

ELECTRONICALLY FILED
2024 Nov 20 PM 3:23
CLERK OF THE JOHNSON COUNTY DISTRICT COURT
CASE NUMBER: 23CV03140
PII COMPLIANT
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CIVIL COURT DEPARTMENT

In the Matter of:

Case No. 23CV03140
Division 12

HODES & NAUSER MDS PA
TRACI LYNN NAUSER MD
TRISTAN FOWLER
COMPREHENSIVE HEALTH OF PLANNED PARENTHOOD GREAT PLAINS,
Plaintiffs

vs

KRIS KOBACH
STEPHEN M HOWE
MARC BENNETT
SUSAN GILE
RONALD M VARNER
MARK A DUPREE SR
AJNET STANEK,
Defendants

JOURNAL ENTRY ON DEFENDANTS' MOTION TO DISMISS [DOCS. 133, 134]

This matter came before the Court on September 3, 2024, for hearing on defendants Kobach, Howe, Bennett, and Dupree's (hereinafter "State Defendants") Motion to Dismiss, pursuant to KSA 60-212. Parties appear through their respective counsel.

The Court has considered the parties' papers and heard oral argument. Being duly advised, the Court hereby **DENIES** the State Defendants' Motion.

I. Background Facts

The instant motion involves plaintiffs' supplemental claims arising from the more-recently enacted legislation, H.B. 2749, which requires abortion providers to inquire of patients seeking abortions about certain issues/circumstances, including what, out of a predetermined list, is the "most important" reason why the patient seeks to terminate her pregnancy.

In order to review such claims and their legal sufficiency under Kansas law, the Court specifically notes the following factual allegations contained within the Supplemental Second Amended Petition (“SAP”), which provide backdrop and particular support for the Court’s conclusions contained herein.

7. On October 30, 2023, this Court granted in part Plaintiffs' request for a temporary injunction against enforcement of the Biased Counseling Scheme, including the Reversal Amendment, in an opinion concluding that Plaintiffs were likely to succeed on the merits of their constitutional claims. Just five months later, Kansas flouted this ruling by passing the Reason Mandate, a new law that compels providers to ask abortion patients to identify the "most important factor" in their decision to seek an abortion from a list of government-scripted reasons. Like the Biased Counseling Scheme, the Reason Mandate interferes with the personal decision-making of pregnant people seeking abortion, inserts the State into the relationship between a patient and their health care provider, and co-opts providers to serve as the State's agents to collect private, nonclinical data on its behalf.

* * *

15. Defendant Susan Gile is the Executive Director, and Defendant Jerry DeGrado, D.C., is the President, of the Board of Healing Arts, the agency responsible for enforcing violations of the WRTK Act, which may be punishable as unprofessional conduct. *See* K.S.A. §§ 65-6712, 65-2836(b) (describing the Board of Healing Arts' enforcement authority regarding unprofessional conduct). A physician guilty of unprofessional conduct may have their license "revoked, suspended or limited," "may be publicly censured or placed under probationary conditions," or may have their "application for a license or for reinstatement of a license ... denied." K.S.A. § 65-2836. The Board of Healing Arts is also empowered to enforce willful or repeated violations of the Reason Mandate. *See* K.S.A. § 65-2836(l) (authorizing the Board of Healing Arts to take disciplinary action against a licensee who "has willfully or repeatedly violated ... any rules or regulations of the secretary of health and environment that are relevant to the practice of the healing arts"). Defendants Gile and DeGrado are sued in their official capacities, as are their agents and successors.

* * *

46. Non-medical, inaccurate, or irrelevant information all fall far outside the bounds of informed consent. Overriding health care providers' clinical judgment and ability to take patients' unique values and preferences into account also contravenes informed consent, as well as its underlying principles of bodily integrity, decisional autonomy, and trust in the provider-patient relationship.

* * *

D. The Reason Mandate

110. K.S.A. 65-445 requires facilities that offer abortion care to "keep written records of all pregnancies that are lawfully terminated" within such facilities and to "annually submit a written report ... to the secretary of health and environment" pursuant to "rules and regulations adopted" to "implement this section." K.S.A. § 65-445(a), (f). K.S.A. 65-445 prescribes that such written reports "shall include the number of pregnancies terminated during the period of time covered by the report, the type of medical facility in which the pregnancy was terminated," and "information required to be reported" under certain other statutes, where "applicable to the pregnancy terminated." K.S.A. § 65-445(b). Aside from those specifications, K.S.A. 65-445 leaves "the information required in the reports" to the discretion of the Department of Health and Environment. K.S.A. § 65-445(l).

111. Pursuant to regulations adopted by the Department of Health and Environment, abortion providers in Kansas must file a report "for each abortion performed" containing the patient's de-identified demographic and biographic data, certain medical history, and certain information regarding the reported abortion. *See* K.A.R. § 28-56-2(d).

112. On April 29, 2024, the Legislature overrode Governor Kelly's veto to pass several amendments to K.S.A. 65-445 in H.B. 2749. Section 1(e) of H.B. 2749 codifies in K.S.A. 65-445 some of the information that K.A.R. 28-56-2 already requires providers to include in their reports to the Department of Health and Environment. However, Section 1(e) also goes further, adding several new informational requirements to the reports. Specifically, the reports must include:

- whether, in the 30 days prior to the abortion, the patient received services, financial assistance, excluding financial assistance in obtaining an abortion, or other assistance from a nonprofit organization that supports pregnant women;
- whether the patient reported having experienced domestic violence in the 12 months prior to the abortion;
- whether the patient is living in a place that the patient considers to be safe, stable, and affordable[.]

H.B. 2749 § 1(e).

113. In addition, Section 1(c) of H.B. 2749 amends K.S.A. 65-445 to require that each abortion patient "be asked, prior to the termination of such patient's pregnancy, which of the following reasons was the most important factor in such patient's decision to seek an abortion:"

- 1) Having a baby would interfere with the patient's education, employment or career;
- 2) the patient cannot provide for the child;
- 3) the patient already has enough, or too many, children;
- 4) the patient's husband or partner is abusive to such patient or such patient's children;
- 5) the patient's husband or partner wants such patient to have an abortion;
- 6) the patient does not have enough support from family or others to raise a child;
- 7) the pregnancy is the result of rape;
- 8) the pregnancy is the result of incest;
- 9) the pregnancy threatens the patient's physical health;
- 10) the pregnancy threatens the patient's mental or emotional health; or
- 11) the child would have a disability.

H.B. 2749 § 1(c). "If the patient declines to answer, such response shall be recorded."
Id.

114. The written reports submitted to the Department of Health and Environment must include "for the period of time covered by the report: (1) The number of times each of the reasons listed in subsection (c) was described as the most important; and (2) the number of times a patient seeking an abortion was asked about the reasons listed in subsection (c) and declined to answer."

H.B. 2749 § 1(d).

115. Anti-abortion lobbyists testified in support of H.B. 2749 that "understanding reasons can inform policy" and asserted that "the abortion industry already has this information," but "lawmakers should not have to rely on [data from Guttmacher]."¹⁴ Meanwhile, Representative Brenda Landwehr, who chairs the House Committee of Health and Human Services that sponsored H.B. 2749, acknowledged her motivation to "ban abortion except for the three exceptions." She later commented about H.B. 2749: "We just want to have more information. Make sure *we're* making the right decision/or these women."

116. To the extent the Biased Counseling Scheme was sold as a way to promote informed consent in abortion care, its impact has been the opposite. The Biased Counseling Scheme is not a proper informed-consent requirement because it undermines the principles of bodily integrity and decisional autonomy that underlie the doctrine of informed consent, mandates government-scripted disclosures far outside the scope of physicians' traditional duty of disclosure under established tort law principles, and contravenes medical ethics. Moreover, the Reason Mandate violates ethical duties to obtain informed consent to participate in research before involving an individual in a research project.

117. Abortion is the only health care in Kansas that is subject to unique and additional regulation that undermines-rather than facilitates-patients' ability to provide informed consent. By singling out abortion patients to receive repetitive disclosures of one-size-fits-all information much of which is irrelevant, medically inaccurate, and/or misleading-and endure arbitrary mandated delays as conditions for accessing critical, time-sensitive health care, the Biased Counseling Scheme discriminates against people seeking abortion and perpetuates the stereotype that they are incapable of making thoughtful medical decisions. The Reason Mandate further discriminates against people seeking abortion by compelling providers to interrogate their reasons for seeking abortion care using language that is stigmatizing.

* * *

118. Kansas does not mandate any specific state-scripted disclosures for any other safe and standard health care. . . .

* * *

122. Nor does Kansas law require the provider of any other health care to interrogate patients about which out of a list of government-scripted "reasons" is the "most important factor" in their decision to seek such care. Indeed, a proposal to amend H.B. 2749 to require the same inquiry prior to providing a vasectomy was ruled not germane.

* * *

128. The Reason Mandate conscripts patients to serve as unwitting participants in the State's research without safeguards for ensuring that their participation is consensual or that they are treated ethically. Legal and ethical standards govern research involving human subjects. *See, e.g.*, 45 C.F.R. § 46 *et seq.* These standards universally require obtaining informed consent from individuals before involving them in research. Obtaining informed consent to participate in research requires, at minimum, ensuring that the prospective participant understands what the research is and to what they are consenting. The Reason Mandate does neither. Instead, it mandates that providers interrogate each patient with government-scripted questions without informing patients of how their responses will be used, much less procedures in place to ensure that they understand that their responses will be collected and used by the government for unknown purposes.

129. Legal and ethical standards for human subjects research also ensure that such research is conducted ethically and that appropriate steps are taken to protect the rights and the welfare of the people participating. Human subjects research must be approved by a monitoring body called an institutional review board, which reviews research protocols and related materials to assess whether they adequately protect participants from physical and psychological harm, whether they promote fully informed and voluntary participation, and whether the benefits of the research outweigh the risks to participants. Institutional review boards must give special consideration to protecting the welfare of particularly vulnerable subjects, including pregnant people. *See* 45 C.F.R. §§ 46.201-.207.

130. The Reason Mandate compels providers to ask abortion patients for deeply personal information that is not clinically necessary using government-scripted questions that have not undergone institutional review board vetting, and to report data regarding patients' responses to the State. Accordingly, the Reason Mandate conscripts pregnant people seeking abortion to serve as unwitting participants in the State's human subjects research without any of the safeguards required by federal regulations and the principles of medical ethics.

* * *

133. The Biased Counseling Scheme and the Reason Mandate also force abortion providers to inflict psychological and emotional harm on their patients. . . .

134. Likewise, the Reason Mandate compels providers to interrogate patients using stigmatizing language that may inflict psychological or emotional distress. For instance, a patient seeking an abortion because they would not be able to provide and care for another child in addition to their existing children may feel shamed by H.B. 2749 because the "reason[]" that most closely reflects the "most important factor" in their decision to seek an abortion-"the patient already has enough, or too many, children"-implies that they regret having their existing children. The government-scripted "reason[]" that "the child would have a disability" may be traumatizing to patients seeking abortion because their pregnancy has been diagnosed with a lethal or life-limiting fetal condition.

135. In addition, H.B. 2749 compels people seeking abortion to disclose whether they have received services, financial assistance, or other assistance from "a nonprofit organization that supports pregnant women," whether they have "experienced

domestic violence in the 12 months prior to the abortion," and whether they live in a place that they consider "to be safe, stable, and affordable." In light of extremist attempts by anti-abortion politicians and other actors to prohibit, investigate, and take enforcement action against assistance provided to help people travel from states where abortion is illegal to obtain abortion in states where it is legal, H.B. 2749 may cause patients to fear exposing themselves to scrutiny and their loved ones or other supports to liability. Moreover, H.B. 2749 may cause patients who have experienced domestic violence to fear collateral consequences. For example, those who have existing children may be afraid that disclosing abuse could trigger a report to child protective services and create the risk that their existing children will be removed from their care or that an investigation will provoke retaliation from their abuser.

G. The Biased Counseling Scheme and the Reason Mandate Stigmatize Abortion and Discriminate Against Pregnant People Seeking Abortion Care.

138. . . . Likewise, the Reason Mandate also stigmatizes abortion and perpetuates such stereotypes by asking abortion patients to justify their decision to terminate their pregnancy by way of a government-prescribed menu of "reasons" that use shaming language.

* * *

140. Kansas law does not actively hinder others from making their own reproductive decisions. For example, people who are not pregnant may consent to use contraception or to have a vasectomy to prevent pregnancy, or to use assisted reproductive technologies to become pregnant, without having to first comply with any of the requirements in the Biased Counseling Scheme or the Reason Mandate.

* * *

V. CLAIMS FOR RELIEF

**FIRST CLAIM FOR RELIEF
(Fundamental Right to Abortion)**

144. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 129 above.

145. The Biased Counseling Scheme and the Reason Mandate violate Section 1 of the Kansas Constitution Bill of Rights because it infringes Plaintiffs' patients' fundamental right to abortion by singling out abortion care for unique and additional regulation and interfering with patients' decisions about pregnancy.

**SECOND CLAIM FOR RELIEF
(Right to Free Speech)**

146. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 129 above.

147. The Biased Counseling Scheme and the Reason Mandate violate Section 11 of the Kansas Constitution Bill of Rights because it infringes Plaintiffs' right to free speech by targeting their speech for unique restriction based solely on their provision of abortion care and compelling them to communicate government-mandated messages that alter the content of their speech and are contrary to their views.

**THIRD CLAIM FOR RELIEF
(Denial of Equal Protection-Fundamental Right)**

148. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 129 above.

149. The Biased Counseling Scheme and the Reason Mandate violate Section 2 of the Kansas Constitution Bill of Rights by denying equal protection of laws to Plaintiffs' patients because it discriminates against them based on their exercise of the fundamental right to abortion.

**FOURTH CLAIM FOR RELIEF
(Denial of Equal Protection-Sex Discrimination)**

150. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 129 above.

* * *

152. The Reason Mandate violates Section 2 of the Kansas Constitution Bill of Rights by denying equal protection of laws to Plaintiffs' patients because it singles out women and people capable of becoming pregnant, and it perpetuates sex-based stereotypes that motherhood is the appropriate role for women and that women need to justify their decision to terminate a pregnancy.

SAP, Doc. 124, 150.¹ As discussed, below, the Court accepts these facts as true for purposes of the instant motion, and it views them in the light most favorable to the provider plaintiffs and affords them all reasonable inferences flowing therefrom.

II. Analysis

A. Standards Governing Motions to Dismiss for Failure to State a Claim.

In Kansas, the traditional test for review of motions to dismiss is oft-stated and familiar:

¹ The SAP was amended by interlineation, through Doc. 150, and by agreement of the parties to incorporate additional paragraphs by reference into the plaintiffs' various claims.

“When a defendant uses [K.S.A. 60-212(b)(6)] to challenge the legal sufficiency of a claim, the court must decide the issue based only on the well-pled facts and allegations, which are generally drawn from the petition. **Courts must resolve every factual dispute in the plaintiff’s favor when determining whether the petition states any valid claim for relief. Dismissal is proper only when the allegations in the petition clearly demonstrate that the plaintiff does not have a claim.** *Halley v. Barnabe*, 271 Kan. 652, 656, 24 P.3d 140 (2001) (citing *Ripley v. Tolbert*, 260 Kan. 491, 493, 921 P.2d 1210 [(1996)], and *Bruggeman v. Schimke*, 239 Kan. 245, 247-48, 718 P.2d 635 [(1986)]). Likewise, appellate courts reviewing a district court’s decision to grant a motion to dismiss will assume as true the well-pled facts and any inferences reasonably drawn from them. **If those facts and inferences state any claim upon which relief can be granted, dismissal is improper.** *Cohen v. Battaglia*, 296 Kan. 542, 545-46, 293 P.3d 752 (2013).”

Kucharski-Berger v. Hill’s Pet Nutrition, Inc., 60 Kan.App.2d 510, 514-15 (2021) (citing also *Steckline Communications, Inc. v. Journal Broadcast Group of KS, Inc.*, 305 Kan. 761, 767-68, 388 P.3d 84 (2017))(emphasis added).

In other words, if the facts alleged in plaintiffs’ petition, and the reasonable inferences arising from them, stated a claim based on their theory “**or any other possible theory**,” a motion to dismiss must be denied. See *Cohen*, 296 Kan. 542, Syl. ¶ 2, 293 P.3d 752, 545-46 (emphasis added). It is also important to remember that “[b]ecause Kansas is a notice-pleading state, the petition is not intended to govern the entire course of the case.” *Berry v. National Medical Services, Inc.*, 292 Kan. 917, 918, 257 P.3d 287 (2011). “[T]he pretrial order is the ultimate determinant as to the legal issues and theories on which the case will be decided.” *Unruh v. Purina Mills*, 289 Kan. 1185, 1191, 221 P.3d 1130 (2009). Because a party typically moves to dismiss early in a case when many facts have not yet been discovered and legal theories may be in flux, “[j]udicial skepticism” must be exercised.” *Rector v. Tatham*, 287 Kan. 230, 232, 196 P.3d 364 (2008); *Kucharski-Berger*, supra at 514-15.

B. Standards Governing Motions to Dismiss Relating to Subject Matter Jurisdiction, Including Based upon Legal Standing or “Ripeness.”

Legal standing is not merely a pleading requirement. “Each element must be proved in the same way as any other matter and *with the degree of evidence required at the successive stages of the litigation.*” *Labette County Medical Center v. KDHE*, 399 P.3d 292 *4 (Kan. App. (unpublished) 2017)(citing *KNEA v. State*, 305 Kan. 739, 746, 387 P.3d 795 (2017))(emphasis added).

As it relates to a Motion to Dismiss where discovery has *not* been conducted and completed and where no evidentiary record has been proffered, the applicable standards for a district court to analyze and apply to issues of “standing” and, thus, subject-matter jurisdiction, are identical to those used to assess whether a Petition states a valid claim for relief in accordance with KSA 60-212(b)(6). See *Id.*; *Kansas Bldg. Industry Workers Comp. Fund v. State*, 302 Kan. 656, 676, 359 P.3d 33 (2015). As it relates to the State Defendants’ Motion to Dismiss the new claims set forth in plaintiffs’ Supplemental Second Amended Petition (which relate to H.B. 2749), the Court concludes that this standard should be applied at this juncture of the litigation for such claims.

Accordingly, the general rule is that a reviewing court must “accepts the facts as alleged in the petition as true, and if those facts [along with any inferences that can be reasonably drawn] demonstrate that the appellants [plaintiffs] have standing to sue,” the motion must be denied. See *Kansas Bldg. Industry Workers Comp. Fund v. State*, 302 Kan. 656, 659, 676, 359 P.3d 33 (2015); *Board of County Commissioners of Sumner County v. Bremby*, 286 Kan. 745, 751 (2008).

1. Legal Standing.

Standing is a requirement for a case or controversy. *Gannon v. State*, 298 Kan. 1107, 1122, 319 P.3d 1196 (2014). Standing is also a component of subject matter jurisdiction. *Id.* at 1122. As a jurisdictional matter, the concept of standing requires the court to decide whether a party has alleged a sufficient personal stake in the outcome of the controversy to invoke jurisdiction and to justify the court exercising its remedial powers on the party’s behalf. *Cochran v. Kansas Dept. of Agriculture*, 291 Kan. 898, 903, 249 P.3d 434 (2011).

Kansas’ standing requirement is grounded in the separation of powers doctrine which is implicit in our state constitution. *Morrison v. Sebelius*, 285 Kan. at 896, 179 P.3d 366. “Under the traditional test for standing in Kansas, “a person must demonstrate that [1] he or she suffered a cognizable injury and [2] that there is a causal connection between the injury and the challenged conduct.” ’ ’ *Gannon*, 298 Kan. at 1123, 319 P.3d 1196 (quoting *Cochran v. Kansas Dept. of Agriculture*, 291 Kan. 898, 908–09, 249 P.3d 434 (2011)); see also *Hodes & Nausser MDs, P.A. v. Stanek*, 318 Kan. 995, 1002-1003 (2024). This traditional standing test has been utilized repeatedly by the Kansas Supreme Court.² See *Hodes & Nausser*, supra; see also *Kansas Bldg. Industry Workers Comp. Fund*, supra at 679-680.

Under Kansas law, standing requires that a party must have sustained an actual or threatened injury:

“To establish a cognizable injury, a party must establish a personal interest in a court’s decision and that he or she personally suffers some actual or threatened

² See *Sierra Club v. Moser*, 298 Kan. 22, 33, 310 P.3d 360 (2013); *Friends of Bethany Place, Inc. v. City of Topeka*, 297 Kan. 1112, 1126, 307 P.3d 1255 (2013); *Board of Miami County Comm’rs v. Kansas Rails-Trails Conservancy, Inc.*, 292 Kan. 285, 324, 255 P.3d 1186 (2011); *Cochran*, supra, 291 Kan. at 908, 249 P.3d 434; *Bremby*, supra, 286 Kan. at 761, 189 P.3d 494; *Lower v. Board of Dir. of Haskell County Cemetery Dist.*, 274 Kan. 735, 747, 56 P.3d 235 (2002). Although the Kansas Supreme Court has, on occasion, referenced and cited to various federal “standing” requirements and frameworks, it has never abandoned its own separate two-part inquiry. Thus, the Court will utilize the Kansas framework, although the resulting conclusion is likely identical under either standard.

injury as a result of the challenged conduct. [Citation omitted.]” . . . The Kansas Supreme Court has referred to the cognizable injury requirement as “an injury in fact,” and has on occasion cited to the federal standing requirement that an injury must be concrete, particularized, and actual or imminent.”

Gannon v. State, 298 Kan. 1107, 1123, 319 P.3d 1196 (2014)(citing *Sierra Club v. Moser*, 298 Kan. 22, 33, 310 P.3d 360 (2013)). Mere allegations of possible future injury do not meet the requirements of standing and instead; any threatened injury must be certainly impending. *Sierra Club*, supra, 298 Kan. at 33.

2. “Ripeness” doctrine.

Relatedly, ripeness, like standing, is an element of subject matter jurisdiction. See *Sierra Club*, 298 Kan. at 29, 310 P.3d 360; *Morrison v. Sebelius*, 285 Kan. at 896, 179 P.3d 366. The ripeness requirement is designed to prevent courts from becoming entangled in abstract disagreements. *Shipe v. Public Wholesale Water Supply Dist. No. 25*, 289 Kan. 160, 170, 210 P.3d 105 (2009). It prevents courts from being asked to decide ill-defined controversies over constitutional issues or hypothetical or abstract cases. *Kansas National Education Association v. State*, 305 Kan. 739, 802 (2017). To be ripe, an issue must have taken shape and must be concrete. *Sebelius*, 285 Kan. at 892, 179 P.3d 366. A claim is ripe when “no additional facts need to arise or be developed in the record....” *Id.*, 303 Kan. at 522.

C. Have Plaintiffs Demonstrated Sufficient Legal Standing to Assert “Ripe” Claims Relating to H.B. 2749 in Order to Survive a Motion to Dismiss Pursuant to KSA 60-212(b)(1)?

In the case at bar, the Court concludes that, at least at this stage of the proceedings (with respect to the new Supplemental claims), plaintiffs have adequately alleged proper legal standing on claims that are ripe for the Court to adjudicate. Their complaints are neither hypothetical nor speculative, as currently pleaded. As such, the Court **DENIES** the State Defendants’ Motion, with respect to subject matter jurisdiction, which is grounded in standing and ripeness concerns.

The State Defendants argue that plaintiffs' claims vis-à-vis H.B. 2749 are not ripe because no implementing regulations have been adopted by the Kansas Department of Health and Environment ("KDHE"), and they further assert that the plaintiffs lack standing (either in their own right or on behalf of their patients) because they have not pleaded any "cognizable injury" (i.e., "injury in fact"). See State Defendants' Memorandum in Support [Doc. 134], pg. 7-8. The State Defendants point out that this is a pre-enforcement challenge, and thus, the plaintiffs must purportedly meet the "high threshold" described in *League of Women Voters of Kan. v. Schwab*, 317 Kan. 805, 813-14 (2023). See State's Memorandum in Support, pg. 13. The Court concludes that the allegations within the SAP are sufficient, at least at this stage of the proceeding, to overcome the State Defendants' arguments at the Motion to Dismiss stage.

As to standing, the Court notes that, at a minimum, the Provider plaintiffs have asserted sufficient facts (when accepted as true), along with corresponding reasonable inferences, to meet their initial burdens to demonstrate legal standing to assert and maintain their claims at this juncture. The Provider plaintiffs have alleged that the requirements of H.B. 2749 would result in their violating ethical duties with respect to informed consent and would compel them to question their own patients using "stigmatizing" language. See SAP [Doc. 124], pp. 34-35, ¶¶ 116, 117. They further allege that the requirements obligate the plaintiffs to engage in State-sponsored interrogating³ of pregnant patients and to conscript those patients to "serve as unwitting participants in the State's research, without safeguards for ensuring that their

³ The State Defendants appear to take issue with plaintiffs' use of "interrogate" as "distorted" (Reply Memorandum [Doc. 146], pg. 13. However, the Merriam Webster dictionary defines "interrogate" as "to question formally and systematically." [Interrogate Definition & Meaning - Merriam-Webster](#). Similarly, Cambridge Dictionary defines that term in the social science context as: "to ask questions about something as a way of analyzing it or finding out more about it." [INTERROGATE | English meaning - Cambridge Dictionary](#) The Court finds no meaningful distinction, for purposes of a motion to dismiss, between the statutory language at issue "ask" and plaintiffs' pleading that uses "interrogate," which can be synonyms in common usage.

participation is consensual or that they are treated ethically.” *Id.* at pg. 38, ¶¶ 128-130. In doing so, the new statutory requirements of H.B. 2749 allegedly “force abortion providers [such as plaintiffs] to inflict psychological and emotional harm on their patients.” *Id.* at ppg. 40-41, ¶¶ 133-135. Plaintiff providers assert that compelling them to asking their patients, prior to an abortion procedure, to “justify their decision to terminate their pregnancy by way of a government-prescribed menu of ‘reasons’ that use shaming language,” and that “harms” their patients, violates the providers’ fundamental rights to free speech. Those rights include, in the Provider Plaintiffs’ view, the right not to be compelled by the government to speak particular content/messages and are guaranteed under Section 11 of the Kansas Constitution’s Bill of Rights. See SAP, pg. 42, ¶¶ 138, 146-147.

In that regard, the Court also considers it a reasonable inference from the allegations of the SAP that, absent a statutory mandate, the physician providers would not otherwise categorically ask such “stigmatizing” questions of their patients or engage in conduct that they deem violative of their “ethical duties,” as it relates to H.B. 2749’s requirements of allegedly-compelled speech (i.e., requiring providers to ask their patients what is the “most important reason” why they are seeking a particular medical procedure or the other additional questions mandated by H.B. 2749 regarding resources provided to them, domestic violence experiences, or safe residential accommodations).

Accepting plaintiffs’ allegations as true, along with all reasonable inferences, and viewing them in the light most favorable to the non-moving party and with every doubt resolved in the non-movant’s favor, the Provider plaintiffs have demonstrated sufficient cognizable threatened injury to afford them standing at this juncture. Plaintiffs have alleged that the Board of Healing Arts, acting through its agents, including defendants Gile and Degrado, is “empowered to

enforce willful or repeated violations of the Reason Mandate [i.e. H.B. 2749].” (SAP, ¶ 15). Further, the Board is empowered to discipline practitioners of the Healing Arts, including the Provider plaintiffs, for “unprofessional conduct,” and “professional incompetency,” as defined by the Healing Arts Act. See SAP, ¶ 55; see also K.S.A. 65-2837 (2024). Thus, based upon the SAP, the Provider plaintiffs are ostensibly presented with the choice of either: 1) complying with the statute’s new mandates on what they characterize as compelled stigmatizing speech directed to their pregnant patients and, thus, violating their ethical obligations and the applicable standard of care (hence exposing them to potential professional discipline), or 2) violating the mandates of H.B. 2749 and risking a potentially-similar disciplinary result for an alternative reason. As the Kansas appellate courts have made clear, a plaintiff need not violate the law, pre-enforcement, to satisfy the requirements of legal standing. See *Hodes & Nauser, MD’s, P.A. v. Stanek*, 318 Kan. 995, 1003-1004 (2024)(holding “a plaintiff need not break a law to challenge it.”). Given the standard of review this Court must employ, it cannot conclude that plaintiffs cannot demonstrate **any basis** supporting valid legal standing, particularly in light of these factual allegations and the reasonable inferences flowing therefrom, as detailed in the SAP. Indeed, the SAP is sufficient in that respect.

Similarly, the Provider plaintiffs have adequately demonstrated valid standing to pursue the “Equal Protection” claims and the claims arising from Section 1 of the Kansas Constitution Bill of Rights (natural and fundamental right to bodily autonomy with respect to abortion) on behalf of their respective pregnant patients that seek abortion care. This Court has previously noted the well-established authority permitting health care providers and other organizations to assert third-party rights, such as those of their patients. See Journal Entry on Temporary Injunction [Doc. 85], pg. 28; see also *Comp. Health of Planned Parenthood of Kansas and Mid-*

Missouri, Inc., 287 Kan. 372, 406 (2008); *Alpha Medical Clinic v. Anderson*, 280 Kan. 903, 921 (2006); see also *Trust Women Foundation, Inc. v Bennett*, 509 P.3d 599, No. 121,693 at 10-11, 13 (Kan. App., May 20, 2022)(unpublished)(holding clinic had standing to bring constitutional challenges both on its own behalf and on behalf of its patients because it showed that both it and its patients were likely to suffer cognizable “harm” from enforcement of the statute). But, the providers must also be a proper proponent of the particular legal rights on which it bases its suit. See *Comprehensive Health of Planned Parenthood of Kansas & Mid-Missouri, Inc. v. Kline*, 287 Kan. 372, 406, 197 P.3d 370, 394 (2008). In this case, they are, given the allegations of the SAP.

The Provider Plaintiffs have asserted and alleged that H.B. 2749’s requirements violate the fundamental rights of their pregnant patients and also violates their rights to equal protection under the law. See SAP, First, Third, and Fourth Claims for Relief. In that regard, the plaintiffs note that the statutory provisions “interfere with the personal decision-making of pregnant people seeking abortion,” amongst other impacts. See SAP, ¶ 7. The requirements of the new statute obligate providers to question their patients on the substance *before* the patient proceeds with terminating the pregnancy. SAP, ¶ 113. H.B. 2749 allegedly “further discriminates against people seeking abortion by compelling providers to interrogate their reasons for seeking abortion care using language that is stigmatizing”, which is not required for “any other safe and standard health care.” SAP, ¶ 117-118. Nor, according to the SAP, does the State “actively hinder” patients from exercising their decisional autonomy through condition precedent inquiry before accessing any other type of health care—outside of the abortion context. SAP, ¶ 122, 140. And, the Legislature rejected, according to the SAP, a proposal to amend H.B. 2749 to require similar substantive “data collection” inquiries of male patients seeking to access reproductive health care, such as vasectomies. See SAP, ¶ 122. Further, the SAP indicates that HB 2749 is

tantamount to an unethical and uninformed research study on pregnant patients without their informed consent and without the necessary safeguards typically overseen and implemented by an institutional review board. See SAP, ¶¶ 128-130. Lastly, plaintiffs contend that H.B. 2749 force the Provider Plaintiffs and others similarly situated to “inflict psychological and emotional harm on their patients” by “interrogating [them] using stigmatizing language”. SAP, ¶¶ 133-135.⁴ In doing so, they contend that their pregnant patients’ natural and fundamental rights to bodily autonomy, which includes the right to self-determination, will be abridged/infringed upon and that their patients are being treated disparately from others and singled out for the gender-specific health care that they seek to access. Such contentions, when accepted as true, sufficiently identify a concrete and specific injury or threatened injury to plaintiffs’ patients; thus, the allegations are also sufficient under prevailing Kansas law to confer standing upon the Provider Plaintiffs to raise such claims. Given the closely intertwined interests between the Provider plaintiffs and their patients, the nature of the rights implicated through the SAP, and an *asserted* looming legal injury in fact to the Provider Plaintiffs and to their patients, they are proper proponents under Kansas law to assert such claims on behalf of their patients, with respect to H.B. 2749.

Simply put, when one reads the SAP’s allegations, along with all reasonable inferences, in the light most favorable to the plaintiff providers, and accepts those as true, plaintiffs have, indeed, satisfied their *pleading obligations* to establish valid legal standing both in their own

⁴ The State Defendants point out that the plaintiffs’ allegations, as stated in the SAP, is couched in terms of “may cause,” harm, as opposed to “would” or “will”—verbiage that they argue would be reflective of actual concrete injury rather than hypothetical harm. The Court does not read the SAP as narrowly as the State Defendants have done, particularly in light of the applicable standard of review on a motion to dismiss. Read in totality and in the light most favorable to the non-movants, the Court finds it a reasonable inference from the allegations that the statutorily-compelled questioning “inflicts [] harm” and the subsequent “may cause” language to reflect that, perhaps, not *all* patients will suffer psychological and emotional harm” from any/every question, but that some will.

right and on behalf of their pregnant patients, and thus, satisfied the obligations to establish subject matter jurisdiction in that regard. As such, the State Defendants' Motion based upon legal standing is hereby **DENIED**.

Equally unavailing are the State Defendants' arguments that the Provider plaintiffs' claims are not "ripe" for adjudication and are "hypothetical and abstract." The State Defendants posit that because the Kansas Department of Health and Environment ("KDHE") has not yet adopted any rules and regulations to implement" H.B. 2749's statutory mandates, it is effectively "unknown" what the Provider Plaintiffs' obligations will actually entail, and thus, they assert that plaintiffs' claims on H.B. 2749 amount to a request for an "advisory opinion." See Memorandum in Support, Doc. 134, pp. 8-10. However, as discussed above and based upon the allegations of the SAP, plaintiffs are confronted with a dilemma: either ask the questions that the State compels by way of H.B. 2749 or violate the law and risk potential professional discipline. The fact that KDHE has not adopted "implementing" rules and regulations, as of yet, is neither suggestive nor dispositive of whether the dispute is "unripe" or "abstract," in the context of a motion to dismiss. Indeed, the statute's mandates REQUIRE certain questioning of pregnant patients *before* they are permitted to proceed with termination of a pregnancy. And the details of how KDHE chooses to interpret the statutory language is inapposite as to whether that statute's plain language has been violated by a provider that simply desires not to follow the State-scripted questioning that he/she would otherwise omit, absent the mandate. In other words, a provider, such as the plaintiffs, that ignored the mandatory statutory inquiries necessitated by H.B. 2749 would, indeed, arguably violate the law and be subject to potential professional discipline or other sanctions, regardless of whether KDHE enacted regulations or not. Given the allegations of the SAP, Plaintiffs have met their burden, at least at this juncture, to demonstrate a

ripe controversy and, thus, valid subject matter jurisdiction. The State Defendants' Motion to Dismiss based upon "ripeness" doctrine is **DENIED**.

In reaching these conclusions, the Court neither draws nor intends any other conclusions or implications regarding the ultimate merits of the Provider plaintiffs' claims or the factual allegations as to H.B. 2749; nor does the ruling herein address or foreclose subject-matter jurisdiction arguments at some other point in the litigation and on some other record--after discovery with respect to H.B. 2749 has been conducted and completed. Instead, the Court's ruling relates only to a Motion to Dismiss for lack of subject matter jurisdiction, which this Court is to review with "judicial skepticism" at this juncture of the litigation of the H.B. 2749 claims—before pretrial discovery has been conducted and completed and where no evidence has been adduced.

D. Have Plaintiffs Set Forth Sufficient Allegations to State Any Claim Relating to H.B. 2749 to Survive a Motion to Dismiss Pursuant to KSA 60-212(b)(6)?

The State Defendants, additionally, seek dismissal of the plaintiffs' supplemental claims relating to H.B. 2749, based upon K.S.A. 60-212(b)(6)—failure to state a claim. They argue that plaintiffs have failed to set forth sufficient facts to state the various claims raised, and they further contend that plaintiffs have not (and cannot) meet the applicable standards to survive a Motion to Dismiss, given their "facial" challenge to the constitutionality of H.B. 2749. See Memorandum in Support, pp. 10-11. The State Defendants assert that, given the nature of the Provider Plaintiffs' challenge to the revised statute, they must demonstrate "that there is no set of circumstances under which the statute would be valid". See *Id.*, pg. 11 (citing *State v. Valdiviezo-Martinez*, 313 Kan. 614, 631 (2021)). However, the Court concludes that the State Defendants incorrectly seek to apply a *potential* "merits" standard broadly to plaintiffs' claims in

the context of a Motion to Dismiss the SAP and, in the process, overlook the *applicable* standards by which their Motion must be judged.

As to the State Defendants' contention that the Provider Plaintiffs' claims are, at this stage, governed by standards discussed in *State v. Valdiviezo-Martinez*, 313 Kan. 614, 631 (2021), this Court disagrees. Rather, the Court's comments in *Valdiviezo-Martinez* regarding facial challenges to a statute's constitutionality are potential "merits" standards (in the event that a rational/reasonable basis standard is applied) that are inapplicable with respect to a Motion to Dismiss brought pursuant to KSA 60-212(b)(6). Indeed, the Court in *Valdiviezo-Martinez* noted the ultimate burden *at trial*, given the particular claims at issue:

"To establish that a statute is unconstitutional on its face, the appellant has the burden to show that there is no set of circumstances under which the statute would be valid. In re Weisgerber, 285 Kan. 98, 105, 169 P.3d 321 (2007) (citing Injured Workers of Kansas v. Franklin, 262 Kan. 840, 850-51, 942 P.2d 591 [1997]). If a law does not limit constitutionally protected conduct, it "should be upheld unless it 'is impermissi[bly] vague in all of its applications.'" Hearn v. Overland Park, 244 Kan. 638, 641, 772 P.2d 758 (1989)."

Valdiviezo-Martinez, at 631 (emphasis added). That standard was discussed in the context of a constitutional challenge *after* a conviction in a criminal case, where the convicted defendant sought to have the criminal statute found to be unconstitutionally vague, violative of his due process rights, and hence void. Given the substantially different posture and record between the *Valdiviezo-Martinez* case and the case at bar, it is of little, if any, precedential value in determining the instant Motion to Dismiss, asserting failure to state a claim. This is particularly true as to claims that, at least on their face, implicate fundamental rights and higher levels of potential judicial scrutiny. Instead, when reviewing the State Defendants' Motion to Dismiss, the Court is obligated to apply the standards set forth in Section II.A., *supra*.

Applying the requisite standards to the SAP, this Court cannot say, when viewed in the light most favorable to plaintiffs and affording plaintiffs all reasonable inferences, that they can state *no claim for relief*, whether pleaded or based upon “any other possible theory”. See Discussion, Section II.A., *supra*. (citing *Cohen v. Battaglia*, 296 Kan. 542, 545-46, 293 P.3d 752 (2013)). In their First Claim for Relief (Fundamental Natural Rights under Section 1), Plaintiffs have alleged that H.B. 2749 “stigmatizes abortion” with its requirements and “actively hinders” those individuals seeking abortion services from “making their own reproductive decisions” by timely accessing abortion care without interference and/or stigmatization, unlike their male counterparts seeking similar services bearing on reproductive decisions (vasectomy). See SAP, ¶¶ 130, 133-140. In asking “stigmatizing” and “not clinically necessary” questions of pregnant patients *before* permitting the patient to proceed with their desired reproductive decisions to terminate a pregnancy, plaintiffs claim that their patients suffer “psychological and emotional harm” that is inflicted by the process the State imposes (or would impose, if actively enforced) upon the provider plaintiffs through H.B. 2749’s requirements. See *Id.* The additional requirements/inquiries enacted under H.B. 2749 consequently “interfere with patients’ decisions about pregnancy”. SAP, ¶ 145. And, unlike other reproductive health care decisions, plaintiffs claim H.B. 2749 “actively hinders” their patients’ decision-making process as to their own bodily autonomy and continuation or termination of their pregnancy. SAP, ¶ 140. As a result, they contend that their patients’ fundamental, natural rights are infringed upon by the State, contrary to Section 1 of the Kansas Constitution’s Bill of Rights. See *Id.*, ¶¶ 144-145. “[A]ny evidence of infringement on a fundamental right protected under Section 1 satisfies a plaintiff’s burden to prove infringement under the strict scrutiny framework. 309 Kan. at 669, 440 P.3d 461 (“[O]nce a plaintiff proves an infringement—*regardless of degree*—the government’s action is presumed

unconstitutional.”)” *Hodes & Nauser*, supra at 1008 (citing *Hodes I*)(emphasis added). In the light most favorable to plaintiffs, the Court concludes that the allegations set forth in the SAP that relate to H.B. 2749 are sufficient to state a claim under Kansas law for violations of the Provider Plaintiffs’ patients’ fundamental rights. Consequently, the State Defendants’ Motion to dismiss plaintiffs’ First Claim for Relief is **DENIED**.

Similarly, the Court concludes that plaintiffs’ have adequately stated a claim for relief based upon the Provider Plaintiffs’ right to free speech guaranteed by Section 11 of the Kansas Constitution’s Bill of Rights (Second Claim for Relief). The Provider Plaintiffs’ assert that they are compelled by H.B. 2749 to ask their pregnant patients seeking to terminate a pregnancy what, among a limited State-proffered list, is the “most important reason” the patient seeks an abortion, and they further assert that such questioning is “not clinically necessary” and “harmful.” See SAP, ¶¶130, 133. The contend that they are forced to ask such questions, under the H.B. 2749 questioning, contrary to their own clinical medical judgment and desired questioning. Compelled content-based speech implicates “free speech” issues, whether under the federal Constitution or Section 11 of the Kansas Constitution’s Bill of Rights. To the extent that the Provider Plaintiffs have alleged that they are forced to articulate content-based speech to their patients, contrary to their own desires and practices, they have stated a claim for relief under Kansas law, given the standards applicable at this stage. The State Defendants’ Motion to Dismiss plaintiffs’ Second Claim for Relief, on those grounds, is likewise **DENIED**.

Likewise, the Court concludes that the plaintiffs have adequately state a claim for relief sounding in violations of their patients’ rights to equal protection under the law, as prescribed by Section 2 of the Kansas Constitution Bill of Rights and the U.S. Constitution’s Fourteenth Amendment. When reviewing the notice-pleading allegations in the light most favorable to the

plaintiffs and affording them all reasonable inferences, this Court cannot say that they clearly do not have any claim based upon their Equal Protection allegations.

Plaintiffs have asserted “Equal Protection” claims based upon both infringement of a fundamental right (bodily autonomy)(Third Claim for Relief—Equal Protection, Fundamental Rights) and based upon singling out pregnant women from others seeking to make autonomous reproductive health care decisions, which they claim is unconstitutionally-disparate treatment of their patients based upon their gender/sex (Fourth Claim for Relief— Equal Protection, Sex Discrimination). The State Defendants counter that the plaintiffs have not and cannot properly assert that their patients are being treated disparately from “similarly situated” male counterparts, in that there are none because men cannot become pregnant. Doc. 134, pp. 16-17. Additionally, they question whether plaintiffs have adequately implicated a fundamental right of plaintiffs’ patients. *Id.* at pp. 10-16. Broadly, the State Defendants further argues that plaintiffs’ allegations and assertions are insufficient, “legally implausible,” and “bald, inflammatory conclusions.” See *Id.*, pp. 17, 19; Reply, pg. 18. At this stage of the litigation, however, the Court concludes that plaintiffs have adequately stated a claim to proceed.

Except in cases of a medical emergency, H.B. 2749 requires abortion providers, before providing and completing the attendant care, to inquire of their patients seeking an abortion (and only those patients): 1) whether they have received services or assistance during the preceding 30 days from any nonprofit organization that “supports pregnant women;” 2) whether they have reported being a victim of domestic violence; 3) whether they are living in a location they believe is safe, stable, and affordable; along with 4) what the “most important reason” for wanting to terminate their pregnancy is, selected from a State-generated list of possibilities. See SAP, Exhibit C. Correspondingly, the natural implication/inference is that the Provider

Plaintiffs' patients must, prior to receiving care, listen to, consider, and respond to the State's mandated questioning. *Id.* As plaintiffs have alleged, these inquiries are "stigmatizing," "harmful," and undermine the informed consent process and the decision-making process underlying these patients' choices regarding bodily autonomy. SAP ¶¶ 7, 117, 130, 133-135, 138. They "interfer[e] with patients' decisions about pregnancy." *Id.* ¶ 145. These areas of questioning/interrogating are unique, in Kansas, to abortion, according to plaintiff, and plaintiffs point to the fact that men in Kansas are not subjected to similar inquiries regarding their reproductive health decisions and bodily autonomy. See SAP¶¶ 117, 122. Proposed legislative amendments to H.B. 2749 that would have added similar questioning for men seeking vasectomies were allegedly rejected as "not germane". SAP¶ 122.

In analyzing whether plaintiffs have adequately stated a claim for "Equal Protection" under Section 2 of the Kansas Bill of Rights or the Fourteenth Amendment, the Court notes that the generally guiding principle under Kansas law is that similarly-situated individuals should be treated generally alike. Given the applicable standard of review on this Motion to Dismiss and the allegations of the SAP (along with the reasonable inferences flowing therefrom), the Court concludes that plaintiffs have adequately stated a claim under an "Equal Protection" theory founded upon Section 2 of the Kansas Constitution's Bill of Rights, whether grounded in a "fundamental right" or a "suspect classification."

At the outset, the Court has already noted that the issues raised with respect to H.B. 2749 implicate the plaintiffs' patient's fundamental rights to bodily autonomy. See discussion, *supra*, Section II.D., pp. 19-20. That, in and of itself, is sufficient at this juncture to also state a cognizable claim under Kansas law for an "Equal Protection" violation, as described in plaintiffs' Third Claim for Relief within the SAP.

Further, H.B. 2749 appears, according to the SAP, to target a subset of women (pregnant women that wish to terminate their pregnancy). While the State Defendants argue that this provision is gender neutral and pertains only to pregnancy—not sex/gender, a statute’s facial gender neutrality does not necessarily insulate it from constitutional scrutiny under an “Equal Protection” analysis, as some discriminatory acts may be covert or subtle, but they nevertheless may reflect invidious gender-based discrimination that runs afoul of constitutional safeguards. See *American Civil Liberties Union of Kansas And Western Missouri v. Praeger*, 863 F.Supp2d 1125, 1133 (D. Kan. 2012)(denying Rule 12 motion on plaintiffs’ Equal Protection claims, given allegations of Complaint and noting same). In the instant case, plaintiffs have alleged in the SAP that the statutory mandates of H.B. 2749 effectively delay, undermine, and interfere with their patients’ respective rights to self determination on issues of bodily autonomy without State interference. They contend that the statute does so in a manner that targets a population that is exclusively constituted based upon their sex/gender, with their impacts felt predominantly by those women. And while a general disfavor of abortion by the State might not necessarily give rise to any inference of gender/sex discrimination, the further allegations by plaintiffs in the SAP, when accepted as true for purposes of this motion and viewed in the light most favorable to plaintiffs, provide sufficient factual support to state a cognizable claim for relief based upon Section 2 of the Kansas Constitution’s Bill of Rights, particularly in light of Kansas’ notice-pleading standards and the Court’s obligation to review Motions to Dismiss with “judicial skepticism.”

Similar to the Court’s standing and ripeness discussions, *supra*, the issue presented is not whether plaintiffs will or are likely to prevail on the claims asserted, as it relates to H.B. 2749. Time will tell whether they are able to muster evidence to support their claims in that regard.

However, at this juncture, the issue properly presented is whether plaintiffs have sufficiently set forth their claims in a manner that will allow them to present evidence in support of those claims and causes of action. They have. Accordingly, the State Defendants' Motion to Dismiss in that regard is **DENIED**.

E. The State Defendants' Arguments Regarding the Applicable Standards and Ultimate Burden of Proof are Premature.

Lastly, the State Defendants sprinkle throughout their briefing their collective views on what standards of constitutional scrutiny this Court must ultimately apply in the matter as to the Provider Plaintiffs' supplemental claims. See, e.g., Memorandum in Support, pp. 21-23. Plaintiffs dispute and disagree with the State Defendants' analysis and conclusions. However, such issues simply do not bear upon whether the plaintiffs have adequately stated any claim for relief based upon Kansas' notice-pleading standards. The Court has no doubt that there will be vigorous argument on the applicable level(s) of scrutiny to apply to the various statutory provisions at issue in this litigation--when evidence is ultimately submitted to the Court for consideration at trial or at some other appropriate juncture. However, the Court need not determine at this time whether the supplemental claims are subject to a particular level of merits scrutiny in analyzing a Motion to Dismiss, pursuant to KSA 60-212(b)(6). It declines to do so at this pleading stage of the case.

III. Conclusion

For all of the foregoing reasons, the State Defendants' Motion to Dismiss, pursuant to KSA 60-212(b)(1) and (b)(6) are hereby **DENIED**.

IT IS SO ORDERED.

K. Christopher Jayaram

The Honorable K. Christopher Jayaram
Judge of the District Court
Division 12

NOTICE OF ELECTRONIC SERVICE

Pursuant to KSA 60-205, as amended, copies of the above and foregoing order of the Court have been delivered by Court's Centralized Case Management System (CCMS) automatic notification electronically generated upon filing of the same by the Clerk of the District Court to the e-mail addresses provided by counsel of record in this case. Counsel for the parties so served shall determine whether all parties have received appropriate notice, complete service on all parties who have not yet been served, and file certificate of service for any additional service made.

Corey Jobe
Division 12 Administrative Assistant