

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

PLANNED PARENTHOOD OF  
GREATER OHIO, and PLANNED  
PARENTHOOD SOUTHWEST  
OHIO REGION,

Plaintiffs,

v.

RICHARD HODGES, in his official  
capacity as Director of the Ohio Department  
of Health, and TIMOTHY INGRAM, in his  
official capacity as Commissioner of  
Hamilton County Public Health,

Defendants.

Civil Action No. 1:16-cv-539

**COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

Plaintiffs Planned Parenthood of Greater Ohio (“PPGOH”) and Planned Parenthood Southwest Ohio Region (“PPSWO”), by and through their attorneys, bring this Complaint against the above-named Defendants, their employees, agents, and successors in office, and in support thereof state the following:

**NATURE OF THE ACTION**

1. This civil action is brought pursuant to 42 U.S.C. § 1983 and the United States Constitution to vindicate rights secured by the First Amendment to the United States Constitution and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.
2. For decades, PPGOH and PPSWO have played an important role in the delivery

of health care to tens of thousands of Ohio residents each year, especially low-income women and minority Ohio residents. Both PPGOH and PPSWO have received federal, state, and local funds to provide vital health services in the communities they serve, including pap smears and other cancer screenings, tests for HIV/AIDS and tests and treatment for other sexually-transmitted diseases (“STDs”), infant mortality prevention programs, and sexual health education programs. PPGOH and PPSWO have provided excellent service to Ohio residents under those programs, and have routinely passed audits and program reviews and received praise from program administrators.

3. Nevertheless, the State of Ohio has decided to bar PPGOH and PPSWO from receiving government funding for non-abortion health care programs and health education programs. It has done so solely because PPGOH and PPSWO—separate and apart from the health and education services they provide with government funding—also provide abortion services (along with other reproductive health services) and advocate for safe and legal abortions, both of which are constitutionally protected activities. Almost all of the programs from which the State of Ohio is attempting to exclude PPGOH and PPSWO are paid for entirely by federal funds. The State disburses those federal funds to local agencies and to local service providers.

4. On February 21, 2016, Governor John Kasich signed into law Substitute House Bill Number 294. Ohio Rev. H.B. 294 (codified at Ohio Rev. Code § 3701.034). On March 24, 2016, the Ohio Department of Health (“ODH”) informed Plaintiffs that it interprets Section 3701.034 to categorically disqualify any entity that either “perform[s]” or “promote[s]” “nontherapeutic” abortions (as that term is defined in Ohio Rev. Code § 9.04(A)(1)), or affiliates with any entity that does so, from receiving state and certain federal funds that it is

otherwise eligible and qualified to receive—even if the entity never uses a penny of government money to provide abortion services or advocate for safe and legal abortion. Although there has been confusion regarding what the statute in fact prohibits, the measure as interpreted by ODH effectively bars PPGOH and PPSWO from receiving state and federal funds the organizations use to provide vital non-abortion services to thousands of people in Ohio.

5. PPGOH and PPSWO seek declaratory and injunctive relief because Section 3701.034 violates the First Amendment and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution. Section 3701.034 impermissibly disqualifies PPGOH and PPSWO from receiving certain funds because of their constitutionally protected advocacy in support of safe and legal abortion. Section 3701.034 also impermissibly disqualifies PPGOH and PPSWO from receiving the funds at issue because of their provision of constitutionally protected abortions, even though those abortion services are undertaken without any government funding or involvement. Section 3701.034 exacts an extreme punishment—total disqualification—even though the funds at issue have nothing to do with abortion.

6. Section 3701.034 cannot be justified on the ground that it avoids government subsidization of abortion, because (with a few narrow exceptions) federal and state law already prohibit government funds from being used for abortion services, *see, e.g.*, Ohio Rev. Code § 9.04(B), and PPGOH and PPSWO have rigorously adhered to those prohibitions. Nor can Section 3701.034 be justified by its budgetary impact: The government funds diverted from PPGOH and PPSWO are theoretically available to other organizations, which could apply to receive the same grant money.

7. The principal effect of Section 3701.034 will be to deprive Ohio residents, including low-income women, men, and teens, of much needed services. No other existing organization in the region comes close to matching either PPGOH's or PPSWO's trusted high quality of care, accessibility, and specialized expertise in the services it provides. Even if other health care providers are eventually able to provide similar services, many patients' health care and access to other services will be disrupted because other providers are not prepared to assume responsibility for those services. Disruptions in care, including testing and treatment, could have a serious impact on the health of those patients.

8. Section 3701.034 will take effect on May 23, 2016. If permitted to stand, Section 3701.034 will cause significant and irreparable harm to PPGOH and PPSWO, as well as those served by PPGOH and PPSWO, who will have few or no options for vital health services. Enforcement of Section 3701.034 will force PPGOH and PPSWO to eliminate services, including life-saving health care services and educational programs. These cuts will fall hardest on the many low-income Ohioans served by PPGOH's and PPSWO's programs, and those PPGOH and PPSWO employees whose jobs will likely be terminated. Termination of employees, among other things, will make it difficult to reconstitute these programs should PPGOH and PPSWO become eligible to apply for funding once again.

9. Plaintiffs' compliance with Section 3701.034's funding condition (as implemented by ODH)—*i.e.*, by ceasing to perform and “promote” abortions—would constitute an undue, constitutionally intolerable burden on the abortion rights of Ohio women. PPSWO and PPGOH provided approximately 30 percent (approximately 6,257 of 21,186) of the abortions in the State of Ohio in calendar year 2014. In the same year, PPGOH provided approximately 36 percent (approximately 1,500 of 4,137) of the abortions in Franklin County

and 23 percent (approximately 2,000 of 8,548) of the abortions in Cuyahoga County. PPSWO operates the only abortion clinic in the Cincinnati area, and in 2014 performed 2,757 abortions there. Were Plaintiffs to comply with Section 3701.034's funding condition, the consequences for Ohio women would be dramatic. Cincinnati would become the largest metropolitan area in the country without an abortion clinic. The overnight disappearance of approximately one quarter to one third of capacity in Franklin and Cuyahoga counties would likely overwhelm existing providers, expand wait times, and leave some women in those counties with no feasible option for exercising their constitutional right to choose to have an abortion. This would worsen an already dire situation for women seeking an abortion in Ohio, as half of Ohio's abortion clinics have shut down due to restrictive legislation over the last 6 years.

#### **JURISDICTION AND VENUE**

10. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 and § 1343.

11. Plaintiffs' claim for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the general legal and equitable powers of this Court.

12. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2) because PPSWO is headquartered in Cincinnati, Ohio, and experiences the denial of funding there. Furthermore, the PPSWO health centers affected by Section 3701.034 are located in Hamilton County, Ohio, and but for Section 3701.034 would receive funds administered by ODH. Therefore, a substantial part of the events or omissions giving rise to the claims alleged herein arise in this district.

13. In addition, one of the defendants, Timothy Ingram, the Commissioner of Hamilton County Public Health, resides within this district. Venue is therefore also proper in

this district under 28 U.S.C. § 1391(b)(1).

### **THE PARTIES**

#### **A. Plaintiff PPGOH**

14. Plaintiff PPGOH is a not-for-profit corporation organized under the laws of Ohio. PPGOH brings this action on behalf of itself, its patients, and those benefiting from its health education and outreach services.

15. PPGOH provides affordable, respectful, and high-quality health care to tens of thousands of patients. PPGOH operates 21 health centers in 20 locations in northern, eastern, and central Ohio, which provide a wide range of reproductive health services, including well-women exams, screening for breast and cervical cancer, contraception and contraceptive counseling, and testing and treatment for sexually transmitted diseases and infections. At two of its health centers, located in Columbus and in the Cleveland area, PPGOH provides abortions to women who seek to terminate their pregnancy.

16. Many of the patients who receive health care services at PPGOH's health centers have limited income. Approximately 40 percent of the patients treated at PPGOH's health centers in the fiscal year ending June 29, 2015 are low-income, many of whom live at or below the poverty line.

17. PPGOH also provides a variety of education programs through its Health Education and Outreach Department. The department's mission is to empower Ohioans to make informed, responsible sexual health decisions through comprehensive, evidence-based programming.

18. PPGOH also engages in advocacy and public education activities intended to protect and facilitate access to comprehensive reproductive health, including safe and

legal abortion services for women who choose to exercise their right to choose that option.

19. Although PPGOH is an independent entity, it is an affiliate of Planned Parenthood Federation of America, Inc. (“PPFA”), which also advocates for women’s access to comprehensive reproductive health care, including abortion.

20. PPFA’s mission is to ensure that its affiliates provide comprehensive reproductive health care services, high quality care, and educational programs relating to reproductive and sexual health, and to advocate for public policies to ensure access to health services. PPGOH’s association with PPFA is critical to its core mission of ensuring access to reproductive health care.

**B. Plaintiff PPSWO**

21. Plaintiff PPSWO is a not-for-profit corporation organized under the laws of Ohio. PPSWO brings this action on behalf of itself, its patients, and those benefiting from its health education and outreach services.

22. PPSWO provides affordable, respectful, and high quality health care to tens of thousands of patients in Southwest Ohio and Northern Kentucky. PPSWO operates seven health centers in Southwest Ohio, which are located in Cincinnati, Dayton, Hamilton, Springdale, and Springfield. Those health centers provide a wide range of reproductive health services, including well-women exams, screening for breast and cervical cancer, contraception and contraceptive counseling, and STD testing and treatment. At one of its health centers, located in Cincinnati, PPSWO provides abortions. Approximately 75 percent of the patients treated in these health centers are low-income.

23. PPSWO also provides a variety of education programs through its dedicated team of education staff. The team’s mission is to empower Ohioans to make informed,

responsible sexual health decisions through comprehensive, evidence-based programming.

24. PPSWO also engages in advocacy and public education activities intended to protect and facilitate access to safe and legal abortion services for women who choose to exercise their right to choose that option.

25. Like PPGOH, PPSWO is an affiliate of PPFA, and PPSWO's association with PPFA is critical to its core mission of ensuring access to reproductive health care.

### **C. Defendants**

26. Defendant Richard Hodges is the Director of ODH, which is the agency responsible for administering state and federal programs that disburse funds to service providers, and which would disburse the funds at issue to PPGOH and PPSWO in the absence of Section 3701.034. Defendant Hodges is sued only in his official capacity.

27. Timothy Ingram is the Commissioner of Hamilton County Public Health, which is the agency responsible for administering certain state and federal programs that disburse funds to service providers in Hamilton County, and which would disburse certain funds at issue to PPSWO in the absence of Section 3701.034. Defendant Ingram is sued only in his official capacity.

### **PPGOH'S AND PPSWO'S GRANT PROGRAMS**

28. Until the passage of Section 3701.034, PPGOH and PPSWO participated in many programs that are intended to promote public health, including and especially the health of lower-income women and minorities. Almost all of those programs are funded entirely by the federal government. Under those programs, a federal agency provides funding to the State of Ohio, which contracts with local service providers directly, or passes those funds on to local agencies, which in turn contract with local service providers to provide the services. Section

3701.034 will bar PPGOH and PPSWO from carrying out the services that they previously provided under those programs, to the detriment of the health and health literacy of many Ohio residents.

**A. Infertility Prevention Project/STD Prevention Program**

29. The STD Prevention Program, which is part of the Infertility Prevention Project, is a federal program that subsidizes the provision of diagnostic tests and treatments for sexually transmitted diseases (“STDs”) (today, more generally referred to as sexually transmitted infections (“STIs”)). Section 318 of the Public Health Service Act (“PHSA”) authorizes the United States Secretary of Health and Human Services to make project grants to states for STD control and prevention programs, including screening, diagnostic tests, and treatment. *See* 42 U.S.C. § 247c(c) (authorizing Secretary to make grants to “States and, in consultation with the State health authority, to political subdivisions of States for . . . sexually transmitted diseases surveillance activities, including the reporting, screening, and follow up of diagnostic tests for, and diagnosed cases of, sexually transmitted diseases”).<sup>1</sup>

30. STD Prevention Program funds are granted by the United States Centers for Disease Control (“CDC”) to states or state agencies (“grantees”), such as ODH. Grantees in turn may enter into agreements with other entities (“subgrantees”) to provide STD Prevention Program services.

31. PPGOH has served as a subgrantee in the STD Prevention Program for more than 15 years. In fiscal year ending July 30, 2016, PPGOH received testing kits, diagnostic testing, and treatment medication valued at \$420,000. Approximately 64,300 of the 90,000 STD tests that PPGOH administers annually are funded through the STD Prevention Program

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<sup>1</sup> The STD Prevention Program was once part of the now-defunct Infertility Prevention Project, which was also authorized under section 318 of the PHSA.

to benefit Ohioans who could not otherwise afford the costs of those services.

32. PPSWO has served as a subgrantee in the STD Prevention Program for more than 14 years. For the period May 1, 2015 to April 30, 2016, it received testing kits, processing, and treatment medications for its patients under this program. PPSWO uses these items to provide approximately 7,943 STD tests and 1,150 treatments annually to benefit Ohioans who could not otherwise afford the costs of those services.

**B. Breast and Cervical Cancer Project**

33. Congress established the National Breast and Cervical Cancer Early Detection Program when it enacted the Breast and Cervical Cancer Mortality Prevention Act of 1990. Breast and Cervical Cancer Project (“BCCP”) funds are intended to ensure access to high quality screening and follow-up services for low-income and minority women. *See* 42 U.S.C. § 247B(k)(2).

34. BCCP funds are awarded by the CDC to grantees, including ODH, which in turn disburse funds to service providers through 11 Regional Enrollment Agencies. Service providers do not receive up-front grants but are instead reimbursed for the services they provide.

35. PPGOH has received funding under the BCCP for more than 20 years. In fiscal year ending July 30, 2015, it was reimbursed in the amount of \$18,876 for services provided to eligible recipients. PPGOH uses those funds to provide life-saving pap tests, breast exams, colposcopies, and cervical biopsies to low-income women over the age of 40 who are at risk for cancer but are not eligible for coverage under Medicaid.

36. PPSWO has received funding under the BCCP for more than 12 years. For the period May 1, 2015 to April 30, 2016, it was reimbursed in the amount of \$3,056 for

BCCP services. PPSWO uses those funds to provide life-saving pap tests, breast exams, colposcopies, and cervical biopsies to low-income women over the age of 40 who are at risk for cancer but are not eligible for coverage under Medicaid.

**C. Minority HIV/AIDS Initiative & HIV Prevention Program**

37. The Minority HIV/AIDS Initiative was established by Congress in 1999 in response to growing concern about the impact of HIV and AIDS on racial and ethnic minorities. *See* Pub. L. No. 105-277, 112 Stat. 2681 (1998).

38. Minority HIV/AIDS Initiative funds are granted by the CDC to grantees, including ODH. ODH operates an HIV/STD Prevention Program, in cooperation with the federal Minority HIV/AIDS Initiative, which provides funds to local health authorities for purposes of HIV prevention programs. ODH and/or the local health authorities enter into agreements with subgrantees to provide HIV prevention services.

39. For purposes of the Minority HIV/AIDS Initiative, PPGOH is a subgrantee of the Canton City Health Department, the Summit County Health Department, and the City of Cleveland. It has received funding under the program for 22 years. For fiscal year ending December 31, 2016, PPGOH received three Minority HIV/AIDS Initiative grants totaling \$112,845. PPGOH uses its Minority HIV/AIDS Initiative funds to provide anonymous and confidential HIV tests to low-income and minority Ohioans. PPGOH's program focuses on African-American women with risk factors for HIV.

40. The HIV Prevention Program is a comprehensive federal prevention program intended to reduce new infections, increase access to care, improve health outcomes for people living with HIV, and promote health equity. HIV Prevention Program funds are granted by the CDC to grantees, including ODH and local health authorities. ODH and/or

local health authorities enter into agreements with organizations like PPSWO to provide HIV prevention services.

41. PPSWO has received HIV Prevention Program funding for four years. For the grant year ending December 31, 2016, PPSWO was awarded more than \$100,000 in HIV Prevention Program grants by Public Health—Dayton & Montgomery County and Hamilton County Public Health.

42. PPSWO uses its Minority HIV/AIDS Initiative/HIV Prevention funds to provide 1,600 anonymous and confidential HIV tests annually, as well as education and referrals, to low-income and minority Ohioans. PPSWO's program focuses on gay men with risk factors for HIV.

**D. “Healthy Moms Healthy Babies” Infant Mortality Initiative**

43. The “Healthy Moms Healthy Babies” Infant Mortality Initiative is a neighborhood outreach program that targets pregnant, at-risk African-American women. It is funded by the Ohio Infant Mortality Reduction Initiative, which itself is funded by a block grant to ODH from the United States Department of Health and Human Services (“HHS”) under Title V of the Social Security Act. 42 U.S.C. § 701 *et seq.* The purpose of the Ohio Infant Mortality Reduction Initiative is to provide community-based outreach and care coordination services in targeted communities with at-risk, low-income, African-American, pregnant women and their families. Grantees may provide services themselves or, as is the case in Ohio, enter into agreements with subgrantees to provide services.

44. PPGOH has received Infant Mortality Reduction Initiative grants for 20 years. For the period July 1, 2015 through September 30, 2016, PPGOH received two grants totaling approximately \$350,000, including a \$185,000 grant from Trumbull County Health

Department and \$168,500 from the Mahoning County General Health District.

45. PPGOH uses the Infant Mortality Reduction Initiative funds it receives to provide education, outreach, home visits, and referrals to women before pregnancy, during pregnancy, and up to two years after birth, including providing critical education and assistance in the areas of health, housing, nutrition, and employment. Many of the women in the program do not have transportation for prenatal appointments, may not have health insurance, and/or may engage in high-risk activities.

**E. Personal Responsibility Education Program**

46. The federal Personal Responsibility Education Program (“PREP”) was authorized in 2010 as part of the Affordable Care Act. *See* 42 U.S.C. § 713. Through the PREP program, HHS provides grants to states and other entities to educate young people regarding abstinence and contraception. ODH has a PREP grant designed to reduce teen pregnancy and sexually transmitted infection rates for young people in Ohio, aged 14 to 19, who are in the foster care and juvenile justice systems.

47. Through this program, ODH works through nine regional grantees, who in turn receive training and then work regionally to train direct-care staff who work with foster care and juvenile-justice-involved youth. The program consists of an evidence-based pregnancy and STD prevention curriculum, Reducing the Risk (“RTR”), as well as other topics related to health and adulthood, including healthy relationships (a Planned Parenthood curriculum), financial literacy, and preparing for careers.

48. For the fiscal year ending July 31, 2016, PPGOH received a \$166,508 grant from ODH to carry out PREP programming in 14 counties in Ohio. For fiscal year ending July 31, 2016, PPGOH also received an \$18,160 grant from Summit County Public Health

and Cuyahoga County Board of Health and a \$23,597 grant from Cuyahoga County—for a total of \$208,265.87 in PREP funding—to provide PREP programming in those counties. With these funds, PPGOH has trained 209 agency staff members who have provided PREP services to 706 young Ohioans.

49. For the fiscal year ending July 31, 2016, PPSWO received two grants from ODH totaling \$291,000 to carry out PREP programming in 18 counties. With PREP funding, PPSWO has trained 270 agency staff members who have provided the evidence-based education to 1,170 young Ohioans, approximately one third of the total number of young persons who have received PREP education in Ohio.

**F. Violence Against Women Act**

50. The federal Violence Against Women Act (“VAWA”) authorizes funding for a Sexual Violence Prevention Program, the goals of which are (1) to reduce the incidence of rape and other forms of sexual violence through primary prevention and education, and (2) to ensure that survivors and their families and friends have access to quality hotline services. The VAWA Sexual Violence Prevention Program includes several grant programs, including Enhancement Projects for outreach to specific communities.

51. VAWA funds are granted by multiple federal agencies to state grantees including ODH. ODH enters into agreements with subgrantees to provide VAWA Sexual Violence Prevention Program services.

52. For fiscal year ending January 31, 2017, PPSWO received \$65,000 in federal VAWA funding from ODH. PPSWO uses its VAWA Sexual Violence Prevention Program funds to provide training to students in middle and high schools in Montgomery, Clark, Greene, and Preble counties. Through the program, PPSWO teaches 700 students each year

about healthy relationships, sexual assault recognition, and bystander intervention skills. Complementary programs are offered for parents.

**THE PASSAGE OF SECTION 3701.034**

53. Section 3701.034 is merely the latest in a series of enactments by Ohio in recent years that have targeted abortion providers.

54. For instance, for more than ten years, the Ohio legislature and ODH have attempted to shut down abortion providers through increasingly onerous requirements related to an Ohio rule that abortions may be provided only in ambulatory surgical facilities that maintain a written transfer agreement with a local hospital. That rule does nothing to increase patient safety or health and is not medically necessary: surgical abortion is an extremely safe procedure that is almost always performed in an outpatient setting, and in the exceedingly rare event that transfer of an abortion patient to an inpatient setting is required, hospitals will not turn patients away. Yet because Ohio hospitals refuse to enter into written transfer agreements with abortion providers (either due to hospitals' religious affiliation or their fear of harassment and intimidation from pro-life activists), ODH and the Ohio legislature have leveraged the rule to target abortion providers. In 2013, Ohio passed a law that, among other things, prevented public hospitals from entering into written transfer agreements with facilities where "nontherapeutic abortions" are performed. Ohio Rev. Code § 3727.60(B)(1). And in 2015, Ohio passed a law that, among other things, made denial of a waiver of the written transfer agreement requirement automatic grounds for suspension of an ambulatory surgical center's license to operate. Ohio Rev. Code § 3702.309.

55. Ohio also has some of the most restrictive laws in the country governing access to abortion, including requiring women seeking abortions to make two separate trips

to a health center to receive state-mandated information.

56. Governor John Kasich signed Substitute House Bill 294 into law, as Section 3701.034 of the Ohio Code, on February 21, 2016.

57. The provisions in Section 3701.034 at issue in this lawsuit take effect on May 23, 2016.

58. Section 3701.034 requires ODH to ensure that funds it receives through several state and federal programs are not used to “(1) Perform nontherapeutic abortions; (2) Promote nontherapeutic abortions; (3) Contract with any entity that performs or promotes nontherapeutic abortions; [or] (4) Become or continue to be an affiliate of any entity that performs or promotes nontherapeutic abortions.”

59. Section 3701.034 defines “Promote” to mean “to advocate for, assist with, encourage, or popularize through advertising or publicity.”

60. Under Section 3701.034, a “nontherapeutic abortion” is defined as “an abortion that is performed or induced when the life of the mother would not be endangered if the fetus were carried to term or when the pregnancy of the mother was not the result of rape or incest reported to a law enforcement agency.” Ohio Rev. Code § 9.04(A)(1). Under this definition, abortions are “nontherapeutic” even when they are required to avoid serious but non-life-threatening harms to the woman or to terminate pregnancies resulting from unreported rapes and incest.

61. Section 3701.034 explicitly governs ODH’s allocation of funds provided by the federal government under the Violence Against Women Act, the Breast and Cervical Cancer Mortality Prevention Act of 1990, the CDC’s Infertility Prevention Project, HHS’s Minority HIV/AIDS Initiative, and HHS’s Personal Responsibility Education Program.

Section 3701.034 also governs ODH's allocation of state funds, including funds for Ohio's Infant Mortality Initiative (which is itself funded by the federal government pursuant to a grant from HHS).

62. Under Section 3701.034, as interpreted by ODH, PPGOH and PPSWO are prohibited from receiving certain federal or state funds because they perform "nontherapeutic" abortions and promote "nontherapeutic" abortions, as defined under the law, with separate funds, and because each affiliates with PPFA, which also promotes "nontherapeutic" abortions as defined under the law.

63. Both of the original House co-sponsors indicated that the primary purpose of Section 3701.034 was to prevent government funds from being used for elective abortions, even though state and federal law already prevented federal funds from being used for that purpose. *See* House Floor Debate, Statement of Rep. Margaret Conditt (Nov. 17, 2015) (stating that the purpose of the bill was to "require the Ohio Department of Health, or ODH, to ensure that funds received from the state, or a variety of federal funds, are not used to perform or promote nontherapeutic abortions."); House Floor Debate, Statement of Rep. Bill Patmon (Feb. 10, 2016) (rationale behind the bill is "that taxpayer dollars should not be used for [non]therapeutic abortions."). The title of the bill also reflects this purpose. *See* Substitute H.B. 294 (131st Gen. Assembly) (2016) (short title of the bill is "Dept of Health-ensure state/federal funds not used for elective abortions").

64. Another supporter of the bill, Senator Peggy Lehner, candidly explained that the law amounted to retribution for Planned Parenthood's decision to be an abortion provider. According to Senator Lehner, the bill was "necessary only because Planned Parenthood has chosen—you like the word choice—they have chosen to be the leading abortion provider in

this nation. You say, but oh, but that's only three percent of what they do. Well if it's only three percent, then perhaps they should be looking to say, let's drop abortion, and concentrate on all those other things. ... We have an obligation ... to say ... to Planned Parenthood, until you get out of the business of termination of pregnancy, the destruction of human life, we are not going to choose to fund you." Senate Floor Debate, Statement of Sen. Peggy Lehner (Jan. 27, 2016).

65. Section 3701.034 is unnecessary to prevent federal and state funds from being used to perform "nontherapeutic abortions," as the State defines that term. The federal Hyde Amendment, which has been attached to congressional appropriation acts every year since 1976, has long prohibited the use of federal funds to provide abortions that would be defined as "nontherapeutic" under Ohio law. Ohio law also contains a separate provision, analogous to the federal Hyde Amendment, banning the use of funds of the "state or any political subdivision thereof" for "nontherapeutic" abortions. Ohio Rev. Code § 9.04(B).

66. Prior to enacting Section 3701.034, the Ohio legislature made no finding and considered no evidence suggesting that either PPGOH or PPSWO had violated those prohibitions.

**THE IMPACT OF SECTION 3701.034 ON  
PPGOH, PPSWO, AND THE COMMUNITIES THEY SERVE**

67. Section 3701.034 will have a devastating impact on PPGOH, PPSWO, and the communities they serve.

68. PPGOH will lose approximately \$640,000 in grant funds annually as well as \$420,000 worth of diagnostic testing and treatment dedicated to providing health care and

health education programs to Ohioans.<sup>2</sup>

69. PPSWO will lose approximately \$469,000 in grant funds annually as well as diagnostic testing and treatment supplies under these programs.

70. Without that funding, PPGOH's and PPSWO's ability to offer life-saving health care services and educational programs to tens of thousands of individuals in low-income communities will be severely limited.

71. For example, PPGOH and PPSWO can offer services to patients without substantial wait times, and in many instances can see patients on the same day that they seek an appointment. On information and belief, the public health clinics that operate in the same regions as PPGOH and PPSWO have limited hours and/or have wait times of several weeks to several months for appointments.

72. Few, if any, other organizations possess the same level of expertise and experience in administering the education programs affected by Section 3701.034 with PPFA and its affiliates have long been recognized as a leader in sex and reproductive education. PPGOH and PPSWO have won competitive grants and received praise from administrators for the services they have provided under the affected programs.

73. Plaintiffs have no adequate remedy at law and will suffer irreparable harm if Section 3701.034 is not enjoined.

**A. Impact on PPGOH and The Communities It Serves**

74. If implemented, Section 3701.034 will prevent PPGOH from participating in the Infertility Prevention Project/STD Prevention Program, resulting in a loss of \$420,000

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<sup>2</sup> For the fiscal year ending June 2015, PPGOH received an extended grant under the "Healthy Moms Healthy Babies" program. Because of the additional \$50,000 awarded to PPGOH through that grant, PPGOH's total funding under these programs is approximately \$690,000 this year.

worth of diagnostic testing and treatment for STIs. Approximately 64,300 of the 90,000 STD tests that PPGOH administers annually are funded through the STD Prevention Program, and PPGOH cannot provide the same amount of free testing and treatment without these funds.

75. On April 13, 2016, PPGOH received a letter signed by Director Hodges, informing PPGOH that ODH will terminate its contract under the STD Prevention Program effective May 22, 2016. The letter states that ODH is terminating the funds as required by Section 3701.034.

76. Although the availability of public and private health centers varies throughout northern, eastern, and central Ohio, few health care providers are prepared to provide STD testing and treatment in a similarly robust fashion and in a similarly discreet environment as PPGOH. Many PPGOH health centers are open six days per week and do not limit the hours during which patients can obtain STD tests, ensuring the privacy of patients who seek such testing. By contrast, most other Federally Qualified Health Centers (“FQHCs”) and local health departments only offer free or reduced-cost STD testing on one or two days per week. Because STD testing is provided at such limited times, the reason patients who visit the departments at those times require care is readily apparent. Because 40 percent of PPGOH’s patients are low-income, many will be unable to turn to providers that charge for services.

77. Some communities served by PPGOH do not even have local health centers that provide STD testing and treatment. But even in cities such as Columbus, where local health departments offer testing multiple days per week, those departments are not prepared to absorb PPGOH’s patients. At least one advises patients that they should “[p]lan to arrive

early” because the clinic “may fill up quickly” and “may stop taking patients early if it becomes full.” *Sexual Health Program Information and Services Types*, City of Columbus Public Health, <https://www.columbus.gov/publichealth/programs/sexual-health/> (last visited May 10, 2016). Many communities served by PPGOH are classified by the U.S. Department of Health and Human Services as Medically Underserved Areas, meaning they have too few primary care providers, high infant mortality, high poverty or a high elderly population.

78. Absent the support that until now has been provided by the BCCP, PPGOH will be unable to provide life-saving pap tests, breast exams, colposcopies, and cervical screenings to low-income Ohioans under the BCCP. Although PPGOH is dedicated to continuing to provide cancer screenings in the absence of this support, it will no longer be able to provide free screenings to those women served by this grant. PPGOH will work with patients to provide screenings on a sliding-fee scale, but for many patients at or below the poverty level, *any* cost renders screenings unaffordable.

79. On April 13, 2016, PPGOH received a letter signed by Director Hodges informing PPGOH that ODH will terminate its agreement to provide services through BCCP effective May 22, 2016. The letter states that ODH is terminating the contract “on the basis that the enactment of R.C. 3701.034 terminates funding.”

80. Very few, if any, other clinics provide similar breast and cervical cancer prevention services free of cost. The existing no-cost and low-cost providers in the regions served by PPGOH are unable to offer same-day and next-day appointments as PPGOH currently does. The approximate wait time for the same screening and a local health department or FQHC is one to two weeks. These wait times may become even longer if the

other providers are forced to absorb PPGOH's patients.

81. Section 3701.034 will also end PPGOH's involvement in the Minority HIV/AIDS Initiative, which enabled PPGOH to provide 3,600 free, anonymous, and confidential HIV tests throughout Ohio. Without the \$112,845 in funds it annually receives under this program, PPGOH will be forced to terminate its HIV outreach and prevention services and ask patients to pay for HIV tests on a sliding-fee scale in all of the health centers in the communities covered by the grant.

82. On April 4, 2016, PPGOH received a letter from Eric Seachrist, a fiscal officer at Summit County Public Health, stating that Summit County will terminate its contract under the HIV Prevention Program effective May 23, 2016 because Summit County "must comply with [Section 3701.034]."

83. On April 20, 2016, PPGOH received a letter from James M. Adams, the Health Commissioner for the Canton City Health Department. Commissioner Adams writes that "it is with regret" that he has to inform PPGOH that Canton will terminate its agreement with PPGOH to provide services under the HIV Prevention Program as of May 20, 2016. The letter further states that Canton has been "most appreciative" of its collaboration with PPGOH.

84. PPGOH's inability to provide HIV outreach and free testing services will be felt heavily by the communities it serves. PPGOH is the largest provider of HIV testing and treatment in Cleveland, Akron, and Canton. In his April 20, 2016 letter, Commissioner Adams expressed appreciation that PPGOH had succeeded at encouraging testing among populations that "otherwise have nowhere else to go to get tested for HIV."

85. Other local health care providers likely do not have the infrastructure to

absorb PPGOH's patients, and, upon information and belief, ODH has not developed a contingency plan to care for patients who cannot afford testing and treatment. The effect on the community is potentially catastrophic. When individuals are not made aware of ways to protect themselves, HIV spreads rapidly and may become a public health crisis. This is especially true in economically disadvantaged and rural areas, where drug cultures tend to thrive and individuals are unable or unwilling to drive significant distances to get tested.

86. Without funding from the Minority HIV/AIDS Initiative, PPGOH will have to lay off four full-time employees.

87. Under Section 3701.034, PPGOH will lose approximately \$350,000 annually in grant money under the Healthy Moms Healthy Babies program. Because there is no other grant money available to PPGOH to carry out services under this program, PPGOH will be forced to terminate the Healthy Moms Healthy Babies program entirely.

88. On April 19, 2016, PPGOH received a letter signed by Patricia M. Sweeney, Health Commissioner of the Mahoning County District Board of Health, informing PPGOH that the board will terminate its contract with PPGOH to provide services under the Healthy Moms Healthy Babies program effective May 23, 2016 as "require[d]" by Section 3701.034. The letter also states that the board is "sorry that this had to happen and thank[s] you for the service you have provided over the years."

89. On April 22, 2016, PPGOH received a letter signed by Frank Migliozi, Health Commissioner of the Trumbull County Combined Health District. The letter states that Trumbull County "must" terminate its contract with PPGOH as of May 20, 2016 in accordance with Section 3701.034.

90. These cuts will deprive 245 expectant and new mothers every year from

PPGOH's expertise in providing critical health and parenting education and other vital assistance.

91. PPGOH will likely also have to lay off the six staff members dedicated to the Healthy Moms Healthy Babies program.

92. Finally, Section 3701.034 will eliminate \$208,265 in funding under the PREP program, depriving at-risk young Ohioans of PPGOH's expertise in training of professionals in juvenile justice and foster care settings to work with youth regarding teen pregnancy, adulthood preparation, and healthy relationships.

93. On April 4, 2016, PPGOH received a letter signed by Eric Seachrist of Summit County Public Health informing PPGOH that Summit County will terminate PPGOH's services under the PREP program beginning May 23, 2013 "pursuant to [House Bill 294]."

94. On April 13, 2016, PPGOH received a letter signed by Director Hodges, informing PPGOH that ODH will cease funding PPGOH under the PREP program as of May 22, 2016. The letter states that ODH is terminating the funds as required by Section 3701.034.

95. PPGOH also received notification dated April 27, 2016 from the Cuyahoga County Board of Health, terminating its PREP funding effective May 20, 2016.

96. There is no other provider in the areas served by PPGOH with the same expertise and experience in teen-pregnancy and health-relationships curricula.

97. As the funding at issue here amounts to 55 percent of PPGOH's education budget, Section 3701.034 will also threaten the employment of PPGOH's community health educators.

**B. Impact on PPSWO and The Communities It Serves**

98. PPSWO will likewise no longer be able to offer important health and education services if Section 3701.34 is implemented. If Section 3701.034 takes effect, PPSWO will no longer be able to provide approximately 3,970 STD tests (at a value of \$31,000) and 1,150 free prescriptions to its patients (at a value of \$18,500) through the STD Prevention Program. Given that approximately 75 percent of PPSWO's patients are low-income—and thus cannot afford even heavily subsidized testing and prescriptions—the law will force PPSWO to turn away patients who need care because it is unable to absorb the costs of providing this free testing and treatment. Although the availability of public and private health centers varies throughout southwestern Ohio, it is unlikely that other providers are prepared to provide health care and educational services comparable to those provided by PPSWO.

99. On April 13, 2016, PPSWO received letters signed by Director Hodges, informing PPSWO that ODH will terminate funding for the STD Prevention Program effective May 22, 2016. The letters explain that Section 3701.034 prohibits ODH from providing funds to an entity that performs or promotes “nontherapeutic” abortions.

100. Section 3701.034 will also result in the termination of PPSWO's BCCP funding. As a result, PPSWO will be forced to reduce the number of life-saving pap tests, breast exams, colposcopies, and cervical screenings it is able to provide free of charge to low-income women who are ineligible for Medicaid.

101. PPSWO will also lose funds for HIV testing, particularly men who have sex with men and other people with risk factors for HIV. Funds under the HIV Prevention Project currently allow PPSWO to carry out 1,600 HIV tests each year as well as education

and referrals for patients with positive results to care and case management. Without those funds, PPSWO will be unable to continue this critical program with at-risk populations with which it has built trust and rapport. PPSWO has also had to lay off four staff members dedicated to the HIV Prevention Program.

102. On February 23, 2016, Timothy Ingram, Health Commissioner of Hamilton County Public Health, sent a letter to PPSWO stating that Hamilton County was terminating its contract with PPSWO for HIV testing and risk counseling services effective March 31, 2016. That letter stated that Hamilton County was terminating PPSWO's contract because Section 3701.034 "prohibit[s] any Ohio government agency to contract with any organization with similar functions like Planned Parenthood."

103. On April 18, 2016, Janine Howard, Director of Disease Prevention for Public Health—Dayton & Montgomery County, sent a letter to PPSWO stating that Dayton & Montgomery County was terminating its contract with PPSWO to provide services supporting the Ohio HIV Prevention Statewide Initiative effective May 23, 2016. That letter states that Dayton & Montgomery County are terminating PPSWO's contract because "[p]ursuant to [Section 3701.034], ODH must ensure that state funds received by ODH and certain federal funds are not used . . . to contract or affiliate with any entity that performs or promotes nontherapeutic abortions" and that "ODH subrecipients[] and contracts must comply with this law."

104. By ending PPSWO's eligibility for PREP funds, Section 3701.034 will also strip PPSWO of \$291,000 per year. As a result, PPSWO will no longer be able to train juvenile-justice and foster-care staff members, and hundreds of staff members and more than 1,000 at-risk youth will be deprived of PPSWO's expertise in topics such as healthy

relationships, avoidance of unwanted sex, contraception, and financial and workforce literacy.

105. On April 13, 2016, PPSWO received a letter signed by Director Hodges informing PPSWO that Section 3701.034 “effectively terminates” PPSWO’s eligibility for PREP funds. The letter further explains that ODH will no longer provide PPSWO with PREP funding as of May 22, 2016.

106. PPSWO will also lose the \$65,000 it receives under the VAWA program annually, effectively ending its successful program designed to teach students about healthy relationships and prevent violence, and thereby depriving approximately 700 students per year of PPSWO’s expertise in teaching about healthy relationships and violence prevention.

107. PPSWO has already been forced to lay off one staff member because of the uncertainty faced in connection with receipt of VAWA and PREP funds, and PPSWO will likely have to lay off another staff member if it loses the VAWA grant entirely.

### **CLAIMS FOR RELIEF**

#### **CLAIM I – FIRST AMENDMENT**

108. Plaintiffs hereby incorporate Paragraphs 1 through 107 above.

109. Section 3701.034 violates the First Amendment by denying state and federal funds to PPGOH and PPSWO because of—and in retaliation for—their constitutionally-protected advocacy for abortion rights and affiliation with other organizations that also advocate for abortion rights and/or provide abortion services.

#### **CLAIM II – DUE PROCESS CLAUSE**

110. Plaintiffs hereby incorporate Paragraphs 1 through 107 above.

111. Section 3701.034 violates the Fourteenth Amendment by denying state and

federal funds to PPGOH and PPSWO because of—and in retaliation for—their exercise of their own constitutionally protected right to provide abortions and their patients’ exercise of the constitutional right to choose to have an abortion.

**CLAIM III – EQUAL PROTECTION CLAUSE**

112. Plaintiffs hereby incorporate Paragraphs 1 through 107 above.

113. Section 3701.034 violates the Equal Protection Clause of the Fourteenth Amendment by singling out abortion providers and those who “promote” abortions, including PPGOH and PPSWO, for unfavorable treatment without a constitutionally sufficient justification.

**RELIEF REQUESTED**

WHEREFORE, Plaintiff requests that this Court:

A. Issue a declaratory judgment that Section 3701.034 of the Ohio Revised Code violates the First Amendment to the United States Constitution;

B. Issue a declaratory judgment that Section 3701.034 of the Ohio Revised Code violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution;

C. Issue a declaratory judgment that Section 3701.034 of the Ohio Revised Code violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;

D. Issue preliminary and permanent injunctive relief, without bond, restraining the enforcement, operation, and execution of Section 3701.034 of the Ohio Revised Code, by enjoining Defendants, their agents, employees, appointees, or successors from enforcing, threatening to enforce, or otherwise applying the provisions of Section 3701.034 and directing

Defendants to honor their contracts with and contractual offers to Plaintiffs, to accept and consider without regard to Section 3701.034 Plaintiffs' applications for grants and funding, and to reinstate Plaintiffs' contracts that were terminated pursuant to Section 3701.034;

E. Award Plaintiffs their attorney's fees, costs, and expenses, pursuant to 42 U.S.C. § 1988; and

F. Grant such further relief as this Court deems just and proper.

Respectfully submitted,

Helene Krasnoff  
Carrie Y. Flaxman  
Planned Parenthood Federation of America  
1110 Vermont Avenue, NW, Suite 300  
Washington, D.C. 20005  
(202) 973-4800  
(202) 296-3480 (fax)  
[helene.krasnoff@ppfa.org](mailto:helene.krasnoff@ppfa.org)  
[carrie.flaxman@ppfa.org](mailto:carrie.flaxman@ppfa.org)  
*Applications for Pro Hac Vice pending*

Paul R.Q. Wolfson  
Kimberly A. Parker  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
1875 Pennsylvania Avenue NW  
Washington, DC 20006  
(202) 663-6000  
(202) 663-6363 (fax)  
[paul.wolfson@wilmerhale.com](mailto:paul.wolfson@wilmerhale.com)  
[kimberly.parker@wilmerhale.com](mailto:kimberly.parker@wilmerhale.com)  
*Applications for Pro Hac Vice pending*

/s/Jennifer L. Branch  
Jennifer L. Branch # 0038893  
*Trial Attorney for Plaintiffs*  
Alphonse A. Gerhardstein # 0032053  
GERHARDSTEIN & BRANCH CO. LPA  
432 Walnut Street, Suite 400  
Cincinnati, Ohio 45202  
(513) 621-9100  
(513) 345-5543 (fax)  
[agerhardstein@gbfirm.com](mailto:agerhardstein@gbfirm.com)  
[jbranch@gbfirm.com](mailto:jbranch@gbfirm.com)

Alan E. Schoenfeld  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
(212) 937-7294  
(212) 230-8888 (fax)  
[alan.schoenfeld@wilmerhale.com](mailto:alan.schoenfeld@wilmerhale.com)  
*Application for Pro Hac Vice pending*

*Counsel for Plaintiffs Planned  
Parenthood of Greater Ohio and  
Planned Parenthood Southwest Ohio  
Region*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 11, 2016, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing pleading and the Notice of Electronic Filing has been served by ordinary U.S. mail and email upon all parties for whom counsel has not yet entered an appearance electronically.

/s/ Jennifer L. Branch  
Trial Attorney for Plaintiff

JS 44 (Rev. 11/15)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

|  |  |
|--|--|
| <p><b>I. (a) PLAINTIFFS</b><br/>                 Planned Parenthood of Greater Ohio, and Planned Parenthood of Southwest Ohio</p> <p>(b) County of Residence of First Listed Plaintiff <u>Hamilton</u><br/>                 (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)<br/>                 Jennifer L. Branch 432 Walnut Street<br/>                 Gerhardstein and Branch Suite 400<br/>                 (513) 621-9100 Cincinnati, OH 45202</p> | <p><b>DEFENDANTS</b><br/>                 Richard Hodges, et al.</p> <p>County of Residence of First Listed Defendant _____<br/>                 (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p> |
|--|--|

|  |   |                            |   |                            |                            |            |            |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
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| <p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p> | <p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table> |                            | <b>PTF</b>  | <b>DEF</b>                 |                            | <b>PTF</b> | <b>DEF</b> | Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
|  | <b>PTF</b>  | <b>DEF</b>                 |   | <b>PTF</b>                 | <b>DEF</b>                 |            |            |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen of This State  | <input type="checkbox"/> 1  | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |            |            |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen of Another State   | <input type="checkbox"/> 2  | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |            |            |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen or Subject of a Foreign Country  | <input type="checkbox"/> 3  | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |            |            |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

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| <p><b>CONTRACT</b></p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p> | <p><b>TORTS</b></p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p><b>PERSONAL INJURY - PRODUCT LIABILITY</b></p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p><b>PERSONAL PROPERTY</b></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p> | <p><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><b>LABOR</b></p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p><b>IMMIGRATION</b></p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p> | <p><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p><b>SOCIAL SECURITY</b></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><b>FEDERAL TAX SUITS</b></p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p> | <p><b>OTHER STATUTES</b></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> |
|---|---|---|---|---|

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify)     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 USC § 1983

Brief description of cause:  
First Amendment and 14th Amendment Constitutional Challenge to ORC 3701.034

**VII. REQUESTED IN COMPLAINT:**     CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$ 0.00    CHECK YES only if demanded in complaint: JURY DEMAND:     Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):    JUDGE \_\_\_\_\_    DOCKET NUMBER \_\_\_\_\_

DATE 05/11/2016    SIGNATURE OF ATTORNEY OF RECORD Jennifer L. Branch

FOR OFFICE USE ONLY:    RECEIPT # \_\_\_\_\_    AMOUNT \_\_\_\_\_    APPLYING IFP \_\_\_\_\_    JUDGE \_\_\_\_\_    MAG. JUDGE \_\_\_\_\_