

Exhibit C

CAUSE NO. 21-2276-C

TEXAS HEARTBEAT PROJECT,	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
v.	§	OF SMITH COUNTY
ALAN BRAID, M.D.,	§	
<i>Defendant.</i>	§	_____ JUDICIAL DISTRICT

ORIGINAL PETITION AND REQUEST FOR ADMISSIONS

NATURE OF CASE

This civil action is not a health care liability claim, but a private suit brought pursuant to Senate Bill 8, now officially known as the **Texas Heartbeat Act** ("**SB8**" herein).

1. The Plaintiff is sympathetic to the pro-life movement and takes the position that abortion is morally wrong. Morality does not equate to legality or constitutionality, however. Nor are private opinions on the matter determinative of legality. Only a court of competent jurisdiction can resolve such questions, and the assigned court is hereby being presented with an opportunity to do so in an adversarial case, as distinguished from collusive "friendly" lawsuit by a pro-choice plaintiff.
2. Serious constitutional and antecedent procedural questions have been raised about SB8, but only three U.S. Supreme Court Justices

seem to have concluded that SB8 is blatantly unconstitutional at first glance.

3. In any event, the Plaintiff and all other Texas residents, are entitled to rely on the presumption of regularity and constitutionality of statutes enacted by the Texas Legislature and signed by the Governor. All persons present in this state are, after all, subject to all laws of general applicability in force in the State of Texas, whether they agree with them or otherwise.

4. It is expected that the Defendant will seek to rebut the presumption of constitutionality, and will challenge SB8 as unconstitutional under the Fourteenth Amendment, or under the Texas Bill of Rights, or both. In that case, it can be expected that the Texas Attorney General will defend the statute at issue on behalf of the State of Texas.

5. Through this petition, Plaintiff is not challenging the constitutionality of SB8, and does not file the written notice required for constitutional challenges of state laws, nor is he giving the Attorney General notice of this private action informally. Plaintiff does not agree with the current Texas Attorney General on many matters and does not wish the AG to act in his stead or on his behalf in an EX REL capacity or otherwise.

6. To the extent SB8 is deemed to conflict with *Roe v. Wade* and *Casey v. Planned Parenthood*, Plaintiff avers that the governing court rules and standards allow for the good-faith advocacy of a change in judge-made constitutional and common law that currently constitutes binding precedent, and that such advocacy and petitioning would also be protected by the First Amendment and its state constitutional counterpart, including but not limited to the open courts provision of

the Texas constitution.

RULE 47 STATEMENT

7. This is a discovery level 1 case that seeks solely monetary relief not to exceed \$100,000 and falls under the Expedited Action Rule.

RULE 28 STATEMENT

8. Texas Heartbeat Project is a project name and -- for purposes of this lawsuit and in line with TRCP 28 -- an assumed name of the natural-person Plaintiff, identified by his true name in the signature block below. As such, Texas Heartbeat Project is not a separate legal entity.

PARTIES AND SERVICE

9. Defendant ALAN BRAID, MD is a licensed physician and may be served with citation at the following address:

7402 John Smith Dr., Ste 104 San Antonio, TX 78229

10. No issuance of service of process is requested at this time. Defendant has goaded the public to sue him, presumably so as to put him into the position to mount a constitutional challenge to SB8, and is expected to enter an appearance through counsel already retained for that purpose.

11. Plaintiff, proceeding under the designation "TEXAS HEARTBEAT PROJECT" in lieu of JOHN DOE is a natural person and resident of Texas, whose mailing address is shown in the signature block below.

12. Plaintiff elects to proceed through an assumed name and prefers that his residential address and other sensitive personal information not be disclosed to the public so as to reduce the risk of being

targeted for harassment, threats of violence, and actual violence by extremists on the abortion issue.

CLAIM FOR RELIEF AND DISCLAIMER AS TO FEDERAL CLAIMS

13. The sole legal basis for Plaintiff's complaint is the private cause of action created by the Texas Legislature through SB8, which entitles any person to sue a Texas physician for inducing or performing an abortion proscribed by SB8.

14. Plaintiff is such a qualified person and sues the Defendant for one such alleged violation.

15. Plaintiff does not assert any claim for affirmative relief under federal law. This is accordingly not a removable case.

FACTUAL BASIS

16. On September 1, 2021, the Texas Heartbeat Act became law.

17. After the effectiveness date and before September 19, 2021 Defendant ALAN BRAID, M.D., knowingly performed an abortion in violation of SB8 and subsequently disclosed and/or publicised that fact -- a fact of which he would have personal knowledge -- according to numerous press reports.

CONFIDENTIALITY AND RECORD SEALING CONCERNS

18. In light of the fact that ALAN BRAID, M.D., has himself disclosed the operative facts giving rise to a claim under SB8 against him, he is not entitled to confidentiality as to his own conduct as it pertains to the claim herein presented, or his identity. Nor could he invoke the right to avoid self-incrimination, given that SB8 is not a criminal statute and may not be enforced by state actors even under civil law

and procedure. To the extent admissions or stipulations suffice, patient records and HIPAA may not present a problem.

CIVIL LIABILITY ON SOLE COUNT

19. Pursuant to SB8, Defendant ALAN BRAID, M.D. is liable as a matter of civil law for having committed at least one violation of SB8, by causing or inducing the demise of what SB8 defines as an "unborn child" with a detectable heartbeat.

RELIEF SOUGHT

20. Plaintiff pleads for the minimum amount of statutory damages in the amount of \$10,000 for one specific violation of SB8 by the Defendant named herein, and no more.

21. Plaintiff is not represented by an attorney of the court pursuant to Rules 7 and 8, and does not plead for an award of attorney's fees authorized by SB8.

22. Plaintiff requests that costs be taxed against the Defendant.

REQUEST FOR ADMISSIONS 1 THRU 9

23. Pursuant to rule 198 of the Texas Rules of Civil Procedure, Defendant ALAN BRAID, M.D. (herein "you") is requested to admit or deny the following:

RFA No. 1: That, on September 1, 2021, you were a licensed physician in the State of Texas.

RESPONSE: ADMIT _____ DENY _____

RFA No. 2: That, on September 1, 2021, you were aware of the September 1, 2021 effectiveness date of the SB8, the Texas

Heartbeat Act.

RESPONSE: ADMIT _____ DENY _____

RFA No. 3: That on or about September 6, 2021 you performed or induced an abortion on a patient after you detected cardiac activity in the fetus/embryo/unborn child in that patient's womb.

RESPONSE: ADMIT _____ DENY _____

RFA No. 4: That on or about September 7, 2021 you performed or induced an abortion on a live fetus/embryo.

RESPONSE: ADMIT _____ DENY _____

RFA No. 5: That, while performing an abortion during the time period beginning on September 2, 2021 and ending September 10, 2021, you were aware that your actions fell within the prohibition imposed by SB8, the Texas Heartbeat Act.

RESPONSE: ADMIT _____ DENY _____

RFA No. 6: That you have openly and publicly admitted that you violated SB8 in Texas after this law went into effect.

RESPONSE: ADMIT _____ DENY _____

RFA No. 7: That you publicized the fact that you performed an abortion after the SB8 effectiveness date in order to increase the likelihood of being sued for violating SB8.

RESPONSE: ADMIT _____ DENY _____

RFA No. 8: That you publicized the fact that you performed an abortion despite SB8 being in effect in order to attract supportive or favorable comment from the public on medical review and comment fora on the internet.

RESPONSE: ADMIT _____ DENY _____

RFA No. 9: That you publicized the fact that you performed an abortion despite SB8 being in effect in order to attract additional abortion clients to your practice or clinic.

RESPONSE: ADMIT _____ DENY _____

PRAYER FOR RELIEF

WHEREFORE, PREMISES AND ADMISSIONS CONSIDERED, the undersigned Plaintiff prays that the Court enter judgment on liability against Defendant and award Plaintiff statutory damages in the flat amount of \$10,000 against the Defendant in consideration of Plaintiff's trouble in bringing this test case and/or award such damages solely as intended by the Texas Legislature without regard to any Plaintiff-specific considerations, such as his willingness to bring this test case in the public interest to clarify the law as it governs abortions in the State of Texas.

September 20, 2021

Respectfully submitted,

TEXAS HEARTBEAT PROJECT

An advocacy vehicle
[and assumed name for purposes of Rule 28]
of the undersigned complainant.

Wolfgang P. Hirczy de Mino

Wolfgang P. Hirczy de Mino, Ph.D.

P.O. BOX 521
BELLAIRE, TX 77402-0521
Email: wphdmphd@gmail.com