

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ROCHELLE GARZA, as guardian ad litem to )  
unaccompanied minor J.D., on behalf of )  
herself and others similarly situated, )  
 ) No. 17-cv-02122-TSC  
 )  
 ) Plaintiff, )  
 )  
 ) v. )  
 )  
 ) ERIC D. HARGAN, *et al.*, )  
 )  
 ) Defendants. )  
 )  
 )  
 )

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**EMERGENCY MOTION TO AMEND THE TEMPORARY RESTRAINING ORDER**

Pursuant to the Mandate of the Court of Appeals in this case, issued October 24, 2017, Plaintiff hereby moves for an order amending the temporary restraining order issued on October 18, 2017.

In the Court of Appeals' per curiam order, the court "ORDERED that . . . [t]he case is hereby remanded to the district court for further proceedings to amend the effective dates in paragraph 1 of its injunction." Order at 2. As the court noted, "[t]he dates in paragraph 1 have now passed, and the parties have proffered new evidence and factual assertions concerning the expected duration of custody and other matters." *Id.* A copy of the Court of Appeals' order, and a copy of its mandate, are attached hereto.

In order to allow J.D. to obtain the abortion that she has chosen without further delay and as may be required by Texas state law and the availability of physicians, Plaintiff moves that Paragraph 1 of the temporary restraining order be amended to provide that the Defendants are:

1. Required to transport J.D.—or allow J.D. to be transported by either her guardian or attorney ad litem—promptly and without delay, on such dates, including today, and to such Texas abortion provider as shall be specified by J.D.'s guardian ad litem or attorney ad litem, in order to obtain the counseling required by state law and to obtain the abortion procedure, in accordance with the

abortion provider's availability and any medical requirements. If transportation to the nearest abortion provider requires J.D. to travel past a border patrol checkpoint, Defendants are restrained from interfering with her ability to do so and are ordered to provide any documentation necessary for her to do so.

Plaintiff has been informed, and represents to the Court, that a qualified physician is available at the nearest clinic today, and will be available to perform the procedure tomorrow. Plaintiff accordingly urges the Court to issue an amended temporary restraining order forthwith.

Plaintiff does not believe that a hearing on this motion is necessary, but should the Court conclude otherwise Plaintiff's counsel stand ready to appear in this Court at the Court's earliest convenience.

Date: October 24, 2017

Respectfully submitted,

/s/ Arthur B. Spitzer

Arthur B. Spitzer (D.C. Bar No. 235960)  
Scott Michelman (D.C. Bar No. 1006945)  
American Civil Liberties Union Foundation  
of the District of Columbia  
4301 Connecticut Avenue NW, Suite 434  
Washington, D.C. 20008  
Tel. 202-457-0800  
Fax 202-457-0805  
*aspitzer@acludc.org*  
*smichelman@acludc.org*

Brigitte Amiri  
Meagan Burrows  
American Civil Liberties Union Foundation  
125 Broad Street, 18th Floor  
New York, NY 10004  
Tel. (212) 549-2633  
Fax (212) 549-2652  
*bamiri@aclu.org*  
*mburrows@aclu.org*

Daniel Mach (D.C. Bar No. 461652)  
American Civil Liberties Union Foundation  
915 15th Street NW  
Washington, DC 20005

Telephone: (202) 675-2330  
*dmach@aclu.org*

Jennifer L. Chou  
Mishan R. Wroe  
American Civil Liberties Union Foundation  
of Northern California, Inc.  
39 Drumm Street  
San Francisco, CA 94111  
Tel. (415) 621-2493  
Fax (415) 255-8437  
*jchou@aclunc.org*  
*mwroe@aclunc.org*

Melissa Goodman  
American Civil Liberties Union Foundation  
of Southern California  
1313 West 8th Street  
Los Angeles, California 90017  
Tel. (213) 977-9500  
Fax (213) 977-5299  
*mgoodman@aclusocal.org*

*Attorneys for Plaintiff*

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|   | ) |                     |
| Defendants.                             | ) |                     |
| _____                                   | ) |                     |

[PROPOSED]  
**AMENDED TEMPORARY RESTRAINING ORDER**

Upon consideration of Plaintiff’s Emergency Motion to Amend the Temporary Restraining Order issued by this court on October 18, 2017, and any opposition, reply, and the entire record in this case;

It appears to the Court, for substantially the reasons stated in Judge Millett’s dissenting statement issued on October 20, 2017, and substantially adopted by the Court of Appeals in its Order of October 24, that (1) Plaintiff is likely to succeed on the merits of her action; (2) if Defendants are not immediately restrained from preventing her transportation to an abortion facility or otherwise interfering with or obstructing her access to an abortion—including by further forcing her to disclose her abortion decision against her will or disclosing her decision themselves, forcing her to obtain pre- and/or post-abortion counseling from an anti-abortion entity, and/or retaliating against her for her abortion decision—Plaintiff J.D. will suffer irreparable injury in the form of, at a minimum, increased risk to her health, and perhaps the permanent inability to obtain a desired abortion to which she is legally entitled; (3) the

Defendants will not be harmed if such an order is issued; and (4) the public interest favors the entry of such an order. It is, therefore,

ORDERED that Plaintiff's Emergency Motion to Amend the Temporary Restraining Order is hereby GRANTED, and that Defendants Eric Hargan, Steven Wagner, and Scott Lloyd (along with their respective successors in office, officers, agents, servants, employees, attorneys, and anyone acting in concert with them) are, for fourteen days from the date shown below, hereby:

1. Required to transport J.D.—or allow J.D. to be transported by either her guardian or attorney ad litem—promptly and without delay, on such dates, including today, and to such Texas abortion provider as shall be specified by J.D.'s guardian ad litem or attorney ad litem, in order to obtain the counseling required by state law and to obtain the abortion procedure, in accordance with the abortion provider's availability and any medical requirements. If transportation to the nearest abortion provider requires J.D. to travel past a border patrol checkpoint, Defendants are restrained from interfering with her ability to do so and are ordered to provide any documentation necessary for her to do so.

2. Temporarily restrained from interfering with or obstructing J.D.'s access to abortion counseling or an abortion;

3. Temporarily restrained from further forcing J.D. to reveal her abortion decision to anyone, or revealing it to anyone themselves;

4. Temporarily restrained from retaliating against J.D. based on her decision to have an abortion;

5. Temporarily restrained from retaliating or threatening to retaliate against the contractor that operates the shelter where J.D. currently resides for any actions it has taken or may take in facilitating J.D.'s ability to access abortion counseling and an abortion.

It is further ORDERED that Plaintiff shall not be required to furnish security for costs. Failure to comply with the terms of this Order may result in a finding of contempt.

Date: October \_\_\_\_, 2017

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TANYA S. CHUTKAN  
United States District Judge