NO. _____

LAMAR ROBINSON, M.D. and JASBIR AHLUWALIA, M.D.,	§	**IN THE DISTRICT COURT**
Plaintiffs,	§	
v.	§	**_____JUDICIAL DISTRICT**
UGHS DALLAS HOSPITALS, INC.,	§	
Defendant.	§	**DALLAS COUNTY, TEXAS**

PLAINTIFFS' BRIEF IN SUPPORT OF APPLICATION FOR TEMPORARY RESTRAINING ORDER AND TEMPORARY INJUNCTION

Under Rules 680 through 693 of the Texas Rules of Civil Procedure and Chapter 65 of the Texas Civil Practice and Remedies Code, Lamar Robinson, M.D., and Jasbir Ahluwalia, M.D., Plaintiffs, submit this brief in support of their application for a temporary restraining order and temporary injunction in Plaintiffs' Verified Petition and Application for Temporary Restraining Order, Temporary Injunction, and Other Relief as follows:

This action arises from the blatant violation of a Texas anti-discrimination statute by UGHS Dallas Hospitals, Inc. ("UGHD" or "Defendant"), which revoked the hospital admitting privileges of Dr. Lamar Robinson and Dr. Jasbir Ahluwalia ("Plaintiffs") because they provide abortion services at other, unrelated facilities. UGHD's action is expressly prohibited by Texas law. It requires immediate injunctive relief to prevent further irreparable damage to the physicians' relationships with their patients and standing in the medical community.

Texas law is explicit and unambiguous: "A hospital . . . ***may not discriminate*** against a physician . . . because of the person's willingness to participate in an abortion procedure at another facility." Tex. Occ. Code § 103.002(b) (West 2013). Yet that is exactly what UGHD did. In a letter to each Plaintiff dated March 31, 2014, UGHD informed Plaintiffs that it had revoked their admitting privileges at University General Hospital Dallas because they "perform 'voluntary interruption of pregnancies' as a regular part of [their] medical practice[s]." By taking the extraordinary step of revoking Plaintiffs' privileges due to their willingness to provide abortion at other, unrelated facilities, UGHD indisputably violated Texas law.

UGHD's action has forced Dr. Robinson and Dr. Ahluwalia to suspend their medical practices and has caused, and will continue to cause, irreparable injury in the form of professional and personal reputational damage, and injury to their current and future patients, who are in time-sensitive circumstances and relying on Plaintiffs' medical services. Accordingly, this Court should grant Plaintiffs' application for a temporary restraining order under Rule 680 of the Texas Rules of Civil Procedure and a temporary injunction, and require UGHD immediately, among other things, to reinstate their admitting privileges pending a final judgment on the merits.

Background

Plaintiffs Dr. Lamar Robinson and Dr. Jasbir Ahluwalia are practicing gynecologist-obstetricians who provide reproductive health care, including medication and surgical abortions, at private, licensed clinics in Dallas County. In response to the newly-passed Texas House Bill 2 ("H.B. 2"), which requires doctors who provide

abortion to have admitting privileges at a local hospital, Dr. Robinson and Dr. Ahluwalia applied for and obtained admitting privileges at UGHD in November 2013 and January 2014, respectively. On information and belief, Defendant does business as University General Hospital Dallas or UGHD. Plaintiffs' privileges at UGHD were for certain specified gynecological procedures, the overwhelming majority of which have nothing at all to do with abortion. Since obtaining privileges at UGHD, neither Dr. Ahluwalia nor Dr. Robinson have performed any procedures there, referred any patients to UGHD, or had any interactions or communications with UGHD other than incidentally or related to the extension of privileges. Neither Plaintiff performed abortions at UGHD, and Dr. Ahluwalia did not even request or obtain privileges to do so. Both Plaintiffs continued to practice at their clinics, not at UGHD.

A few months after granting privileges to Plaintiffs, UGHD became the target of anti-abortion protests. Activists contacted the hospital's administration and threatened to protest its facilities on April 1, 2014, unless the hospital revoked Dr. Robinson's privileges and severed any ties with physicians who provide abortion. The day before the protest was threatened to take place, UGHD caved to the activists' demands. On March 31, 2014, Chuck Schuetz, the Chief Executive Officer of UGHD, sent Dr. Ahluwalia and Dr. Robinson identical letters, stating that their "privileges have been revoked at [UGHD] by the Medical Executive Committee effective March 28, 2014" and explaining that the decision was "based on" the fact that it "has come to our attention that you perform 'voluntary interruption of pregnancies' as a regular part of your medical practice." Letter of Chuck Schuetz, March 31, 2014 ("Schuetz Ltr."), Petition Exhibits A and B. As

UGHD admitted in its letter to Plaintiffs, its decision was motivated by its desire to sever its affiliation with doctors whose practice includes the provision of abortion.

Although (with one limited exception) Plaintiffs were authorized to provide gynecological procedures at UGHD, not abortions, the hospital nonetheless pointed to its lack of abortion services in an attempt to justify its decision. It stated that "[a]s a matter of policy, UGHD does not perform these procedures due to the fact that obstetric procedures are not within UGHD's scope of services and that UGHD does not have the capacity to treat complications that may arise from voluntary interruption of pregnancies." Schuetz Ltr. UGHD further claimed that Plaintiffs' "practice of performing these procedures"—which takes place entirely at other, unrelated facilities—"is disruptive to the business and reputation of UGHD and, therefore, violates UGHD's bylaws as 'disruptive behavior' as defined therein." *Id.* UGHD even claimed that the doctors' performance of abortion procedures increases the probability of malpractice and liability exposure for the hospital, despite the fact that no such procedures had been performed at the hospital. UGHD's explanations are patently pretextual. The doctors' provision of abortions elsewhere cannot justify Defendant's revocation of their right to perform *other procedures*, the overwhelming majority of which were unrelated to abortion, at UGHD.

While admitting privileges are not medically necessary to the safe and effective provision of abortion services, they are now required by Texas state law. Obtaining admitting privileges is time-consuming and particularly difficult for practitioners who work primarily in an outpatient clinical setting, and neither Plaintiff has been able to

obtain privileges at any other hospital within H.B. 2's statutorily required radius. Both Plaintiffs had obtained and relied on UGHD's grant of hospital privileges to continue their practices after the passage of H.B. 2. Dr. Ahluwalia is the only full-time physician at the Routh Street Women's Clinic, and since his privileges were revoked, he has had to scramble to arrange interim care for the overwhelming majority of his patients and substantially suspend his medical practice. Dr. Robinson is the only full-time physician at Abortion Advantage, and since his privileges were revoked, he also has had to scramble to find interim care and to suspend the vast majority of his practice.

In addition, UGHD's unjustified revocation of Plaintiffs' privileges will tarnish Plaintiffs' professional records and make it even more difficult to obtain privileges at another hospital. A hospital's revocation of a physician's admitting privileges is reported to the Texas Medical Board and recorded in the National Practitioner Data Bank. If Plaintiffs are forced to seek privileges at another hospital, that hospital with learn that they recently had privileges revoked and will likely weigh it against them in considering their applications.

UGHD's unlawful actions affect not only the doctors but their patients, many of whom are in time-sensitive situations. Most of the Plaintiffs' patients scheduled their procedures weeks in advance. While both clinics have attempted to arrange for interim coverage, they have been able to do so only on a temporary basis, and as of April 17, Dr. Robinson does not have any coverage at his practice. Many patients who might otherwise have come to Plaintiffs could be forced to schedule their abortion procedure at another facility—which will likely require a wait of several more weeks, if it is possible

at all. The scarcity of operating abortion clinics in the State and the strict restrictions on the timing of abortions mean that Plaintiffs' inability to carry on their practices has a severe and disproportionate effect on women in the community seeking abortion care and counseling.

Argument

I. Plaintiffs Satisfy the Requirements for Temporary Injunctive Relief.

This is a straightforward action for discrimination in violation of an unambiguous Texas statute. While Texas has an extensive regulatory regime governing the provision of abortion, and while certain aspects of that regime are subject to vigorous legal challenge in other, unrelated litigation, this action does not address the validity of any abortion law. Plaintiffs seek relief for the simple reason that UGHD—by its own admission—revoked their hospital privileges because they provide abortion and that discriminatory action is prohibited by Texas law. Section 103.002 of the Texas Occupations Code provides that a hospital "may not discriminate against a physician" either because he "*refuses* to perform or participate in an abortion or "because of the person's *willingness* to participate in an abortion procedure at another facility." Tex. Occ. Code §§ 103.002(a) & (b) (West 2013).

"Where a statute provides for a right to an injunction for a violation, a party does not have to establish the general equitable principles for a temporary injunction." *Marauder Corp. v. Beall*, 301 S.W.3d 817, 820 (Tex. App.—Dallas 2009, no pet.) (affirming issuance of injunction even where plaintiff could not demonstrate irreparable injury because the statute at issue specifically provided for injunctive relief). Thus,

Plaintiffs are entitled to temporary injunctive relief under the plain language of the statute alone. But even applying the well-established Texas standards governing temporary restraining orders and injunctions, this Court should promptly reinstate Plaintiffs' privileges pending adjudication on the merits. Plaintiffs have alleged and can demonstrate each of the elements for a temporary injunction: "(1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim." *Butnaru v. Ford Motor Co.,* 84 S.W.3d 198, 204 (Tex. 2002). On their straightforward discrimination claim, the facts, equities, and law overwhelmingly favor Plaintiffs, who have been unfairly deprived of the ability to continue their legal and licensed medical practices and are suffering immediate and on-going irreparable harm to their reputations, careers, and patients.

A. Plaintiffs Have a Cause of Action Against UGHD For Discrimination.

The Texas Occupations Code explicitly prohibits hospitals from discriminating against doctors because of their willingness to engage in abortion. Section 103.002(b) is unambiguous: "A hospital or health care facility ***may not discriminate*** against a physician, nurse, staff member, or employee ***because of the person's willingness to participate in an abortion procedure at another facility***." Tex. Occ. Code § 103.002(b) (West 2013). The statute confers a private right of action on victims of such unlawful discrimination. It recognizes that "reinstatement" and "an injunction against any further violation" are appropriate and available remedies, and permits victims of discrimination to seek back pay plus interest, "and any other relief necessary to ensure compliance." Tex. Occ. Code § 103.003 (West 2013). The protection accorded to doctors who are

willing to provide abortion is paralleled by a separate provision protecting those who refuse to engage in abortion from discrimination[1]—in effect, requiring hospitals to treat those on both sides of the issue fairly. The Attorney General of the State of Texas has recognized and relied on Section 103.003 as a critical protection against discrimination in connection with the provision of abortion care. In defending the H.B. 2 admitting privileges requirement in the Fifth Circuit Court of Appeals just last November, Attorney General Abbott explained that:

> [Tex. Occ. Code section 103] ensur[es] that doctors who perform abortions will not encounter discrimination from the hospitals that must decide whether to award them admitting privileges. ***Not only does Texas law expressly prohibit hospitals from discriminating against doctors who perform abortions, it also confers a private right of action on victims of this unlawful discrimination.***

Planned Parenthood of Greater Tex. Surgical Health Svcs. v. Abbott, No. 13-51008 (5th Cir.), Appellant's Brief at 33. Just weeks ago, the Fifth Circuit Court of Appeals agreed, stating, that the statute "prohibit[s] hospitals from discriminating against physicians who perform abortions when they grant admitting privileges." *Planned Parenthood of Greater Texas Surgical Health Services v. Abbott*, No. 13-51008, 2014 WL 1257965, at *12 (5th Cir. Mar. 27, 2014) (citing Tex. Occ. Code § 103.002(b) (West 2013)).

As the Attorney General and the Fifth Circuit both recognized, denial or revocation of admitting privileges is clearly the kind of "unlawful discrimination" that

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[1] "A physician, nurse, staff member, or employee of a hospital or other health care facility who objects to directly or indirectly performing or participating in an abortion procedure may not be required to directly or indirectly perform or participate in the procedure." Tex. Occ. Code § 103.002(a) (West 2013).

Section 103.002(b) was intended to prohibit. Texas courts have not been called upon to apply Section 103.002(b), but they have recognized in other contexts that a decision to take an adverse action against an individual based on his participation in a protected activity is actionable discrimination. *See, e.g.*, *Tex. Dep't of Human Serv. v. Hinds*, 904 S.W.2d 629, 634–35 (Tex. 1995) (terminating employee for reporting illegal conduct under the Whistleblower Act is discrimination); *Santex, Inc. v. Cunningham,* 618 S.W.2d 557, 559 (Tex. App.—Waco 1981, no writ) (employer's decision to "discharge" plaintiff for filing worker's compensation claim is one "manner of discrimination" prohibited by statute). That is precisely what happened here.

Although the statute does not itself define what it means to "discriminate," "courts will apply its ordinary meaning," *Monsanto Co. v. Cornerstones Mun. Util. Dist.*, 865 S.W.2d 937, 939 (Tex. 1993), and give effect to the plain, unambiguous term. *See TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011); *see also Fitzgerald v. Advanced Spine Fixation Sys., Inc.*, 996 S.W.2d 864 (Tex. 1999) ("[I]t is a fair assumption that the Legislature tries to say what it means, and therefore the words it chooses should be the surest guide to legislative intent."). Indeed, the Texas Code Construction Act explicitly affirms that words and phrases must be read in context, construed according to rules of grammar and common usage and, where they have acquired a technical or particular meaning, construed accordingly. Tex. Gov't Code § 311.011 (applied to the Occupations Code per Section 1.002). Under the Code Construction Act, courts also may consider laws on the same or similar subject—such as laws prohibiting discrimination in other contexts or on other grounds—in interpreting a

particular provision of the Code. § 311.023. Thus, although Section 103.002(b) has yet to be interpreted by a Texas court—perhaps because prior to the passage of H.B.2, doctors who provided abortion were not required to have hospital admitting privileges as a matter of law[2]—its prohibition is clear and sufficient to give rise to a cause of action against UGHD. *See* Tex. Occ. Code § 103.002(b) (West 2013).

Nor must Plaintiffs show that discrimination was the sole cause of the revocation of their privileges. As the Supreme Court ruled in the context of a statute that prohibited discrimination against workers who are whistleblowers, the improper conduct "need not be the [defendant's] sole motivation, but it must be such that without it the discriminatory conduct would not have occurred when it did." *Texas Dept. of Human Services v. Hinds*, 904 S.W.2d 629, 640 (Tex. 1995); *see Cont'l Coffee Products Co. v. Cazarez*, 937 S.W.2d 444, 450–51 & 451 n.3 (Tex. 1996) (applying *Hinds* rule in case involving discrimination against worker for making workers compensation claim). UGHD's motivation plainly involved a desire to disassociate itself from Plaintiffs because of their performance of abortion procedures at other facilities. UGHD's lame attempt at excuses does not alter the fact that without its discriminatory conduct the revocation of Plaintiffs' privileges would not have happened when it did.

[2] Since abortion is an extremely safe procedure and the overwhelming majority of abortions in Texas are provided in clinics licensed as abortion facilities or ambulatory surgical centers, many physicians may not have sought the admitting privileges that are now, under H.B. 2, critical to their continued practice.

B. Plaintiffs Have a Probable Right to the Relief Sought.

Texas law's requirement that a movant seeking a temporary injunction demonstrate a "probable right to the relief sought" "is satisfied by the movant simply alleging a cause of action and presenting evidence tending to sustain it." *SHA, LLC v. Northwest Texas Healthcare System, Inc.*, No. 07-13-00320-CV, 2014 WL 31420, at *1 (Tex. App.—Amarillo, Jan. 3, 2014, no pet.) (citing *Miller Paper Co. v. Roberts Paper Co.,* 901 S.W.2d 593, 597 (Tex. App.—Amarillo 1995, no writ)). "It is not necessary" for the plaintiffs to prove that they will "ultimately prevail." *Id.*

Plaintiffs have presented ample evidence of their right to relief to warrant a TRO and injunction against UGHD. UGHD's letter admits on its face that the the hospital revoked Plaintiffs' admitting privileges because they provide abortions—direct evidence of discriminatory intent. UGHD's own explanation states that "[i]t has come to our attention that you perform 'voluntary interruption of pregnancies' as a regular part of your medical practice" and that the provision of such procedures "is disruptive to the business and reputation of UGHD." The hospital does not claim—nor could it—that either doctor ever performed any abortion procedure at the hospital much less that any actual disruption or issue arose from their work there. The kind of "disruptive behavior" that UGHD's bylaws prohibit consists of consists of verbal or physical "personal conduct" such as "rude or abusive behavior," "sexual harassment," "refusal to accept Medical Staff assignments," and the like—not the legal (and legally protected) practice of providing medicine at another facility.

UGHD's explanation that it does not provide abortion and "does not have the capacity to treat complications that may arise from voluntary interruption of pregnancies" is plainly a pretext. *See* Schuetz Ltr. at 1, ¶2. UGHD knew that Plaintiffs provided abortion care when it granted them privileges just months ago, because Plaintiffs disclosed that information in their applications. If UGHD's lack of obstetric or abortion care was truly an obstacle to granting the privileges that Plaintiffs' sought—which it is not—UGHD would not have granted those privileges in the first place. As to Dr. Ahluwalia, UGHD's explanation is particularly absurd, since he did not request and did not receive permission to admit patients for abortion procedures. Nor does he seek to provide abortion or treat complications there in any event. Indeed, neither doctor has admitted a single patient to UGHD or performed a single procedure there, or has performed, or intends to perform, an abortion at UGHD. Their privileges relate overwhelmingly to the provision of basic gynecological treatment and procedures, which have nothing to do with abortion, and which can be provided at a hospital that lacks the capacity or interest to provide abortion care.

That the hospital's action was discriminatory—and motivated at least in part by animus or aversion toward doctors willing to provide abortion—is evident from the circumstances surrounding UGHD's decision as well as from its own statements. UGHD revoked Plaintiffs' privileges shortly after being threatened by anti-abortion activists and just a day before a protest was scheduled to take place outside the hospital. The timing and Schuetz's affirmation to protestors that the hospital was "pro-life" further confirm

that UGHD acted to appease activists, not from any independent, legitimate reason of its own.

In short, UGHD based its decision on the fact that Plaintiffs provide abortion services elsewhere, at unaffiliated clinics in Dallas. UGHD had no substantive reason to object to the doctors' privileges other than its desire not to be affiliated with providers of abortion. If the employment-law rubric of proof of discriminatory intent were to apply here, Plaintiffs would satisfy either standard at this stage. They can either (1) show discrimination "via direct evidence of what the defendant did and said," *Mission Consol. Independent School Dist. v. Garcia*, 372 S.W.3d 629, 634 (Tex. 2012), or (2) satisfy the burden-shifting method in which "the complainant must establish a prima facie case of discrimination; . . . [t]he burden of going forward then shifts to the employer to articulate some legitimate, nondiscriminatory reason for the employee's rejection; . . . [and t]he burden then shifts back to the complainant to show that the employer's stated reason was a pretext for discrimination." *Quantum Chemical Corp. v. Toennies*, 47 S.W.3d 473, 477 (Tex. 2001).

C. <u>Without Injunctive Relief, Plaintiffs Will Suffer Irreparable Injury</u>.

Plaintiffs have alleged the quintessential types of irreparable injury required to support a request for a TRO and temporary injunction. An injury is irreparable if "the injured party cannot be adequately compensated therefore in damages" or if the damages "cannot be measured by any certain pecuniary standard." *Canteen Corp. v. Republic of Tex. Props., Inc.,* 773 S.W.2d 398, 401 (Tex. App.—Dallas 1989, no writ). In applying that standard, courts recognize that certain injuries—including the loss or disruption of

business, loss of patients, loss of goodwill, and office instability—should be deemed irreparable. *See Frequent Flyer Depot, Inc. v. Am. Airlines, Inc.*, 281 S.W.3d 215, 229 (Tex. App.—Fort Worth 2009, pet. denied), *cert. denied*, 130 S. Ct. 2061 (2010) (holding "[d]isruption to a business can be irreparable harm" and granting temporary injunction prohibiting broker from selling American Airlines' frequent flier miles)*; IAC, Ltd. v. Bell Helicopter Textron, Inc.*, 160 S.W.3d 191, 200 (Tex. App.—Fort Worth 2005, no pet.) ("Loss of business goodwill . . . is sufficient to show irreparable injury for purposes of obtaining a temporary injunction"); *Martin v. Linen Sys. for Hospitals, Inc.*, 671 S.W.2d 706, 710 (Tex. App.—Houston [1st Dist.] 1984, no writ) (loss of one account sufficient evidence of business interruption to support injunctive relief).

In the medical context in particular, courts recognize that damage to professional reputation, loss of patients, and the threat of loss of collaboration with other medical facilities are irreparable injuries. "The value of lost patients, lost business contacts and collaborations, and lost hospital privileges are anything but fixed, settled, and indisputable." *Townson v. Liming*, No. 06–10–00027–CV, 2010 WL 2767984, at *2 (Tex. App.—Texarkana July 14, 2010, no pet.) (upholding temporary injunction on appeal because "if the commission of [defendant's] acts are not enjoined immediately, John Liming, M.D., will suffer irreparable injury because his reputation will be damaged, he will lose patients, and he will lose his collaboration with [certain hospitals].") Courts consider the injury to patients as well as to their physicians, and recognize that threats to patient safety—including the harm from the potential closure of a clinic—are the kind of irreparable injury that support temporary injunctive relief. *See Universal Health Svcs.,*

Inc. v. Thompson, 24 S.W.3d 570, 578 (Tex. App.—Austin 2000, no pet.) (granting OB/GYNs' request to enjoin closing women's health center because "the [d]octors would be unable to provide to their pregnant mothers the care that they now receive" and "other area facilities may not have the capacity to accommodate all of [the doctors'] patients").

The injuries alleged by Plaintiffs are precisely these kinds of unquantifiable, irreparable harms to reputation, business, and patients that courts rely on to grant immediate injunctive relief. If the Court does not order UGHD to promptly reinstate Plaintiffs, their clinics will be forced to rely on interim care—and cannot continue to do so indefinitely. The most substantial aspect of Plaintiffs' medical practices will be indefinitely suspended. UGHD's revocation of Plaintiffs' privileges will likely be reported to the state medical board, tarnishing their professional records and making it even more difficult to obtain privileges at another hospital. Worst of all, without admitting privileges, Plaintiffs will be unable to treat patients and those potential patients—many of whom are in time-sensitive situations—have been, and will continue to be, forced to search for and rely on alternative physicians in an already-sparse environment. The scarcity of operating abortion clinics in the state and the strict restrictions on the timing of abortions mean that it may be highly challenging for patients to find alternative care and add to the already substantial burdens caused by UGHD's revocation.

A temporary restraining order and a temporary injunction[3] reinstating the doctors' privileges is necessary and appropriate to preserve the *status quo ante* pending a trial on the merits. *Walling v. Metcalfe,* 863 S.W.2d 56, 57 (Tex. 1993); *Electronic Data Sys. Corp. v. Powell,* 508 S.W.2d 137, 139 (Tex. App.—Dallas 1974, no writ). The status quo is "the last, actual, peaceable, non-contested status which preceded the pending controversy," not necessarily the state of the parties at the time of filing. *In re Newton*, 146 S.W.3d 648, 651 (Tex. 2004). Courts recognize that where a defendant's preemptive and allegedly improper action disrupted the status quo and deprived plaintiffs of protection to which they were legally entitled, an injunction requiring remedial action—and not just proscribing future harm—is appropriate. *See Institutional Secs. Corp. v. Hood*, 390 S.W.3d 680, 685 (Tex. App.—Dallas 2012, no pet.) (reversing trial court and requiring defendant to return all information it took from plaintiff company in order to maintain the status quo); *Benavides Indep. Sch. Dist. v. Guerra*, 681 S.W.2d 246, 249 (Tex. App.—San Antonio 1984, writ ref'd n.r.e.) (affirming trial court's temporary injunction, which reinstated principal full-time with back wages after school district took adverse action because "[i]f an act of one party alters the relationship between that party and another, and the latter contests the action, the status quo cannot be the relationship as it exists *after* the action"). Here, reinstating Plaintiffs' admitting privileges is necessary

[3] A temporary restraining order is often granted *ex parte* and may only last up to fourteen days. *See* Tex. R. Civ. P. 670. A temporary injunction is granted after notice and a hearing and typically endures until a final judgment is rendered in the litigation. *See* Tex. R. Civ. P. 681–683. Both remedies are intended "to maintain the status quo between the parties." *Cannan v. Green Oaks Apartments, Ltd.,* 758 S.W.2d 753, 755 (Tex. 1988) (per curiam).

to return the parties to their last non-contested state and is an appropriate exercise of the Court's power to grant injunctive relief. *See City of San Antonio v. Vakey,* 123 S.W.3d 497, 502 (Tex. App.—San Antonio 2003, no pet.) (affirming temporary injunction and stating that "[w]here the acts sought to be enjoined violate an expressed law, the status quo to be preserved could never be a condition of affairs where the respondent would be permitted to continue the acts constituting that violation").

Conclusion

Because Plaintiffs have established (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim, they respectfully request this Court to grant their application for a temporary restraining order, and, pending notice and a hearing, a temporary injunction.

Respectfully Submitted,

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