IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

PLANNED PARENTHOOD OF THE HEARTLAND, INC., and JILL MEADOWS, M.D., Petitioners, v. KIM REYNOLDS ex rel. STATE OF IOWA and IOWA BOARD OF MEDICINE, Respondents.	Case No. EQCV081855 **RESISTANCE TO PETITIONERS' MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT OF RESPONDENTS' CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT**

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INTRODUCTION

Planned Parenthood of the Heartland, Inc., and Jill Meadows (collectively, "Planned Parenthood") sued to challenge section 2 of House File 594, Act of June 29, 2020, ch. 1110, 2020 Iowa Acts 298. This Act requires a physician performing an abortion to obtain informed consent from the pregnant woman at least 24 hours before performing an abortion. Planned Parenthood asks the Court to declare that the Act violates multiple provisions of the Iowa Constitution and to permanently enjoin the State from enforcing the Act.

In this motion for summary judgment, Planned Parenthood argues that it is entitled to this relief as a matter of law—before any significant discovery or a full trial—for two reasons. First, it contends that the Act violates the single-subject requirement of article III, section 29, of the Iowa Constitution because the Act also includes a provision involving medical procedures other than abortion. Second, it contends that issue preclusion compels the conclusion that the Act violates the due process and equal protection requirements of the Iowa Constitution because the Iowa Supreme Court held that another statute—passed nearly four years ago and imposing a 72-hour waiting period—violated those provisions. Both arguments fail.

The State agrees that the Court can resolve Planned Parenthood's single-subject claim on summary judgment because there is no dispute of any fact material to this claim. But the Act does not violate the single-subject requirement of the Iowa Constitution because it embraces one subject and matters properly connected to that subject. The State is thus entitled to summary judgment in *its* favor on this claim. And Count I of Planned Parenthood's Petition should be dismissed, as requested in Respondent's Cross-Motion for Partial Summary Judgment.

Planned Parenthood is not entitled to summary judgment on its due process and equal protection claims based on issue preclusion. True, Planned Parenthood did obtain a favorable ruling on similar issues three years ago when the Iowa Supreme Court held that the previously enacted 72-hour waiting period violated the due process and equal protection rights under the Iowa Constitution. *See Planned Parenthood of the Heartland v. Reynolds ex rel. State*, 915 N.W.2d 206 (Iowa 2018). But Planned Parenthood now challenges a different statute—enacted two years after the *Planned Parenthood* decision. And whether the 24-hour waiting period at issue in this statute violates due process or equal protection was not decided in *Planned Parenthood*. Because the issues are not identical, Planned Parenthood's reliance on issue preclusion fails. Its motion for summary judgment must be denied.

ARGUMENT

I. The Act does not violate the single-subject requirement of article III, section 29 of the Iowa Constitution because it embraces one subject and matters properly related to that subject.

Article III, section 29 of the Iowa Constitution provides, as relevant here: "Every Act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title." This provision includes two separate requirements for legislation: a single-subject requirement and a title requirement. Planned Parenthood relies on only the first, arguing that House File 594, Act of June 29, 2020, ch. 1110, 2020 Iowa Acts 298, violates the single-subject requirement of article III, section 29.

The Iowa Supreme Court has long held that article III, section 29, "should be liberally construed so one act may embrace all matters reasonably connected with the subject expressed in the title and not utterly incongruous thereto." *Long v. Bd. of Sup'rs of Benton Cty.*, 142 N.W.2d 378, 381 (Iowa 1966); *see also State ex rel. Weir v. County Judge of Davis Cnty.*, 2 Iowa 280, 285 (1855) (adopting a deferential interpretation in the first case under an earlier version of the single-subject clause because the contrary would "render null a large portion of the legislation of the state, and render future legislation so inconvenient as to make it nearly impracticable"). The provisions of an act need only "fall under some one general idea and be so connected with or related to each other, either logically or in popular understanding, as to be part of or germane to one general subject." *Long*, 142 N.W. 2d at 381. When two or more provisions may at first appear dissimilar, a court must "search for (or to eliminate the presence of) a single purpose toward which the several dissimilar parts of the bill relate." *Miller v. Blair*, 444 N.W.2d 487, 490 (Iowa 1989). This is because the constitutional clause itself permits not just "one subject" but also "matters properly connected therewith" Iowa Const. art. III, § 29; *see Miller*, 444 N.W.2d at 489.

To violate the single-subject requirement, "an act must embrace two or more dissimilar and discordant subjects that by no fair intendment can be considered as having any legitimate connection with or relation to each other." *Long*, 142 N.W. 2d at 381. If the violation is "fairly debatable," the act must still be upheld because courts should only act "in extreme cases" where legislation is "clearly, plainly and palpably" unconstitutional. *Utilicorp United Inc. v. Iowa Utilities Bd.*, 570 N.W.2d 451, 454 (Iowa 1997).

This is not such an extreme case. The challenged Act includes two sections, both amending the Iowa Code. The first prohibits a court from ordering "the withdrawal of life-sustaining procedures from a minor child over the objection of the minor child's parent or guardian, unless there is conclusive medical evidence that the minor child has died." Act of June 29, 2020 § 1, ch. 1110, 2020 Iowa Acts 298 (codified at Iowa Code § 144F.1 (2021)). The second requires a physician performing an abortion to obtain informed consent from the pregnant woman at least 24 hours before performing an abortion, replacing the 72-hour waiting period requirement that had been declared unconstitutional. *See id.* § 2 (codified at Iowa Code § 146A.1(1) (2021)). The title of the Act describes its subject as "relating to medical procedures, including abortion and limitations regarding the withdrawal of a life-sustaining procedure from a minor child." *Id.*

Both sections of the Act fall under this expressly identified general subject of "medical procedures." One regulates the conditions under which certain life-sustaining medical procedures may be ordered withdrawn by a court. And the other regulates the conditions under which a medical procedure—abortion—may be performed by a physician. This connection to the same general subject satisfies the single-subject requirement. But searching beyond the subject identified in the title, the Legislature could have also viewed both provisions to embrace and relate to healthcare in general; the parent-child relationship; the protection of the health and safety of Iowans; or the

protection of human life.[1] Any of these subjects would also satisfy the Constitution. *Cf. Miller*, 444 N.W.2d at 488-90 (looking past a detailed 27-line, 300-word title describing widely varied provisions to identify a "common purpose" of "a multifaceted effort to promote economic development").

Planned Parenthood tries to distract from this proper analysis by challenging the legislative process leading to the enactment of the Act. (Memorandum in Support of Petitioners' Motion for Summary Judgment ("PPH MSJ Brief") at 4-5, 7-9). But these issues are irrelevant to the required constitutional analysis of whether the Act embraces one subject. The single-subject clause does not prohibit bills from being amended to broaden or even change their subject during the legislative process. Neither does it regulate the notice provided before debating and voting on amendments. It does not guarantee the right to offer additional amendments on bills bouncing between chambers. It does not mandate public hearings. And it does not prevent the Legislature from working around the clock and into the morning hours as it completes the legislative session. These are matters governed by the internal rules and practices of the House and Senate—not Article III, section 29 of the Iowa Constitution.

Planned Parenthood puts particular weight on the fact that section 2 of the Act was added in an amendment on the House floor that was ruled nongermane under House Rule 38. (PPH MSJ Brief at 7-9).[2] That rule requires that "[a]n amendment must be germane to the subject matter of the

[1] Recognizing that an act embraces a particular subject intended by the Legislature does not require the Court to agree with the policy choices embedded in the Legislature's decision. *See State v. Social Hygiene, Inc.*, 156 N.W.2d 288, 289-91 (Iowa 1968) (agreeing that the Legislature could include "any article or thing designed or intended for prevention of conception" within the subject of suppressing "the circulation, advertising, and vending of obscene and immoral literature and articles of indecent and immoral use" while making clear "[n]either the wisdom of the statute nor the authority of the legislature" was involved in a single-subject challenge).

[2] Planned Parenthood shows its focus on the amendment in its improper framing of its challenge as against "the Amendment," which was merely a part of the legislative process, rather than the Act that became law. (*See, e.g.*, PPH MSJ Brief at 1 (asking "to permanently enjoin Amendment H-8314"); *id.* at 6 ("The Amendment Violates the Constitution's Single-Subject Rule"); *id.* at 7 ("Indeed, the Amendment violates not only the plain words of the Constitution's single-subject requirement but also its spirit.").

bill it seeks to amend" and that "[a]n amendment to an amendment must be germane both to the amendment and the bill it seeks to amend." 88th Gen. Assemb. House Rule 38, https://www.legis.iowa.gov/docs/publications/HR/1037437.pdf. And it reflects the House's internal procedure that the scope of a bill should ordinarily not be changed on the House floor, without the support of a constitutional majority to suspend that ordinary rule. *See* 88th Gen. Assemb. House Rule 69A(1)(d) (requiring a constitutional majority for approval of a motion to suspend house rules).

But it does not follow that just because an amendment exceeds the scope of the underlying bill that the amended bill does not have a new broader single subject.[3] Take the county officer compensation statute held to be constitutional in *Long* even though it contained a seemingly unrelated provision mandating courthouses remain open on Saturdays. 142 N.W. 2d at 380. If it had initially been introduced as a bill only regarding courthouse hours, an amendment to add the remaining provisions about the compensation and other duties of county officers would have certainly been nongermane on the House floor. Yet if that amendment were passed after suspending the germaneness rule, the new bill would have a different, broader subject. And if this broader bill were then enacted—identical in substance to the statute upheld in *Long*—surely the result would be the same as in that case.

Nothing in the text of the Constitution or prior cases suggests that the subject of an Act should be analyzed differently depending on whether it was introduced with a broad subject or broadened by amendments in committee or—as occurred with the Act here—on the House floor.[4]

[3] Nor does it follow that there is an "arbitrary relationship" between the amendment and the rest of the bill because of public comments that "Republicans had been looking for a bill to which to attach the waiting-period amendment." (PPH MSJ Brief at 5 n.4). On the contrary, taking the time to "look" for an appropriate bill, instead of arbitrarily attaching to *any* bill, suggests the sponsors were taking care to select a bill that would comply with the single-subject requirement after amendment.

[4] Some state constitutions *do* contain provisions prohibiting a change in the original purpose of bills. *See, e.g.*, Mich. Const. art. IV, § 24 ("No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title."). The Iowa Constitution does not.

To the contrary, the procedure used here actually raises less of a concern of logrolling than if the bill had been introduced in its final form originally. All legislators had a chance to vote up or down on whether to broaden the subject of the bill and add section 2. *See* H. Journal, 2020 Reg. Sess., 88th Gen. Assemb., at l 759-60 (recording adoption of the amendment adding section 2 by a vote of 53 to 42); S. Journal, 2020 Reg. Sess., 88th Gen. Assemb., at 841-42 (recording concurrence in the House amendment adding section 2 by a voice vote with no senator requesting a recorded roll call vote). A majority of both the House and Senate supported doing so. And Planned Parenthood has presented no evidence—and there is no reason to believe—that any legislator voted for final passage of the Act only because it included both provisions. *See* H. Journal at 762 (recording final passage of the Act by a 53 to 42 vote that was identical to the vote on the amendment); S. Journal at 841-42 (recording final passage of the Act by a vote of 31 to 16); *Long*, 142 N.W.2d at 382 (describing "log-rolling" as "the practice of several minorities combining their several proposals as different provisions of a single bill, and thus consolidating their votes so that a majority is obtained for the omnibus bill where perhaps no single proposal of each minority could have obtained majority approval separately" and explaining the single-subject rule is intended to prevent the practice).

Planned Parenthood and others who opposed passage of the Act are understandably disappointed that majorities of the House and Senate succeeded in passing it. And those who believe that the process used to do so lacked sufficient fairness or transparency are free to make that political case to legislators and the voters who elect them. In this lawsuit, however, the question is whether the Act that was enacted by the Legislature and Governor "embraces but one subject, and matters properly connected therewith" Iowa Const. art. III, § 29. Because the Act complies with this requirement, Planned Parenthood's single-subject claim fails as a matter of law. The Court should deny Planned Parenthood's motion for summary judgment on this basis and grant the State's Cross-Motion for Partial Summary Judgment.

II. Planned Parenthood cannot rely on issue preclusion from its lawsuit challenging the 72-hour waiting period statute because its due process and equal protection challenges to this 24-hour waiting period statute do not present identical issues.

Planned Parenthood must establish four elements to invoke issue preclusion based on a determination against the State in prior litigation.

> (1) the issue in the present case must be identical; (2) the issue must have been raised and litigated in the prior action; (3) the issue must have been material and relevant to the disposition of the prior case; and (4) the determination of the issue in the prior action must have been essential to the resulting judgment.

Employers Mut. Cas. Co. v. Van Haaften, 815 N.W.2d 17, 22 (Iowa 2012). And because Planned Parenthood seeks to use issue preclusion offensively to establish the elements of its due-process and equal protection claims, the standard is heightened. *Id.* It must also show that the State "was afforded a full and fair opportunity to litigate the issues" and "whether any other circumstances are present that would justify granting . . . [the State] occasion to relitigate the issues." *Id.*

Courts should be particularly cautious in applying issue preclusion in constitutional adjudication. *See Montana v. United States*, 440 U.S. 147, 163 (1979) ("Unreflective invocation of collateral estoppel against parties with an ongoing interest in constitutional issues could freeze doctrine in areas of the law where responsiveness to changing patterns of conduct or social mores is critical"); *Yeoman v. Commonwealth*, 983 S.W.2d 459, 466 (Ky. 1998) (noting in a close case, "given the magnitude of the constitutional issues involved, we should err on the side of caution by resolving the issue on the merits"); *Gold v. DiCarlo*, 235 F. Supp. 817, 820 (S.D.N.Y. 1964) ("At least in the constitutional area, the considerations of finality that stand behind the res judicata doctrine must be balanced against and ofttimes give way to the government's need to regulate abuses that change with the passage of time.").

The first requirement of identical issues is critical—and fatal to Planned Parenthood's motion. "Similarity of issues is not sufficient; the issue must be precisely the same." *Estate of Leonard, ex rel., Palmer v. Swift*, 656 N.W.2d 132, 147 (Iowa 2003) (cleaned up). Thus, for example, an order

suppressing a murder weapon based on an invalid warrant was not preclusive in a second prosecution of the same Defendant after the same weapon was obtained with a new warrant. *See State v. Seager*, 571 N.W.2d 204, 207-09 (1997) (reversing district court that had applied issue preclusion and reasoning "the suppression order in 1996 dealt with a search warrant and many facts that were not in existence in July 1979"); *see also Amro v. Iowa Dist. Court*, 429 N.W.2d 135, 136-38 (Iowa 1988) (giving no preclusive effect to a ruling that failure to return a child was not contempt in a second contempt action over failure to return the child as ordered by a new court order). This makes sense because one of the justifications for issue preclusion is to prevent "two authoritative but conflicting answers being given to *the very same question*." *Employers Mut. Cas. Co.*, 815 N.W.2d at 22 (emphasis added).

In *Planned Parenthood of the Heartland v. Reynolds ex rel. State*, 915 N.W.2d 206 (Iowa 2018), the Court considered the constitutionality of the 72-hour waiting period enacted by the Legislature and Governor in 2017. *See id.* at 213; Act of May 5, 2017, ch. 108, 2017 Iowa Acts 246. The Court held that the 72-hour waiting period "violates due process under the Iowa Constitution" because "it cannot satisfy strict scrutiny." 915 N.W.2d at 244. Likewise, the Court held that the 72-hour waiting period "violates the right to equal protection under the Iowa Constitution" for the same reason. *Id.* at 246. The Court thus reversed the judgment of the district court and ordered: "The language in Iowa Code section 146A.1(1) requiring physicians to wait 'at least seventy-two hours' between obtaining written certification and performing an abortion is stricken from the statute."[5]

So if the State had taken legal action to enforce that 72-hour waiting period against Planned Parenthood Planned, despite the prior Supreme Court decision, Planned Parenthood would have

[5] Planned Parenthood includes numerous other characterizations of the Supreme Court decision in paragraphs 8 through 25 of its Statement of Undisputed Facts ("PPH SUF"). These are not facts, and the State does not concede their accuracy. The *Planned Parenthood* decision speaks for itself and its preclusive effect is a question of law properly decided on this motion for summary.

been justified in defending against such an action based on issue preclusion in the district court.[6] But that is not this case.

Instead, Planned Parenthood seeks to challenge a new law that was not yet even enacted when the Supreme Court ruled in 2018. Two years after that decision, recognizing that the 72-hour waiting period had been declared unconstitutional, the Legislature and Governor enacted a new law that struck that requirement and replaced it with a 24-hour waiting period. *See* Act of June 29, 2020 § 2, ch. 1110, 2020 Iowa Acts 298 (codified at Iowa Code § 146A.1(1) (2021)). Planned Parenthood now seeks to use the Supreme Court's ruling that the 2017 statute was unconstitutional to preclude this Court from determining whether the 2020 statute is constitutional. But these are not identical issues. This case involves a statute not even in existence at the time of the Supreme Court decision. That statute requires a waiting period of 24 hours instead of 72. And it imposes the requirement on a fluid abortion industry that is not necessarily affected in the same way in 2021 as it was in 2017.[7] While the questions of whether each statute violates due-process and equal protection are certainly

[6] Even where an identical constitutional issue is decided, the State would retain the ability to argue to the Iowa Supreme Court that its original decision was decided using the wrong legal standard. *See Montana*, 440 U.S. at 163; *Gold*, 235 F. Supp. at 820; *see also* Restatement (Second) Judgments § 28 cmt. b ("A rule of law declared in an action between two parties should not binding on them for all time, especially as to claims arising after the first proceeding has been concluded, when other litigants are free to urge that the rule should be rejected."). Although *Planned Parenthood* is binding precedent on this Court, it was wrongly decided, and such arguments could be considered on appeal under principles of stare decisis. *See id.*; *see also Goodwin v. Iowa Dist. Court for Davis Cnty*, 936 N.W.2d 634, 649 (Iowa 2019) (McDonald, J., concurring) (discussing the limited application of stare decisis in constitutional matters").

[7] The passage of time, year-long pandemic, and change in federal Administrations make this observation self-evident. But the Court may also take judicial notice of public sources describing the fluid nature of the industry. *See, e.g.*, Tim Hynds, *Planned Parenthood North Central States to reopen limited services in Sioux City*, Sioux City J., July 2, 2020, https://siouxcityjournal.com/news/local/planned-parenthood-north-central-states-to-reopen-limited-services-in-sioux-city/article_da4824ea-7af1-592f-9aa6-c37dc7b27247.html; Abigail Abrams, *Planned Parenthood Is Expanding Telehealth to All 50 States Amid the Coronavirus Pandemic*, Time, April 14, 2020, https://time.com/5820326/planned-parenthood-telehealth-coronavirus; Memorandum on Protecting Women's Health at Home and Abroad § 2(a), January 28, 2021, https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/28/memorandum-on-protecting-womens-health-at-home-and-abroad (directing the Secretary of HHS to reconsider restrictions on Title X funding for abortion counseling).

similar, they are not the very same. To paraphrase *Seager* and *Amro*, this case deals with a statute and many facts that were not in existence in 2017 and 2018. *See Seager*, 571 N.W.2d at 209 (quoting and paraphrasing *Amro*, 429 N.W.2d at 140). Planned Parenthood's attempt at issue preclusion must therefore fail.

The Montana Supreme Court recently rejected a similar attempt to rely on issue preclusion by Planned Parenthood of Montana. *See Planned Parenthood of Montana v. State*, 342 P.3d 684 (Mont. 2015). In that case, a Montana court had previously declared unconstitutional a statute requiring parental notification before providing an abortion to a minor under the age of 18. *Id.* at 686. The State later enacted a new parental notification requirement applying only to minors under the age of 16. *Id.* The second statute also removed the heightened clear-and-convincing-evidence standard for the judicial bypass procedure to exempt minors from the requirement that had been included in the original statute. *Id.* at 687. The Montana Supreme Court recognized that the two statutes "are indeed similar," but reasoned that "[i]ssue preclusion requires more than similarity, however, it requires that the issues be identical." *Id.* at 688. The court suggested that the difference in age ranges protected by the statute might lead to a different result under the constitutional analysis, yet declined to reach the merits of that issue, explaining, "That this issue should be addressed on the merits, however, is precisely why issue preclusion does not apply."[8] *Id.*

Courts from other states also agree—the constitutionality of one statute is not an identical issue that precludes consideration of the constitutionality of a different, later-enacted statute. *See*

[8] The court made clear that a difference between two statutes need not be one that makes it likely that the challenge to the new statute would reach a different result. *See id.* at 687-88 ("Whether, or to what extent those differences make the [new statute] more or less apt to pass constitutional muster as opposed to [the first statute] is not the question before us. The question before us is only whether the issues in the two cases are identical."). Thus, when Planned Parenthood of Montana sought to use the prior ruling on the parental notification statute to preclude relitigating the constitutionality of a third statute—a parental *consent* requirement, the court rejected the district court's contrary reasoning and concluded, "the fact that the 2013 Parental Consent Act is more restrictive highlights that the two laws are not identical." *Id.* at 687.

Yeoman, 983 S.W.2d at 465-66 (holding that prior ruling on constitutionality of a health care provider tax was preclusive in a challenge to a similar tax enacted a year later because two "minor differences" were "sufficient to avoid issue preclusion and to permit a second trial on the merits"); *Am. Trucking Ass'ns v. Conway*, 566 A.2d 1323, 1327-28 (Vt. 1989) (holding that prior ruling on constitutionality of a tax on certain out-of-state trucks was not preclusive of a similar tax enacted the next year because "[a]lthough minimal, the changes between the two provisions are significant enough to render them outside the scope of issue preclusion's requirement of *identical* issues"); *Bushco v. Shurtleff*, 729 F.3d 1294, 1301-02 (10th Cir. 2013) (holding that prior ruling on constitutionality of sexual solicitation statute was not preclusive in a challenge to a similar statute because they "were put into place by separate legislative enactments, and they serve distinct purposes" and "are different in their effect"); *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471, 479 (5th Cir. 2002) (holding that prior ruling that ordinance regulating sexually oriented businesses violated First Amendment was not preclusive in a challenge to an *identical* later enacted ordinance where the current factual circumstances surrounding its enactment were relevant to the merits of the constitutional issue).

Despite this weight of authority, Planned Parenthood contends that the Supreme Court decision on the 72-hour waiting period precludes consideration of the constitutionality of this different Act because the Court broadly "held that mandatory delay laws cannot survive strict scrutiny." (PPH MSJ Brief at 13). But there is no such pronouncement in that decision.[9] And even if there were, such overbroad dicta would not have "have been essential to the resulting judgment" as

[9] To the extent that Planned Parenthood asks this Court to reconstruct such a holding anew from other individual factual or legal determinations (PPH MSJ Brief at 11-12; Petitioner's Motion for Summary Judgment ¶ 14), issue preclusion cannot support the effort. Issue preclusion has only narrow availability for most factual matters. *See Comes v. Microsoft Corp.*, 709 N.W.2d 114, 121-22 (Iowa 2006). It doesn't apply to pure constitutional legal issues divorced from the facts of a particular case; those should be considered under principles of stare decisis. *See* Restatement (Second) Judgments § 28 cmt. B. And again, all the essential issues decided in *Planned Parenthood* are not preclusive here because they are not identical.

required for issue preclusion to apply. *Employers Mut. Cas. Co.*, 815 N.W.2d at 22. *Cf. Planned Parenthood of Montana*, 342 P.3.d at 688 (explaining that the prior ruling did not decide "whether the State's asserted compelling interest could ever justify *any* infringement on a minor's right to an abortion" but "only whether the State's asserted compelling interest could justify a law requiring minors under 18 to notify their parents"). All the issues necessarily decided by the Supreme Court in 2018 were limited to the 72-hour waiting period at issue in that case. Planned Parenthood's reliance on issue preclusion is misplaced and its motion for summary judgment should be denied.

CONCLUSION

For these reasons, the State respectfully requests that the Court deny Planned Parenthood's Motion for Summary Judgment and grant the State's Cross-Motion for Partial Summary Judgment. Count I of Planned Parenthood's Petition alleging a single-subject violation under the Iowa Constitution fails as a matter of law and must be dismissed. And because Planned Parenthood's reliance on issue preclusion cannot advance its due process and equal protection claims, this case must continue to proceed with discovery and preparation for trial on those claims.

Respectfully submitted,

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PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on February 9, 2020:

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Federal Express
- ☒ EDMS
- ☐ FAX
- ☐ Overnight Courier
- ☐ Other

Signature: */s/ Samuel P. Langholz*