

D-1-GN-22-000560

CAUSE No. _____

THE SATANIC TEMPLE, INC. AND	§	IN THE DISTRICT COURT OF
ANN DOE	§	
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
TEXAS HEALTH AND HUMAN	§	TRAVIS COUNTY, TEXAS
SERVICES COMMISSION, AND	§	
CECILE YOUNG IN HER OFFICAL	§	
CAPACITY AS EXECUTIVE	§	
COMMISSIONER OF THE HEALTH	§	459TH, DISTRICT COURT
AND HUMAN SERVICES	§	
COMMISSION	§	
	§	
Defendants.	§	_____ JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

1. This petition asks for judicial review of Texas abortion regulations through the lens of religious liberty. As further detailed below, TST and its membership holds religious beliefs and practices surrounding the abortive act which are entitled to protection from state interference under Texas law.

2. Ann Doe is a member of TST who was denied the opportunity to engage in a religious ceremony that would have culminated in a medical abortion. Texas abortion regulations interfered with the ceremony, which raises constitutional suspicions. As further detailed below, the regulations fail constitutional scrutiny under the Texas Constitution and fail scrutiny under the Texas Religious Freedom Restoration Act (“TRFRA.”)

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this case because Plaintiffs seek declaratory and injunctive relief, including statutory damages under TRFRA. *See* TEX. CIV.

PRAC. & REM. CODE § 110.005(c).

4. Texas has expressly waived its immunity to suit for the TRFRA claim. *See* TEX. CIV.

PRAC. & REM. CODE § 110.008.

5. This Court has personal jurisdiction over Defendants, who may be served through service as described below.

6. Venue properly lies with this Court under TEX. CIV. PRAC. & REM. CODE § 15.002.

7. Plaintiffs seek damages within the jurisdictional limits of this Court. Plaintiffs seek monetary relief of \$250,000 or less and non-monetary relief. TEX. R. CIV. P. 47.

8. All conditions precedent have been performed or have occurred.

PARTIES

9. **The Satanic Temple, Inc.**, plaintiff, (“TST”) is a famous IRS-recognized atheistic religious corporation with its principal place of business in Salem, Massachusetts. TST’s membership exceeds 560,000 and was recently the subject of the acclaimed film, “Hail Satan?” (2019, Magnolia Films). *See also Satanic Temple v. City of Scottsdale*, No. CV18-00621-PHX-DGC, 2020 WL 587882 (D. Ariz. Feb. 6, 2020) (holding that TST is a bona fide religion). TST’s membership can be found in every state, including Texas. TST venerates (but does not worship) the biblical adversary as a promethean icon against authority. For TST and its membership, the Satan described in *Paradise Lost* and like works is a revolutionary antihero who stood up against impossible odds to seek justice and egalitarianism for himself and others. TST propagates its Seven Tenets:

(1) One should strive to act with compassion and empathy toward all creatures in accordance with reason.

- (2) The struggle for justice is an ongoing and necessary pursuit that should prevail over laws and institutions.
- (3) One's body is inviolable, subject to one's own will alone.
- (4) The freedoms of others should be respected, including the freedom to offend. To willfully and unjustly encroach upon the freedoms of another is to forgo one's own.
- (5) Beliefs should conform to one's best scientific understanding of the world. One should take care never to distort scientific facts to fit one's beliefs.
- (6) People are fallible. If one makes a mistake, one should do one's best to rectify it and resolve any harm that might have been caused.
- (7) Every tenet is a guiding principle designed to inspire nobility in action and thought. The spirit of compassion, wisdom, and justice should always prevail over the written or spoken word.

<https://thesatanictemple.com/pages/about-us> (last visited January 26, 2022). One of TST's religious ceremonies is the Satanic Abortion Ritual, described in detail below. TST sues on behalf of itself and its membership, seeking a declaratory judgment that TST's membership is entitled to a religious exemption to Texas abortion regulations whenever the regulations act as a substantial interference on the member's Satanic Abortion Ritual.

10. **Ann Doe**, plaintiff, sues anonymously because she wants to avoid the catastrophic side-effects from the controversy surrounding this case and the deeply personal nature of the subject of this dispute. Doe wanted to participate in TST's Satanic Abortion Ritual unrestrained by the Texas regulations described below.

11. **The Texas Health and Human Services Commission**, ("HHSC"), defendant, is the Texas Agency responsible for enforcing the complained-of Texas abortion regulations. The

HHSC may be served by service on the attorney general at 1019 Brazos, Austin Texas, 78701.

12. **Cecile Young**, defendant, is the Executive Commissioner of the Texas Health and human Services Commission. Ms. Young is being sued in her official capacity only. Ms. Young may be served by service on the attorney general at 1019 Brazos, Austin Texas, 78701.

STANDING

13. TST has direct standing because the complained-of regulations are anathema to TST's Satanic Abortion Ritual and core tenets.

14. TST also has associational standing to present the claims of other members, similarly situated to Ms. Doe, who want to participate in the Satanic Abortion Ritual but are impacted by these regulations.

15. TST's organizational purposes include taking measure to protect the religious liberty rights of TST's membership, which sometimes requires litigation. Thus, this lawsuit is germane to TST's organizational purposes.

16. Due to the cost of litigation and the short window between "unripe" abortion claims and "moot" ones, these members cannot vindicate their own rights.

17. Their participation is not "necessary" to the litigation, even though some of them may provide evidence, because only enough participation to show a pattern is needed. *See Ass'n of Am. Physicians & Surgeons, Inc. v. Texas Med. Bd.*, 627 F.3d 547 (5th Cir. 2010).

18. TST thus sues, both directly and on behalf of its affected membership, for an order to require the Department to recognize an exemption to these regulations insofar as the regulations substantially interfere with the Satanic Abortion Ritual.

DISCOVERY

19. Plaintiffs intend to conduct discovery under Level 3.

FACTS ALLEGED

20. Ms. Doe was a pregnant woman and a TST member who wanted to participate in TST's Satanic Abortion Ritual, but was forced to comply with certain regulations to which she has a religious objection. Ms. Doe, and similarly situated members of TST, render the Satanic Abortion Ritual meaningfully different than getting a secular abortion.

21. As background, TST provides the following overview of what it means to be "Satanic." This is not an invitation to litigate the truth, the reasonableness, or the centrality of the Display to TST's beliefs or practices. *See, e.g., Employment Div., Dep't of Human Res. of Oregon v. Smith*, 494 U.S. 872, 887, 110 S. Ct. 1595, 1604 (1990) ("Repeatedly and in many different contexts, we have warned that courts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim.")

22. TST shares with many other Satanic groups a veneration for the biblical concept *ha satan* (literally: "the adversary" or "the accuser.")

23. *Ha satan* is a description of being, not a particular individual.

24. Satanism, broadly, can be roughly divided into "nontheistic" and "theistic" groups.

25. Nontheistic Satanists venerate the concept of the Biblical Satan and may participate in ritual, but do not literally worship the divine entity that Christians identify as "The Devil" and do not have any expectation that participating in ritual, by itself, will affect the outside world.

26. Ritual is not useless to a nontheistic Satanist, however. Ritual has a powerful, and studied, effect on the subjective experience of the participants. Hobson NM, Schroeder J, Risen JL, Xygalatas D, Inzlicht M. *The Psychology of Rituals: An Integrative Review and Process-*

Based Framework. Personality and Social Psychology Review. 2018;22(3):260-284.
doi:10.1177/1088868317734944.

27. TST is a nontheistic branch of Satanism. This is enshrined in TST's Fifth Tenet ("Beliefs should conform to one's best scientific understanding of the world. One should take care never to distort scientific facts to fit one's beliefs"), which posits that beliefs and actions should be guided by scientific consensus, not tradition or superstition.

28. Theistic Satanists differ from nontheistic Satanists by taking the extra step to literally worship a deity that Christians identify as "The Devil." If they participate in ritual magic, a theistic Satanist will believe that the ritual, by itself, causes an effect on objective reality.

29. Satanists—nontheistic or otherwise—believe that authority is to be challenged ("accused") if it directly and substantively conflicts with their beliefs. Here, that belief is supported by the Texas Constitution and TRFRA in the recognition that no religious belief should be preferred over another religious belief.

30. TST's membership does not denigrate desires and practices that they enjoy which does not harm others. TST has enshrined this belief in the Third Tenet ("One's body is inviolable, subject to one's own will alone.")

31. Other common applications of bodily inviolability include a religious objection against corporeal punishment of minors, a liberal view on body modification, and broad acceptance of the LGBTQ+ community.

32. TST and its membership are nontheistic Satanists, with an added influence by the philosophy of the Enlightenment Thinkers.

33. The core philosophy behind TST's Satanism is in propounding those elemental

propositions that—we believe—all nontheistic Satanists can agree upon: the pursuit of “justice” and “empathy” is “good” and our worldview should be determined exclusively by reason, with room to grow or change based on new evidence.

34. In this worldview, TST shares much with the Founding Fathers. This great nation began as an act of insurrection against a tyrant-king who claimed divine authority. The Founding Fathers pursued of justice and egalitarianism for all. Replace George Washington with Satan, and TST’s membership sees no substantive difference.

35. TST’s membership holds the Founding Fathers and the Constitution in high esteem.

36. But despite holding these ideals in the highest esteem, TST makes no claim to having the “highest ideal” or “divine truth,” and will vigorously defend religious freedom in its many forms, including the First Amendment rights of Christians and other who may disparage TST’s beliefs.

37. This commitment to pluralism is rooted in a profound respect for the individual, but is accompanied by an unflinching demand for reciprocity.

38. As addressed above, many of TST’s membership believe that ritual can have an important place in the life of its adherents.

39. Other than the Satanic Abortion Ritual, TST’s membership engages in destruction rituals (ceremonious destruction of personal items with symbolic meaning), the Unbaptism (ceremonious casting off of religious indoctrination), and various meditations and mantras. *See generally* Shiva Honey, *The Devil’s Tome: a Book of Modern Satanic Ritual* (Serpentinae, March 25, 2020).

40. There are other rituals, too. The point is that the Satanic Abortion Ritual isn’t

some end-run to get around abortion regulations.

41. TST developed the Satanic Abortion Ritual to help its membership cast off guilt, shame, and mental discomfort that the member may be experiencing in connection with their election to abort the pregnancy. *See* Exhibit 1.

42. The Ritual also confirms the member's choice and wards off effects of unjust persecution. *Id.*

43. Here, the unjust persecution is an improper effort of the State (the "outside world") to infringe on the decision-making of a member about her own health decision (the "inside world.")

44. This tension is recognized as a secular legal issue. *See Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833, 852, 112 S. Ct. 2791, 2807, 120 L. Ed. 2d 674 (1992) (recognizing a woman's right to choose as originating from the "zone of conscience and belief.")

45. But for TST's membership (including Ms. Doe), it is more than a simple privacy interest.

46. For plaintiffs, the State's intrusion into a member's decision about their own body is an outside authority overpowering resistance to compel beliefs and actions. It's a religious issue; and the political rhetoric surrounding the abortive act is notably religious.

47. So, from the perspective of a Satanist, the abortion regulations at issue in this case directly contradict modern science, are motivated by a specific religious morality, and ultimately place the State in the role of an outside power in an effort to make the Satanist feel guilt, doubt, and shame on an issue of religious significance. This is deeply offensive to those who subscribe to the Third Tenet.

48. The Satanic Abortion Ritual was created to combat those efforts and, for TST's membership, it is empowering to assert or re-assert (as appropriate) power and control over their own mind and body.

49. To implement the Satanic Abortion Ritual, it depends on the nature of the abortion.

50. For surgical abortions:

Immediately before receiving any anesthetic or sedation, look at your reflection to be reminded of your personhood and responsibility to yourself. Focus on your intent, take deep breaths, and make yourself comfortable. When you are ready, say the Third Tenet aloud. The surgery can now begin. During the operation, take another deep breath and recite the Fifth Tenet. Immediately after the surgery, return to your reflection and recite the personal affirmation. Feel the doubts dissipating and your confidence growing as you have just undertaken a decision that affirms your autonomy and free will. The religious abortion is now complete.

EXHIBIT 1 at p. 4.

51. For medical abortions:

Immediately before taking the medication(s) to terminate your pregnancy, look at your reflection to be reminded of your personhood and responsibility to yourself. Focus on your intent, take deep breaths, and make yourself comfortable. When you are ready, read the Third Tenet aloud to begin the ritual. After swallowing the medication(s), take another deep breath and recite the Fifth Tenet. After you have passed the embryo, return to your reflection and recite the personal affirmation. Feel the doubts dissipating and your confidence growing as you have just undertaken a decision that affirms your autonomy and free will. The religious abortion is now complete.

Id.

52. The last day of a woman's period is used as the date to mark the beginning of pregnancy.

53. December 5, 2020 was the last day of Ms. Doe's period prior to the abortion. Ms. Doe learned that she was pregnant in early-January or mid-January, 2021. After that, Ms. Doe considered her options and then resolved to abort the pregnancy. Ms. Doe also resolved to use the Satanic Abortion Ritual for its intended purposes.

54. Ms. Doe lives more than 100 miles from any nearby abortion facilities. The closest facility to Ms. Doe is the Planned Parenthood facility in Houston, Texas. Ms. Doe reached out to the facility to arrange for her medical appointments. Through the course of her communications with the facility, Ms. Doe learned of certain abortion regulations which act as an impediment to Ms. Doe being able to participate in the Ritual.

55. Ms. Doe takes issue with the following regulations:

- (a) A requirement to have a sonogram as a precondition of obtaining an abortion,
- (b) A forced decision to reject the "opportunity" of seeing the sonogram results,
- (c) The forced listening to a narrative of the sonogram results, and
- (d) A mandatory waiting period between the sonogram and receiving the abortion.

See TEX. HEALTH & SAFETY CODE § 171.012(a)(4) and (5) and TEX. HEALTH & SAFE § 171.0122.

56. Further TST's objections to the regulations preventing participation in the Satanic Abortion Ritual after detection of "cardiac activity" of an unviable fetus. Specifically, the provisions recently passed as Senate Bill 8, codified at TEX. HEALTH & SAFETY CODE § 171.201 et seq. ("S.B. 8") prohibit the Satanic Abortion Ritual after detection of any "cardiac activity or the steady and repetitive rhythmic contraction" of a non-viable fetus' cells that may eventually become a heart. *See* TEX. HEALTH & SAFETY CODE § 171.201(1).

57. TST and Ms. Doe perceives no medical basis for Texas to require a sonogram

before an abortion. See Dr. Jen Russo, “Mandated Ultrasound Prior to Abortion” *Virtual Mentor*. 2014;16(4):240-244. doi: 10.1001/virtualmentor.2014.16.4.ecas1-1404. Ms. Doe objects to the sonogram requirement as violative of the Fifth Tenet. There being no medical need for the sonogram, Ms. Doe objects to the related regulations (forced rejection of the “opportunity” to see the results, the forced listening of the narrative explanation, and the mandatory waiting period) all as violative of the Fifth Tenet.

58. These requirements’ sole apparent purpose is to influence some patients away from the abortion and toward childrearing. See Gatter M, Kimport K, Foster DG, Weitz TA, Upadhyay UD. Relationship between ultrasound viewing and proceeding to abortion. *Obstet Gynecol*. 2014;123(1):81-87.

59. As explained above, Ms. Doe objects to these regulations as violative of the Third Tenet to these requirements as efforts to control the decisions she makes for herself and her body.

60. Additionally, the requirement of a sonogram increases the financial cost of the abortion. For Ms. Doe, the sonogram makes the abortion cost \$150 more. Ms. Doe has limited financial resources.

61. Ms. Doe does not want to expend her limited funds on a medical procedure which she objects to.

62. By regulating the abortive act and refusing to grant exemptions for the Satanic Abortion Ritual, the State has placed a barrier between Ms. Doe and her ceremony.

63. On January 22, 2021, Ms. Doe’s religious beliefs compelled her to seek a religious exemption to these regulations: both because the regulations violate her beliefs and because they substantially interfere with the Satanic Abortion Ritual.

64. The facility refused to grant it. Neither Ms. Doe nor TST fault the facility. As written, none of the regulations do not provide for religious exemptions.

65. If the facility granted Ms. Doe a religious exemption, the facility would incur sanctions from the Department. Through counsel, Ms. Doe issued a TRFRA demand letter to HHSC. **EXHIBIT 2.** HHSC did not grant a religious exemption within the 60-day time limit required by TRFRA.

66. Ms. Doe's appointment was on February 6, 2021. Being within the first trimester, the fetus was nonviable. Ms. Doe's religious objections were overrun and her participation in the Satanic Abortion Ritual was substantially interfered with.

67. TST objects to the requirements of S.B. 8 because they violate the third and fifth tenets.

CAUSES OF ACTION

Count 1

Violation of TRFRA

68. Texas enacted the Texas Religious Freedom Restoration Act in response to Smith. *See* TEX. CIV. PRAC. & REM.CODE § 110.001 *et seq.*

69. Under TRFRA, it is irrelevant that the regulations at issue are generally applicable and it is irrelevant whether the regulations were motivated by religious discrimination. The applicable questions are (1) whether any of the regulations are a "substantial interference" with the free exercise of religion; and (2) if so, whether the regulations can survive strict scrutiny. *See* TEX. CIV. PRAC. & REM. CODE § 110.003.

70. Plaintiffs expect an argument that TST's Satanic Abortion Ritual cannot "really" be religious because other people engage in secular abortions. The Texas Supreme Court has already resolved this argument in favor of TST. *Barr v. City of Sinton*,

295 S.W.3d 287, 300 (Tex. 2009) (“the fact that a halfway house can be secular does not mean that it cannot be religious.”)

71. The regulations are a substantial interference with Ms. Doe’s and TST’s similarly situated members because they place hurdles in front of religious speech and religious conduct. The State might as well tax and regulate the act of prayer.

72. The State must raise and prove a compelling interest and that the restriction is the least restrictive means of furthering that interest. *See* TEX. CIV. PRAC. & REM. CODE § 110.003.

73. Plaintiffs issued appropriate demand correspondence before filing this lawsuit. Exhibit 2.

74. The governmental infringement of Ms. Doe’s—and, by association, TST’s religious liberty was overrun on February 6, 2021.

Count 2

Texas Constitution Equal Protection, Art. I, §§ 3 & 3a

75. The Texas Constitution, Article I, Section 3, provides that “[a]ll free [persons], when they form a social compact, have equal rights and no man, or set of men, is entitled to exclusive separate public emoluments or privileges[.]” Article I, Section 3a provides that “[e]quality under the law shall not be denied or abridged because of sex, color, creed, or national origins.” And further, that “[this amendment is self operative.]”

76. Here, the Texas regulations treat women, and specifically those who ascribe to TST’s creed, differently.

77. Accordingly, the Regulations violate the Texas Constitution and the Court should strike down the regulations under the Texas Constitution, Article I, Section 6.

Count 3

Texas Constitution Free Exercise, Art. I § 6 & 6a

78. The Texas Constitution, Article I, Section 6, provides that “[a]ll men have a natural and infeasible right to worship . . . according to the dictates of their own consciences.” Likewise, “[n]o human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship.” Article I, Section 6a, recently passed, provides that the “state . . . may not enact, adopt, or issue a statute . . . or rule that prohibits or limits religious services, including religious services . . . in this state by a religious organization established to support and serve the propagation of a sincerely held religious belief.”

79. Here, the Texas regulations prevent TST members, including Ms. Doe, from worship “according to the dictates of their own conscience.” Further, these regulations “control or interfere with the rights of conscience in matters of religion, including TST members such as Ms. Doe and give preference to a mode of worship that is anathema to TST members and Ms. Doe’s religious practice.

80. A “creed” under Texas law includes “common beliefs.” *Ramos v. State*, 934 S.W.2d 358, 368.

81. Accordingly, the regulations violate the Texas Constitution. and the Court should strike down the regulations under the Texas Constitution, Article I, Section 6.

Count 4

Declaratory action

82. Alternatively, the constitutional questions about S.B. 8 may be avoided through a declaration that the Satanic Abortion Ritual is “speech or conduct protected by the First

Amendment of the United States Constitution,” such that S.B. 8 liability does not lie. See Tex. Health & Safety Code Ann. § 171.208(g).

PRAYER FOR RELIEF

Plaintiffs pray for relief as follows.

- The Court should declare that the Satanic Abortion Ritual is protected First Amendment activity, and therefore not a predicate for civil liability for violating or aiding or abetting the violation of Tex. Health & Safety Code Ann. § 171.208.
- The Court should declare the regulations at issue unconstitutional as applied to Ms. Doe and all of TST’s similarly situated members;
- The Court should issue a permanent injunction HHSC to bar enforcement of the regulations insofar as they substantially interfere with the Satanic Abortion Ritual;
- The Court should issue a permanent injunction against the Department to require the creation and enforcement of regulations that accommodate the Satanic Abortion Ritual;
- Attorneys’ fees, court costs, and other reasonable expenses incurred in bringing the action; and,
- Such further relief, at law or equity, to which plaintiffs’ show themselves entitled.

Respectfully submitted on February 1, 2022,
on behalf of Plaintiffs

By: /s/ Brad Ryyanen

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(pro hac vice to be filed)

EXHIBIT LIST

1. Religious Abortion Pamphlet
2. TRFRA Demand Letter to HHSC

Exhibit 1

SATANIC ABORTION RITUAL

The Satanic Abortion Ritual is a destruction ritual that serves as a protective rite. Its purpose is to cast off notions of guilt, shame, and mental discomfort that a patient may be experiencing due to choosing to have a medically safe and legal abortion.

Even the most confident and unapologetic individual can experience uncomfortable feelings and anxiety for choosing to terminate their pregnancy. Laws in many states that impose waiting periods and state-mandated counseling can exacerbate these feelings, as can social condemnation and outright harassment by those who oppose abortion.

Misinformation about abortion and guilt for pursuing that option can be a lot to handle. It can be exhausting and frustrating to try to shrug off and dismiss internal and external pressures, especially those driven by religious convictions that disregard the beliefs and freedoms of others. Even when one recognizes that these criticisms are invalid, they can make an already troubling time even harder.

This ritual is intended to alleviate some of these stressors and empower the patient to be guided by the Third and Fifth Tenets when pursuing their decision.

The purpose of the ritual is not to persuade someone to have an abortion if they are undecided. Instead, the ritual serves to assist in confirming their decision and to ward off the effects of unjust persecution, which can cause one to stray from the paths of scientific reasoning and free will that TST members strive to embody.



ABOUT THE RITUAL PREPARATIONS

TST's abortion ritual can be performed to address definable concerns or to overcome unproductive feelings.

The ritual, which includes the abortion itself, spans the entirety of the pregnancy termination procedure. There are steps to be performed before, during, and after the medical or surgical abortion.

Because rituals are deeply personal to those enacting them, there are variations in how it may be performed. The ritual can be personalized based on personal preferences and availability of materials. There is no need to purchase anything special or to adhere to every word. What is essential is the spirit and general intent.

One can also perform their favorite destruction ritual to target any of the unwanted feelings incited by adversity faced as a consequence of choosing to have an abortion. Feel free to take or leave whatever you wish from this one to build your own.

Before performing the ritual, you may choose to review the science about the safety and reality of abortion and the debunked claims from those who oppose abortion. You may also choose to read stories or listen to podcasts about people who made great sacrifices in the struggle to establish the reproductive rights we have today. These stories can be inspirational and may subdue stigmas you might feel from those who oppose abortion.

Your ability to choose to terminate a pregnancy is consistent with the ideals of liberty and freedom. Be proud of pursuing what you want for your life despite opposition.

IMPLEMENTS

- A quiet space where you feel comfortable
- Something that allows you to see your reflection
- A copy of The Satanic Temple's third and fifth tenets and personal affirmation

TENETS AND AFFIRMATIONS

Tenet III

One's body is inviolable, subject to one's own will alone.

Tenet V

Beliefs should conform to one's best scientific understanding of the world. One should take care never to distort scientific facts to fit one's beliefs.

Personal Affirmation

*By my body, my blood
By my will, it is done.*



PROCEDURES

For medical abortions:

Immediately before taking the medication(s) to terminate your pregnancy, look at your reflection to be reminded of your personhood and responsibility to yourself. Focus on your intent, take deep breaths, and make yourself comfortable. When ready, read the Third Tenet aloud to begin the ritual. After swallowing the medication(s), take another deep breath and recite the Fifth Tenet. After you have passed the embryo, return to your reflection, and recite the personal affirmation. Feel the doubts dissipating and your confidence growing as you have just undertaken a decision that affirms your autonomy and free will. The religious abortion ritual is now complete.

For surgical abortions:

Immediately before receiving any anesthetic or sedation, look at your reflection to be reminded of your personhood and responsibility to yourself. Focus on your intent, take deep breaths, and make yourself comfortable. When you are ready, say the Third Tenet aloud. The surgery can now begin. During the operation, take another deep breath and recite the Fifth Tenet. Immediately after the surgery, return to your reflection and recite the personal affirmation. Feel the doubts dissipating and your confidence growing as you have just undertaken a decision that affirms your autonomy and free will. The religious abortion ritual is now complete.

Exhibit 2

KEZHAYA LAW PLC

MATTHEW A. KEZHAYA
100 S. FIFTH STREET
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February 1, 2021

Civil Rights Office
Health and Human Services Commission
701 W. 51st Street, MC W206
Austin, Texas 78751

By certified mail, return receipt requested
And by email to: HHSCivilRightsOffice@hhsc.state.tx.us

Planned Parenthood Center for Choice, Inc.
4600 Gulf Freeway, Ste. 300
Houston, TX 77023

By email to Tram.Nguyen@ppgulfcoast.org

Re: TST v. Tx. Health and Human Serv's Comm. and Planned Parenthood – demand letter

To whom it may concern,

I represent The Satanic Temple, Inc. (“**TST**”) and an anonymous pregnant member who desires an abortion (“**Ann Doe**”) in a potential dispute surrounding my clients’ demand for a religious exemption to the following Texas abortion regulations:

- medically unnecessary sonogram precondition of obtaining an abortion,
- a forced decision to reject the “opportunity” of seeing the sonogram results,
- the forced listening to a narrative of the sonogram results, and
- a mandatory waiting period between the sonogram and the abortion.

TEX. HEALTH & S § 171.012. The abortion is to be performed by the Planned Parenthood facility addressed above. The facility has refused to provide a religious exemption to the sonogram requirement, which is enforced by the Texas Health and Human Services Commission.

This letter is a demand for a religious exemption to the sonogram requirement. TEX. CIV. PRAC. & REM.CODE § 110.006. I use the word “demand” in the legal sense; i.e. only as the assertion of a legal right, without connoting any ill will. If this matter does turn to litigation, please know that TST and Ms. Doe both support the mission of Planned Parenthood and understand its obligation to adhere to applicable Texas law and regulations.

The primary legal basis for the religious exemption is the Texas Religious Freedom Restoration Act (“**TRFRA**”) encoded at TEX. CIV. PRAC. & REM.CODE § 110.001 *et seq.* Under TRFRA, the government “may not substantially burden a person’s free exercise of religion [unless it] demonstrates that the application of the burden to the person . . . is in furtherance of a compelling governmental

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interest; and . . . is the least restrictive means of furthering that interest.” Barr v. City of Sinton, 295 S.W.3d 287, 296 (Tex. 2009) (quoting TEX. CIV. PRAC. & REM.CODE § 110.003(a)-(b)).

Ms. Doe will be participating in an abortion ritual. The details of the ritual are enclosed with this email. Importantly, the abortion ritual (1) requires an abortion; and (2) affirms her religious subscription to TST’s Third and Fifth Tenets.^{1,2} But before Ms. Doe can get her abortion—and therefore participate in the abortion ritual—the government has required that she get a sonogram. TEX. HEALTH & S § 171.012(a)(4) and (5).

The requirements substantially interfere with Ms. Doe’s religious beliefs and practices for two reasons. First, the requirements are a precondition to Ms. Doe’s ability to participate in a religious ceremony. It is a substantial interference per se for the State to place a regulatory hurdle—one that costs money—in front of a religious exercise. The State might as well tax and regulate Mass.

Second, the requirements violate her sincerely-held religious beliefs. As stated above, Ms. Doe’s sincerely-held religious beliefs are that (1) her actions are to be rooted in peer-reviewed scientific consensus; and (2) her bodily autonomy is inviolable. These requirements violate both Tenets.

There is no medical basis for Texas to require a sonogram before an abortion. See Dr. Jen Russo, “Mandated Ultrasound Prior to Abortion” *Virtual Mentor*. 2014;16(4):240-244. doi: 10.1001/virtualmentor.2014.16.4.ecas1-1404. Its sole apparent purpose is to influence some patients away from the abortion and toward childrearing. See Gatter M, Kimport K, Foster DG, Weitz TA, Upadhyay UD. Relationship between ultrasound viewing and proceeding to abortion. *Obstet Gynecol*. 2014;123(1):81-87.

The requirement that Ms. Doe be presented with the “opportunity” to see the sonogram images and hear the heart auscultation is a transparent effort to infringe upon Ms. Doe’s zone of conscience. There is no subtlety to the State’s position, communicated through these requirements, that Ms. Doe should feel doubt, guilt, and shame about her decision to have this abortion. See Planned Parenthood of Se. Pennsylvania v. Casey, 505 U.S. 833, 852, 112 S. Ct. 2791, 2807, 120 L. Ed. 2d 674 (1992).

I acknowledge Texas’s efforts to minimize the intrusion on Ms. Doe’s zone of conscience. She can, after all, reject the “opportunity” to see the sonogram images and hear the heart auscultation. TEX. HEALTH & S § 171.0122. But there is no mechanism for her to reject the opportunity to receive the verbal explanation of the results. *Id.* It strains imagination why the victim of a sexual assault can waive this requirement, but someone with a religious objection cannot. The same is true for the waiting period between sonogram and abortion. TEX. HEALTH & S § 171.012. There is no credible basis for this period except to intrude on Ms. Doe’s conscience.

Because these requirements have no basis in science, they violate the Fifth Tenet. Because the unifying purpose of all these requirements is to undermine Ms. Doe’s decision for her health and her

¹ The Third Tenet is “One’s body is inviolable, subject to one’s own will alone.”

² The Fifth Tenet is “Beliefs should conform to one’s best scientific understanding of the world. One should take care never to distort scientific facts to fit one’s beliefs.”

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future, they violate the Third Tenet.

Based on the foregoing, these requirements substantially interfere with Ms. Doe's religious beliefs and practices. Thus, it must survive the strict scrutiny test. While it has been established that this statute survives intermediate scrutiny, see Texas Med. Providers Performing Abortion Servs. v. Lakey, 667 F.3d 570, 576 (5th Cir. 2012), I think it falls short under the strict scrutiny analysis. Under the circumstances, a religious exemption to the requirements is reasonable and will obviate the need of expensive litigation.

I anticipate an argument that the abortion ritual is not "really" religious. That would be ill-advised. TST is a bona fide religion. Satanic Temple v. City of Scottsdale, No. CV18-00621-PHX-DGC, 2020 WL 587882 (D. Ariz. Feb. 6, 2020) (holding that TST is a bona fide religion). It is not a valid judicial inquiry to determine the plausibility of TST's Tenets or their application to the matter at hand. E.g. Employment Div., Dep't of Human Res. of Oregon v. Smith, 494 U.S. 872, 887, 110 S. Ct. 1595, 1604 (1990) ("Repeatedly and in many different contexts, we have warned that courts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim.") And the Texas Supreme Court has held that an activity can be religious for one person, even though that same activity can be secular for someone else. Barr v. City of Sinton, 295 S.W.3d 287, 300 (Tex. 2009) ("the fact that a halfway house can be secular does not mean that it cannot be religious.")

It is my understanding that Ms. Doe has an appointment scheduled for February 6, 2021. If litigation will be necessary to vindicate my client's rights, please let me know at your earliest convenience. If I do not hear that a religious exemption to Ms. Doe will be granted by Wednesday, **February 3, 2021 at 5:00 pm Central Time**, I will have to begin drafting the complaint.

My study of the facts and law in this matter is incomplete. As a result, the above may not fully encapsulate all the arguments which will be at issue in the potential litigation. Nothing in this letter waives any rights of either of my clients.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matthew A. Kezhaya', is positioned above the typed name.

Matthew A. Kezhaya