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## **Idaho v. United States and Moyle v. United States: The Supreme Court Will Decide If States Can Block Pregnant People from Getting Emergency Abortion Care.**

*In the consolidated cases Idaho v. United States and Moyle v. United States,<sup>1</sup> the U.S. Supreme Court will determine whether abortion care will be singled out and excluded from a federal law that was passed to protect all patients in need of emergency care.<sup>2</sup>*

### **Idaho banned abortion and wants to criminalize doctors for providing abortion care, even in the event of a medical emergency.**

The Idaho state legislature passed an abortion ban in 2020 in anticipation of the Supreme Court overturning *Roe v. Wade*.<sup>3</sup> Just two months after the Supreme Court made its erroneous and devastating decision to overturn the longstanding fundamental constitutional right to abortion, the Idaho abortion ban went into effect on August 25, 2022.<sup>4</sup> Idaho legislators amended the law in 2023<sup>5</sup> and it currently criminalizes<sup>6</sup> nearly all forms of abortion, except those that are “necessary to prevent the death of the pregnant woman,” termination of an ectopic pregnancy, or abortions that resulted from rape or incest in limited and burdensome circumstances.<sup>7</sup>

Idaho’s ban directly conflicts with federal law that requires hospitals to treat patients experiencing an emergency medical condition with stabilizing care.<sup>8</sup> Pregnant people can face a range of conditions that threaten their lives or that seriously threaten their health. Emergency abortion care may be necessary stabilizing treatment in those instances, and federal law requires that hospitals provide that care. Yet, Idaho wants to criminalize care that is required by federal law, denying pregnant patients the protections in medical emergencies that other patients have.

Idaho’s law puts providers in an impossible position: if they provide stabilizing care, they could face criminal prosecution, but if they do not, they leave patients in crisis.

The abortion ban has already caused devastation across the state of Idaho. The Idaho abortion ban has driven obstetricians and gynecologists out of the state and caused hospitals to shut down labor and maternity wards. For instance, in March 2023, an Idaho hospital serving roughly 9,000 people announced it would be closing its maternity and labor ward due in part to the “legal and political climate” within the state.<sup>9</sup> And reports showed that more than half of all providers who specialize in high-risk pregnancies were expected to leave the state by the end of 2023.<sup>10</sup> Idaho’s ban is affecting people’s ability to get critical

care and exacerbating pregnancy care deserts. Pregnant Idahoans are now more frequently forced to travel out of state to get the pregnancy-related care they need, facing the countless barriers to access that have the greatest impact on the most historically underserved communities, including people with low incomes,<sup>11</sup> Black, indigenous, and other people of color,<sup>12</sup> LGBTQIA+ people,<sup>13</sup> and people with disabilities.<sup>14</sup>

## **Idaho's abortion ban directly conflicts with federal law mandating that pregnant people experiencing emergency medical conditions receive stabilizing care to preserve their health.**

Congress passed the Emergency Medical Treatment and Active Labor Act (EMTALA) nearly forty years ago “to ensure public access to emergency services” and require emergency physicians to provide necessary care to stabilize a patient.<sup>15</sup> When any person experiencing an emergency medical condition seeks care at a Medicare-funded hospital, EMTALA requires the hospital to offer necessary stabilizing treatment.

Protecting pregnant patients has always been a core function of EMTALA. Congress was particularly concerned with preventing the “dumping” of pregnant patients requiring emergency medical attention. Indeed, labor is the *only* medical condition that EMTALA specifically names in the title and text of the law. EMTALA explicitly names that a “pregnant woman” who is suffering an emergency medical condition has a right to stabilizing treatment, regardless of whether they are in labor or not.<sup>16</sup> Courts have long understood that abortion care can be considered stabilizing treatment under EMTALA.<sup>17</sup>

In many situations, emergency abortion care is the only treatment that can stabilize a patient experiencing an emergency. Pregnant people can experience a range of emergency medical conditions for which abortion might be the necessary stabilizing treatment,<sup>18</sup> including pre-term premature rupture of membranes (PPROM) (where the patient’s amniotic sac ruptures before fetal viability); miscarriage; excessive bleeding which can arise as a result of placenta accreta spectrum (where all or part of the placenta abnormally attaches to the uterine wall), placenta previa (where the placenta partially or completely covers the cervix), and placental abruption (when the placenta separates from the inner wall of the uterus), among other conditions; and complications of gestational diabetes and preeclampsia (high blood pressure).<sup>19</sup> Pregnant patients may

also need emergency abortion care for conditions unrelated to the pregnancy itself, for example, if they were in a car accident.

EMTALA ensures that patients have access to stabilizing care in emergency situations, including where the patient’s life is at risk or where there is a threat of serious harm to their health.<sup>20</sup> Idaho’s abortion ban conflicts with EMTALA precisely because it does not allow for abortion care for a range of life-and health-threatening circumstances pregnant patients can be experiencing when seeking care at an emergency room.

Where a conflict between state and federal law exists, state law must yield. This is true generally - the Supremacy Clause of the U.S. Constitution makes clear that when there is a conflict between federal law and state law, federal law reigns supreme.<sup>21</sup> It is also true specifically for EMTALA, which explicitly preempts state law to the extent that it conflicts.<sup>22</sup> Idaho’s argument seeks to upend this longstanding principle of federalism.

Given the clear language of the statute and conflict between Idaho’s abortion ban and EMTALA’s protections, the Supreme Court should make it absolutely clear that Idaho’s abortion ban must give way to the federal protection for emergency abortion care.

## **The Supreme Court took the extraordinary step of allowing Idaho to criminalize doctors providing emergency abortion care while it considers the case.**

After the Supreme Court’s wrongful decision to overturn the constitutional right to abortion, the Biden Administration issued guidance reminding states of the longstanding federal right to emergency care afforded by EMTALA.<sup>23</sup> On August 2, 2022, the United States Department of Justice (DOJ) filed a lawsuit in a federal district court challenging the Idaho abortion ban to the extent that it conflicts with federal law.<sup>24</sup> On August 24, 2022, a federal district court granted a preliminary injunction, blocking the abortion ban from being enforced in cases of a medical emergency, finding that “even when it comes to regulating abortion, state law must yield to conflicting federal law...[and] the public interest lies in favor of enjoining the challenged Idaho to the extent it conflicts with EMTALA.”<sup>25</sup> The court further found that the Idaho ban “stands as a clear obstacle to what Congress was attempting to accomplish with EMTALA.”<sup>26</sup>

Idaho appealed, and on September 28, 2023, a panel of three Trump-appointed judges<sup>27</sup> on the Ninth Circuit Court of Appeals reversed the district court, allowing Idaho to enforce the abortion ban in cases of medical emergencies.<sup>28</sup> The DOJ filed an emergency appeal, asking the full Ninth Circuit to reconsider.<sup>29</sup> On October 10, 2023, the Ninth Circuit temporarily blocked Idaho from enforcing the abortion ban in medical emergencies, while simultaneously granting the request for the entire court to rehear the case.<sup>30</sup> Idaho filed an emergency application with the Supreme Court, now with representation from the Alliance Defending Freedom,<sup>31</sup> an extreme anti-abortion organization.<sup>32</sup>

On January 5, 2024, the Supreme Court took the unnecessary and dangerous step of allowing Idaho to enforce its abortion ban in medical emergencies while the case is pending. Additionally, the Court chose to consider Idaho's stay request as a petition for the Supreme Court to review the case on the merits. The Court took these extraordinary measures before the full Ninth Circuit hearing even occurred.<sup>33</sup> The Court scheduled the case to be heard in its current term, with oral arguments taking place on April 24, 2024<sup>34</sup> and a decision expected in June 2024.<sup>35</sup>

By allowing the Idaho ban on emergency abortion care to remain in effect for the duration of litigation, the Supreme Court discounted the risk to pregnant patients facing emergencies. In essence, the Court was asked to weigh the harm that might be inflicted on pregnant people experiencing emergency medical conditions who need abortion care as stabilizing treatment against the harm that Idaho might incur because of its inability to, at least temporarily, enforce its extreme abortion ban in emergency cases. The Court, without explanation, sided with Idaho. The Court's apparent urgency to block access to emergency abortion care is alarming and indicates that some Supreme Court Justices are not only witnessing the havoc they wrought by overturning *Roe*, they are deciding to make it worse.

## **If the Court does not uphold emergency abortion care protections, it will harm pregnant people and embolden extremists. But even a “win” in this case will not remedy the harm the Court has created.**

Every pregnancy is different and a pregnant patient's circumstances can change quickly. Health care providers need to be able to provide evidence-based care, which can include abortion, to protect the pregnant patient's life and health. Stories<sup>36</sup> like those of Anya Cook and Shanae Smith-Cunningham, or the National Women's Law Center's client, Mylissa Farmer,<sup>37</sup> are real life examples of the harm patients experience when they are not provided the emergency care they need. EMTALA is a critical protection that assures health care providers that they can provide the emergency care they know their patients need.

There is no doubt how this case should come out: the Supreme Court should uphold EMTALA's protection for pregnant people who need abortion care. If the Supreme Court were to decide otherwise—if the Court were to decide that pregnant people alone lack the same right to emergency medical care afforded to everyone else under federal law—it would further deny pregnant people their dignity, equality, and right to full citizenship in our country. And it will only further deepen the public health crisis unraveling across the United States in the wake of the Court's erroneous decision to overturn the constitutional right as protected in *Roe v. Wade*. At the same time, a decision for Idaho would essentially serve as a green light to anti-abortion extremists to even more aggressively upend longstanding legal principles and the rule of law to achieve their ultimate goal: a nationwide abortion ban.

But even if the Court does follow the law and upholds these protections for pregnant people facing medical emergencies, a “win” in this case will ring hollow. It will help protect some pregnant people in certain situations – but it leaves undisturbed the continued chaos and harm that the Court itself engendered with its callous decision to overturn our fundamental right to make decisions about our bodies, lives, and futures.

## ENDNOTES

- 1 *Moyle v. United States*, No. (23A469), 2024 WL 61828 (U.S. Jan. 5, 2024) was brought on behalf of the Idaho legislature, including the Speaker of the Idaho House of Representatives, to intervene in support of the Idaho abortion ban. For purposes of this factsheet, we will be referring to both cases when referencing *Idaho v. United States*, No. (23A470), 2024 WL 61829 (U.S. Jan. 5, 2024).
- 2 Response in Opposition to the Application for a Stay at 1, *Moyle v. United States*, No. (23A469), 2024 WL 61828 (U.S. Jan. 5, 2024) Nos. 23A469 and 23A470; [https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646\\_23A469%20and%2023A470%20Response.pdf](https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646_23A469%20and%2023A470%20Response.pdf).
- 3 IDAHO CODE § 18-622(1)(a) (providing that the abortion ban will take effect thirty days after “judgment in any decision of the United States Supreme Court that restores to the states their authority to prohibit abortion,” which occurred on July 28, 2022 in *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228 (2022)); <https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2020/legislation/S1385.pdf>.
- 4 After the Idaho ban was quickly challenged by multiple providers, on behalf of themselves and their patients, the Idaho Supreme Court declined to stay enforcement of the ban. *Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana, Kentucky v. Idaho*, No. 49615, 49817, 49899 (Idaho Sup. Ct. Aug. 12, 2022). In upholding the abortion ban, the Idaho Supreme Court concluded that the Idaho Constitution “does not contain an express right to abortion.” *Planned Parenthood Great Nw. v. State*, 171 Idaho 374, 522 P.3d 1132, 1161 (2023).
- 5 The Idaho abortion ban’s original language did not provide an exception for abortions necessary to prevent the death of a pregnant person, but instead allowed a provider to assert an affirmative defense against a criminal charge, to argue that the care was necessary to save the patient’s life. The state legislature amended the law in 2023 to specifically exclude situations when a pregnant person’s life is at risk from the ban. This amendment also excludes “removal of an ectopic or molar pregnancy” from its definition of abortion care that is criminalized, see H.B. 374, § 1, 67th Leg., 1st Reg. Sess. (Id. 2023), <https://perma.cc/ZTZ7-HHWK> (amending IDAHO CODE § 18-604(1) and § 18-622(1-3).
- 6 Under the Idaho abortion ban, “every person who performs or attempts to perform an abortion as defined in this chapter commits the crime of criminal abortion. Criminal abortion shall be a felony punishable by a sentence of imprisonment of no less than two (2) years and no more than five (5) years in prison. The professional license of any health care professional who performs or attempts to perform an abortion or who assists in performing or attempting to perform an abortion in violation of this subsection shall be suspended by the appropriate licensing board for a minimum of six (6) months upon a first offense and shall be permanently revoked upon a subsequent offense.” IDAHO CODE § 18-622 (1) (2023); <https://legislature.idaho.gov/statutesrules/idstat/title18/t18ch6/sect18-622/#:~:text=Search%20Idaho%20Statutes&text=18%2D622,the%20Crime%20of%20Criminal%20abortion>.
- 7 The Idaho ban would permit abortions for pregnancies that result from rape or incest only if they occur in the first trimester of pregnancy and only if they are reported to law enforcement or child protective services (if a minor). IDAHO CODE § 18-622 (1) (2023). Notably, “[r]ape is the most under-reported crime; 63% of sexual assaults are not reported to police []. Only 12% of child sexual abuse is reported to the authorities.” Sexual assault survivors may decline to file a report for various reasons, including fear of retaliation, a desire to not be revictimized, feelings of shame or self-blame, or a belief that police will not do anything. Thus, law enforcement reporting requirements are categorically unfair to survivors and act as a barrier to access. NAT’L SEXUAL VIOLENCE RES. CTR., STATISTICS ABOUT SEXUAL VIOLENCE 2 (2015), [https://www.nsvrc.org/sites/default/files/publications\\_nsvrc\\_factsheet\\_media\\_packet\\_statistics-about-sexual-violence\\_0.pdf](https://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media_packet_statistics-about-sexual-violence_0.pdf); Cameron Kimble, *Sexual Assault Remains Dramatically Underreported*, BRENNAN CTR. FOR JUSTICE (Oct. 4, 2028), <https://www.brennancenter.org/our-work/analysis-opinion/sexual-assault-remains-dramatically-underreported>.
- 8 Response in Opposition to the Application for a Stay at 1, *Moyle v. United States*, No. (23A469), 2024 WL 61828 (U.S. Jan. 5, 2024) (Nos. 23A469 and 23A470); [https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646\\_23A469%20and%2023A470%20Response.pdf](https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646_23A469%20and%2023A470%20Response.pdf).
- 9 Mary Kekatos, *Idaho hospital says it is ending labor and delivery services amid ‘political climate,’* ABC NEWS (Mar. 22, 2023), <https://abcnews.go.com/Health/idaho-hospital-ending-labor-delivery-services-amid-political/story?id=98038409>.
- 10 Adriana Diaz, Jessica Kegu & Analisa Novak, “Hopeless and frustrated”: *Idaho’s abortion ban is driving OB/GYNs out of the state*, CBS NEWS (Oct.31, 2023), <https://www.cbsnews.com/news/idaho-near-total-abortion-ban-driving-doctors-out-of-the-state/>.
- 11 Jill E. Adams & Jessica Arons, *A Travesty of Justice: Revisiting Harris v. Mcrae*, 21 WM. & MARY J. WOMEN & L. 5, 6 (2014) (describing the socio-economic impact of abortion restrictions on people with low-incomes); <https://scholarship.law.wm.edu/wmjowl/vol21/iss1/3/>.
- 12 Jamila Taylor, *Women of Color Will Lose the Most if Roe v. Wade Is Overturned*, CTR. FOR AM. PROGRESS (Aug. 23, 2018), <https://www.americanprogress.org/issues/women/news/2018/08/23/455025/women-colorwill-lose-roe-v-wade-overturned/>; *The Hyde Amendment: A Discriminatory Ban on Insurance Coverage of Abortion*, GUTTMACHER INST. (May 2021), <https://www.guttmacher.org/fact-sheet/hyde-amendment>.
- 13 Ruth Dawson & Tracy Leong, *Not Up For Debate: LGBTQ People Need and Deserve Tailored Sexual and Reproductive Health Care*, GUTTMACHER INST. (Nov. 16, 2020), <https://www.guttmacher.org/article/2020/11/not-debate-lgbtq-people-need-and-deserve-tailored-sexual-and-reproductive-health>.
- 14 Emily DiMatteo, et al., *Reproductive Justice for Disabled Women: Ending Systemic Discrimination*, CTR. FOR AM. PROGRESS (April 2022), <https://www.americanprogress.org/article/reproductive-justice-for-disabled-women-ending-systemic-discrimination/>.
- 15 *Emergency Medical Treatment & Labor Act (EMTALA)*, CTRS. FOR MEDICARE & MEDICAID SRVS., <https://www.cms.gov/medicare/regulations-guidance/legislation/emergency-medical-treatment-labor-act> (last modified Jan. 5, 2024).
- 16 42 U.S.C. § 1395dd(e)(1)(A)(i). Sara Rosenbaum, *EMTALA Pregnancy Protections Versus State Abortion Bans: The Supreme Court Will Decide*, HEALTH AFFAIRS (Jan. 9, 2024), <https://www.healthaffairs.org/content/forefront/emtala-pregnancy-protections-versus-state-abortion-bans-supreme-court-decide>.
- 17 See, e.g., *New York v. United States Dep’t of Health & Hum. Servs.*, 414 F. Supp. 3d 475, 538 (S.D.N.Y. 2019); *California v. United States*, No. C 05-00328 JSW, 2008 WL 744840, at \*4 (N.D. Cal. Mar. 18, 2008); Response in Opposition to the Application for a Stay at 1–2, *Moyle v. United States*, No. (23A469), 2024 WL 61828 (U.S. Jan. 5, 2024) (Nos. 23A469 and 23A470); [https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646\\_23A469%20and%2023A470%20Response.pdf](https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646_23A469%20and%2023A470%20Response.pdf) [https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646\\_23A469%20and%2023A470%20Response.pdf](https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646_23A469%20and%2023A470%20Response.pdf).
- 18 Response in Opposition to the Application for a Stay at 17, *Moyle v. United States*, No. (23A469), 2024 WL 61828 (U.S. Jan. 5, 2024) (Nos. 23A469 and 23A470); [https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646\\_23A469%20and%2023A470%20Response.pdf](https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646_23A469%20and%2023A470%20Response.pdf) [https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646\\_23A469%20and%2023A470%20Response.pdf](https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646_23A469%20and%2023A470%20Response.pdf).
- 19 Brief of Am. Coll. Of Obstetricians & Gynecologists, et al. as Amici Curiae in Support of Plaintiff-Appellee and Affirmance, *U.S. v. Idaho v. Moyle*, et al., (9th Cir. Sept. 19, 2023) (Nos. 23-35440 and 23-35450); <https://www.acog.org/advocacy/in-the-courts/amicus-briefs>.
- 20 42 U.S.C. § 1395dd.
- 21 U.S. Const. art. VI, cl. 2.
- 22 42 U.S.C. § 1395dd.
- 23 Secretary Becerra explained in a letter accompanying this guidance that: “If a physician believes that a pregnant patient presenting at an emergency department is experiencing an emergency medical condition as defined by EMTALA, and that abortion is the stabilizing treatment necessary to resolve that condition, the physician must provide that treatment. When a state law prohibits abortion and does not include an exception for the life of the pregnant person — or draws the exception more narrowly than EMTALA’s emergency medical condition definition — that state law is preempted.” Letter from Xavier Becerra, Secretary of Health and Human Services to Health Care Providers (Jul. 11, 2022) (on file with HHS.gov); <https://www.hhs.gov/sites/default/files/emergency-medical-care-letter-to-health-care-providers.pdf>.



- 24 Pet'r's Compl. at 9, *United States v. Idaho*, 2022 WL 3137290 (2022) (No. 1:22-cv-329); [https://www.justice.gov/opa/press-release/file/1523481/download?utm\\_medium=email&utm\\_source=govdelivery](https://www.justice.gov/opa/press-release/file/1523481/download?utm_medium=email&utm_source=govdelivery).
- 25 *United States v. Idaho*, 623 F. Supp. 3d 1096, 1117 (D. Idaho 2022).
- 26 *United States v. Idaho*, 623 F. Supp. 3d 1096, 1112 (D. Idaho 2022).
- 27 Notably, the author of the Ninth Circuit decision, Judge Lawrence J.C. VanDyke, is one of only 22 judges to receive a “not qualified” rating from the American Bar Association (ABA) since 1989. The ABA has rated judicial nominees since 1956 and, with the exception of two administrations, has been granted special access to nominee background information as part of the nominations process. The ABA considers “integrity, professional competence, and judicial temperament” when rating judicial nominees. ABA, STANDING COMMITTEE ON THE FEDERAL JUDICIARY: WHAT IT IS AND HOW IT WORKS, [https://www.americanbar.org/groups/committees/federal\\_judiciary/](https://www.americanbar.org/groups/committees/federal_judiciary/), (last accessed on Feb. 16, 2024); ABA, RATINGS OF ARTICLE III AND ARTICLE IV JUDICIAL NOMINEES, [https://www.americanbar.org/groups/committees/federal\\_judiciary/ratings/](https://www.americanbar.org/groups/committees/federal_judiciary/ratings/), (last accessed on Feb. 16, 2024); AM. BAR ASS'N, STANDING COMM. ON THE FED. JUDICIARY: NOMINATION OF LAWRENCE J.C. VANDYKE TO THE US COURT OF APPEALS FOR THE NINTH CIRCUIT (2019), [https://cdn.cnn.com/cnn/2019/images/10/30/2019.10.29\\_chair\\_rating\\_letter\\_to\\_graham\\_and\\_feinstein\\_re\\_nomination\\_of\\_lawrence\\_j.c.\\_vandyke.pdf](https://cdn.cnn.com/cnn/2019/images/10/30/2019.10.29_chair_rating_letter_to_graham_and_feinstein_re_nomination_of_lawrence_j.c._vandyke.pdf); Ariana de Vogue & Alex Rogers, ‘Not qualified’ rating and accusation from American Bar Association moves Trump nominee to tears, CNN (Oct. 31, 2019), <https://www.cnn.com/2019/10/30/politics/american-bar-association-nominees-vandyke/index.html>.
- 28 The Ninth Circuit Court held that EMTALA does not require any specific care, including abortion, to be provided for emergencies. But even if it did, there is no conflict between EMTALA's protections, and the life exception provided by the Idaho ban (as amended by the state legislature and clarified by a state Supreme Court decision). The Ninth Circuit further narrowly construed EMTALA's purpose as to only ensuring emergency care to indigent patients; therefore, concluding that Idaho's ban does not conflict with that purpose when banning abortion care (the panel made this confusing conclusion after holding that Idaho's life exception satisfies any potential conflict with EMTALA's protections). Finally, the panel concluded that Idaho showed irreparable harm if not allowed to enforce its ban, because, among other things: “[t]he State itself, not merely its officials, ‘suffers a form of irreparable injury’ when it cannot effectuate its statutes.” The panel provided that “[i]n sum, when a doctor determines an abortion is necessary to save the life of the mother, termination of a pregnancy is not punishable by section 622. Idaho Code § 18-622. Therefore, even if the federal government were right that EMTALA requires abortions in certain limited circumstances, EMTALA would not require abortions that are punishable by section 622. The federal government is thus wrong when it asserts that it is impossible to comply with both EMTALA and section 622.” *United States v. Idaho*, 83 F.4th 1130, 1140 (9th Cir. 2023).
- 29 Emergency Mot. for Recons. En Banc of Published Order Granting Stay Pending Appeal at 3, *United States v. Idaho*, 82 F.4th 1296 (9th Cir. 2023) (Nos. 23-35440, 23-35450); <https://www.justice.gov/d9/2023-09/53%20-%20USG%20Emergency%20Motion%2C%20Nos.%2023-35440%2C%2023-35450%20%289th%20Cir.%29.pdf>.
- 30 *United States v. Idaho*, 82 F.4th 1296 (9th Cir. 2023); <https://www.courthousenews.com/wp-content/uploads/2023/10/ninth-circuit-idaho-en-banc.pdf>.
- 31 Emergency App. for a Stay Pending Appeal, *Idaho v. United States*, No. (23A470), 2024 WL 61829 (U.S. Jan. 5, 2024) (No. 23A470); <https://adfflegal-live-drupal-files-delivery.s3.amazonaws.com/2023-11/State-of-Idaho-v-United-States-of-America-2023-11-20-Motion-To-Stay-Pending-Appeal.pdf>.
- 32 Kellie Fiedorek, *ADF Assists Idaho AG to Defend State's Life-Affirming Law at Supreme Court*, ALLIANCE DEFENDING FREEDOM (Jan. 31, 2024), <https://adfflegal.org/article/adf-assists-idaho-ag-defend-states-life-affirming-law-supreme-court>; See also *Why is Alliance Defending Freedom a Hate Group?*, SOUTHERN POVERTY LAW CENTER (Apr. 10, 2020), <https://www.splcenter.org/news/2020/04/10/why-alliance-defending-freedom-hate-group>.
- 33 Resp. in Opp'n to the Appls. for a Stay at 1, 1–2, *Moyle v. United States*, No. (23A469), 2024 WL 61828 (U.S. Jan. 5, 2024) (Nos. 23A469 and 23A470); [https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646\\_23A469%20and%2023A470%20Response.pdf](https://www.supremecourt.gov/DocketPDF/23/23A470/291907/20231130143432646_23A469%20and%2023A470%20Response.pdf); see Sara Rosenbaum, *EMTALA Pregnancy Protections Versus State Abortion Bans: The Supreme Court Will Decide*, HEALTH AFFAIRS (Jan. 9, 2024), [https://www.healthaffairs.org/content/forefront/emtala-pregnancy-protections-versus-state-abortion-bans-supreme-court-decide?utm\\_medium=social&utm\\_source=linkedin&utm\\_campaign=forefront&utm\\_content=rosenbaum](https://www.healthaffairs.org/content/forefront/emtala-pregnancy-protections-versus-state-abortion-bans-supreme-court-decide?utm_medium=social&utm_source=linkedin&utm_campaign=forefront&utm_content=rosenbaum).
- 34 SUPREME COURT OF THE U.S.: MONTHLY ARGUMENT CALENDAR 2024, [https://www.supremecourt.gov/oral\\_arguments/argument\\_calendars/MonthlyArgumentCalApril2024.pdf](https://www.supremecourt.gov/oral_arguments/argument_calendars/MonthlyArgumentCalApril2024.pdf).
- 35 *Idaho v. United States*, No. 23-727, 2024 WL 61829, at \*1 (U.S. Jan. 5, 2024); [https://www.supremecourt.gov/orders/courtorders/010524zr\\_9o6b.pdf](https://www.supremecourt.gov/orders/courtorders/010524zr_9o6b.pdf).
- 36 Caroline Kitchener, *Two friends were denied care after Florida banned abortion. One almost died.*, WASH. POST, (Apr. 10, 2023), <https://www.washingtonpost.com/politics/2023/04/10/pprom-florida-abortion-ban/>.
- 37 Press Release, Nat. Women's Law Ctr., NWLC Applauds CMS' Action on Mylissa Farmer's Emergency Abortion Complaint, Finding Hospitals Violated Federal Law (May 1, 2023) (on file with author); <https://nwlc.org/press-release/nwlc-applauds-cms-action-on-mylissa-farmers-emergency-abortion-complaint-finding-hospitals-violated-federal-law/>.