-4105, even though it is legal for medical use in other states. Kansas’s ban on marijuana “denies parents the ability to decide, in consultation with their adolescent child and medical providers, whether their child will receive” medical marijuana. (Pls. Resp. at 8.) Kansas’s prohibition on medical marijuana for minors also “displaces parental decision-making and replaces it with a state mandate prohibiting treatment,

regardless of individual medical need.” (*Id.*) If the Court enshrines Plaintiffs’ theory of parental rights in law, Kansas’ refusal to allow medical marijuana—or any other treatment—must be subject to strict scrutiny because it infringes on parental rights.

b. Plaintiffs’ theory has no support in caselaw.

Plaintiffs’ Response provides no binding or good law supporting their theory of parental rights. Plaintiffs first attempt to root their parental rights claim in Section 1 of the Kansas constitution, citing *Hodes & Nauser, MDS, P.A. v. Schmidt*, 309 Kan. 610, 624 (2019) (“*Hodes I*”). But the Supreme Court of Kansas has subsequently clarified that *Hodes I* applies only in the specific context of abortion rights. See *Hodes & Nauser, MDs, P.A. v. Stanek*, 318 Kan. 995, 1012, 551 P.3d 62, 76 (2024) (“*Hodes II*”). Indeed, in *Hodes II*, Justice Stegall raised concerns that its fundamental rights analysis may threaten other medical regulations. See *Hodes II*, 318 Kan. at 1057–61, 551 P.3d at 100–103 (Stegall, J., dissenting). The majority rejected his concern, clarifying that its holding was limited to abortion and did not call into question regulations of “medical procedures . . . drug use and possession. . . student vaccinations . . . [or] self-administration of medication by students.” *Id.* at 1012. Plaintiffs attempt to stretch *Hodes I* far beyond the right of abortion to reach a right never recognized by any Kansas court.

Rather than rely on Kansas law, Plaintiffs cite four out-of-state cases: *Huffman v. State*, 204 P.3d 339, 346 (Alaska 2009); *Happel v. Guilford Cnty. Bd. of Educ.*, 387 N.C. 186, 913 S.E.2d 174 (2025); *Poe by & through Poe v. Labrador*, 709 F. Supp. 3d 1169 (D. Idaho 2023); and *Moe v. Yost*, 2025-Ohio-914 (Ohio Ct. App. March 18, 2025) *appeal allowed*, 2025-Ohio-2537, 179 Ohio St. 3d 1425, 263 N.E.3d 360 (Ohio 2025). But none of these cases support their novel theory.

Plaintiffs rely most heavily on *Huffman v. State*, 204 P.3d 339 (Alaska 2009), a case interpreting the Constitution of Alaska, not the Constitution of Kansas. *Huffman* is inapposite because

it concerns a different constitutional right, the right to *refuse* medical treatment. *Huffman* challenged Alaska’s mandate that children receive a tuberculosis test, which involved a forced injection. *See Huffman*, 204 P.3d at 341. Though the court used sweeping language, its holding merely extended *Myers v. Alaska Psychiatric Inst.*, 138 P.3d 238, 247 (Alaska 2006), which recognized that “Alaska’s statutory provisions permitting nonconsensual treatment with psychotropic medications implicate fundamental liberty and privacy interests.” *Huffman* thus concerned the right to refuse medical treatment, a right that is well-established across the United States and protected by the United States constitution. *See, e.g., Stockwell v. State*, 54 Kan. App. 2d 325, 328, 399 P.3d 873, 875 (2017) (“Stockwell’s right to refuse unwanted medical treatment is well-established and constitutional in nature.”). Only if Kansas mandated that all children *undergo* gender-transition interventions, would *Huffman* be on point.

There are dozens of state and federal court cases analyzing the right to refuse treatment. *See Cruzan by Cruzan v. Dir., Missouri Dep’t of Health*, 497 U.S. 261, 278 (1990) (recognizing a liberty interest in refusing medication); *Myers*, 138 P.3d at 246 (collecting state cases). Plaintiffs do not cite these cases. Unlike a ban on a procedure, forcible medication implicates the common law of informed consent and a person’s right to control their own body. *See, e.g., Cruzan*, 497 U.S. at 278, 110 S. Ct. at 2851 (“At common law, even the touching of one person by another without consent and without legal justification was a battery.”). *Happel*, 913 S.E.2d 174, another decision relied on by Plaintiffs, is similar. There, a school forcibly vaccinated a child over his verbal protests and without his parents’ consent. The child and his parents then brought claims for battery and violation of their constitutional rights. The Supreme Court of North Carolina, relying on federal caselaw, held that parents have a right to “consent on the child’s behalf.” *Happel*, 387 N.C. at 196,

913 S.E.2d at 185. The constitutional rights implicated when state employees batter and forcibly medicate a child are wholly different from those implicated by a ban on harmful medical treatments.

Finally, Plaintiffs cite *Moe v. Yost*, 2025-Ohio-914 (Ohio Ct. App. March 18, 2025), and *Poe v. Labrador*, 709 F. Supp. 3d 1169, 1195 (D. Idaho 2023), which based their decision in federal law and thus should be ignored in light of *Skrametti*, 145 S. Ct. 1816. In fact, *Poe* was voluntarily dismissed the same day as the *Skrametti* decision and Idaho's ban on gender transition interventions for minors remains in effect. See *Poe by & through Poe v. Labrador*, No. 24-142, 2025 WL 1872749, at *1 (9th Cir. June 18, 2025). Further, the orders in both *Poe* and *Moe* were stayed by higher appellate courts—a fact that Plaintiffs fail to disclose anywhere in their brief. In *Moe*, the Court of Ohio entered an emergency stay pending appeal, allowing Ohio's ban on gender transition interventions to remain in place. See Ohio Supreme Court, *04/29/2025 Case Announcements*, 2025-Ohio-1483. And in *Poe*, the Supreme Court of the United States stayed the District of Idaho's incorrect order in all but its application to the parties to the case. See *Labrador v. Poe by & through Poe*, 144 S. Ct. 921 (2024).

The Plaintiffs are asking this Court to recognize a radical theory of parental rights with no support in the law. The out-of-state cases they cite provide no support for the right they seek to vindicate. Recognizing their parental rights claim would call into question every medical regulation in Kansas. The Court should refrain from adopting such a radical theory with such thin legal support.

CONCLUSION

For the foregoing reasons, the Court should dismiss Plaintiffs' claims with prejudice.

Dated: September 5, 2025

Respectfully submitted by:

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* *pro hac vice* application pending

** *pro hac vice* application forthcoming

CERTIFICATE OF SERVICE

I certify that on September 5, 2025, the above and foregoing were electronically filed with the Clerk of the Court using the Court's Electronic Filing System, which will send notice of electronic filing to all counsel of record.

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