

**COPY**

**IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE  
FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE**

STATE OF TENNESSEE, )  
*ex rel.* JONATHAN SKRMETTI, )  
Attorney General and Reporter, )

Plaintiff, )

v. )

DR. JAIME M. VASQUEZ, M.D., )  
THE CENTER FOR REPRODUCTIVE )  
HEALTH, P.C., THE CENTER FOR )  
ASSISTED REPRODUCTIVE )  
TECHNOLOGIES, LLC, )  
FERTILITY LABORATORIES OF )  
NASHVILLE, LLC and AMERICAN )  
EMBRYO ADOPTION AGENCY LLC, )

Defendants. )

**JURY TRIAL DEMANDED**

Case No. 24-0520-IV

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**CIVIL LAW ENFORCEMENT COMPLAINT FOR TEMPORARY RESTRAINING  
ORDER WITH ASSET FREEZE, PRELIMINARY AND PERMANENT INJUNCTION,  
LIMITED RECEIVERSHIP, AND OTHER EQUITABLE AND STATUTORY RELIEF**

This civil law enforcement action by the State of Tennessee, Office of the Attorney General and Reporter (the "State") seeks to immediately halt and remedy various harms resulting from violations of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101 to -131 ("TCPA") by Dr. Jaime M. Vasquez and his various Nashville-based businesses that provide fertility-treatment services to patients, namely the Center for Reproductive Health, P.C., the Center for Assisted Reproductive Technologies, LLC, Fertility Laboratories of Nashville, LLC, and American Embryo Adoption Agency, LLC.

**I. INTRODUCTION**

Dr. Vasquez's businesses have suffered a complete collapse. In or around early April

2024, Dr. Vasquez ran out of money to pay his staff members, and as a result, he lost all of them. Without staff, Dr. Vasquez's practice has no ability to function, and the absence of staff creates a high risk of irreparable and ongoing harm to the many patients of his fertility practice.

Dr. Vasquez's clinic houses hundreds of frozen embryos, eggs, and sperm that belong to his patients. His patients anticipate they will be able to use their embryos and other genetic material for future fertility treatments that can help them start or grow their families. Dr. Vasquez historically touted his freezing services as being of the highest quality; however, without trained staff to monitor and service the tanks that maintain the frozen embryos, eggs, and sperm at required temperatures, the specimens are continually exposed to an unacceptable risk of damage and loss. The uncertainty surrounding the security, safety, and viability of the embryos, eggs, and sperm in Dr. Vasquez's possession has created a panic among his patient population. And Dr. Vasquez's failure to meaningfully communicate with his patients about the status of their embryos, eggs, and sperm has only inflamed the situation.

Moreover, without a professional staff, Dr. Vasquez cannot provide continuity of care to his patients that depended on him for time-sensitive, ongoing fertility treatments. This is in direct contradiction to representations that continuity of care was of utmost importance to Dr. Vasquez's practice and would be provided. Nor can Dr. Vasquez perform other tasks that many of his patients need him to perform upon suspension of his practice, including, among other things: timely provision of requested medical records; timely transfer of patient care and frozen genetic specimens to alternative providers; and payment of refunds to patients that paid up-front fees for services that Dr. Vasquez never delivered before the collapse of his clinic. Failure to perform these essential tasks is unfair to Dr. Vasquez's patients, many of whom have paid thousands if not tens of thousands of dollars for services that, at this point, they will never

receive.

As explained below, these acts and others by Dr. Vasquez and his businesses constitute unfair and deceptive acts and practices in violation of the TCPA. The State brings this action pursuant to the Attorney General's enforcement powers under the TCPA to obtain temporary and permanent injunctive relief, restitution for injured consumers, civil penalties, and other statutory and equitable relief against defendants.

## **II. JURISDICTION AND VENUE**

1. By this Complaint, the State asserts causes of action, and seeks remedies, based exclusively on Tennessee statutory, regulatory, common, and decisional law.

2. This Court has subject matter jurisdiction under Tennessee Code Annotated § 47-18-108(a). The Chancery Court is authorized to hear this case as a court of general jurisdiction and under the TCPA.

3. This Court has personal jurisdiction over all the Defendants because, as more fully set forth in this Complaint, they reside in Tennessee, conduct or transact business in Tennessee, or both. The majority of the alleged unfair, deceptive, misleading, or abusive acts or practices alleged in this Complaint took place in or were directed into Tennessee by all Defendants. In addition, many of the consumer victims of such unfair, deceptive, misleading, or abusive acts or practices reside in Tennessee. *See* Tenn. Code Ann. §§ 20-2-202, -222, -223, and -225.

4. Venue is proper in Davidson County under Tennessee Code Annotated § 47-18-108(a)(4) because it is the county where most of the unfair, deceptive, and misleading acts and practices have taken place, and it is one of the counties where Defendants conduct, transact, or have conducted and transacted business.

### III. PRE-SUIT NOTICE

5. The purposes of the TCPA would be substantially impaired by delay in instituting legal proceedings if Plaintiff were to provide Defendants at least ten (10) days' notice before instituting legal proceedings.

6. Accordingly, the pre-suit notice contemplated by Tenn. Code Ann. § 47-18-108(2) is not required.

### IV. THE PARTIES

#### A. Plaintiff

7. Plaintiff State of Tennessee is one of fifty sovereign states of the United States. Jonathan Skrmetti is the Attorney General and Reporter of the State of Tennessee and has been duly appointed to serve as Attorney General by the Tennessee Supreme Court. This proceeding is brought by the State of Tennessee in its sovereign capacity by and through the Attorney General.

8. The Attorney General is authorized under Tenn. Code Ann. § 47-18-108(a)(1) to bring an action in the name of the State against any person he has reason to believe has violated, is violating, or, based upon information received from another law enforcement agency, is about to violate the TCPA, and to restrain such violation by temporary restraining order, preliminary, or permanent injunction.

9. The Attorney General has reason to believe that Defendants have engaged in, are engaged in, and are about to engage in acts or practices declared to be unlawful by the TCPA in conjunction with their operation of a fertility clinic, among other things, and that this proceeding is in the public interest. *See* Tenn. Code Ann. § 47-18-108(a)(1).

10. The Attorney General has determined, pursuant to Tenn. Code Ann. § 47-18-

108(a)(2), that the purposes of the TCPA would be substantially impaired by providing the ten-day notice of the Attorney General's intention to initiate legal proceedings against Defendants.

11. The Attorney General has further determined, pursuant to Tenn. Code Ann. § 47-18-108(a)(3), that the purposes of the TCPA would be substantially impaired by requiring the Director of the Division of Consumer Affairs to fulfill the requirements of Tenn. Code Ann. § 47-18-5002(2).

12. This Complaint is filed concurrently with (1) Plaintiff's *Ex Parte* Motion for Temporary Restraining Order, Asset Freeze, Appointment of a Temporary Receiver, and for Preliminary Injunction; (2) Plaintiff's *Ex Parte* Recommendation for Temporary Receiver; (3) Certification of Counsel under Tenn. R. Civ. P. 65.04 in Support of *Ex Parte* Motion; (4) [Proposed] *Ex Parte* Temporary Restraining Order with Asset Freeze, Appointment of a Temporary Receiver and Other Equitable Relief and Order Setting Preliminary Injunction Hearing; and all supporting evidence and exhibits.

## **B. Defendants**

13. DR. JAIME M. VASQUEZ, M.D.: Dr. Vasquez is a medical doctor. His Tennessee medical license number is 21256.

14. THE CENTER FOR REPRODUCTIVE HEALTH, P.C. ("CRH"): CRH is a domestic for-profit corporation. CRH, which has been open since 1995, is a self-described "fully integrated, comprehensive fertility center."<sup>1</sup> Dr. Vasquez is the Medical Director of CRH.

15. THE CENTER FOR ASSISTED REPRODUCTIVE TECHNOLOGIES, LLC ("CART"): CART is a for-profit Ambulatory Surgical Treatment Center granted license number

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<sup>1</sup> The Center for Reproductive Health, *Over 20 Years of Success*, <https://www.crhncashville.com/over-20-years-of-success/> (last visited Apr. 24, 2024).

131 by the Tennessee Health Facilities Commission and domestic limited liability company.

16. FERTILITY LABORATORIES OF NASHVILLE, LLC (“FLN”): FLN is a domestic limited liability company.

17. AMERICAN EMBRYO ADOPTION AGENCY LLC (“AEAA”): AEAA is an Assisted Reproductive Technology association and domestic limited liability company.

18. Defendants CRH, CART, FLN, and AEAA are all located in the same office suite at 2410 Patterson Street, Suite 401, Nashville, TN 37203 (the “Facility”).

19. Upon information and belief, Dr. Vasquez is the principal of each entity Defendant, and the Patterson Street office suite Facility is where Dr. Vasquez provides medical services and houses equipment and genetic material relating to each of his businesses’ fertility-related operations. Upon entering the Facility, there is little distinction for patients as to which of Dr. Vasquez’s businesses they are engaging with.

## **V. COMMON ENTERPRISE**

20. Upon information and belief, at all material times, Defendants, individually and together, have operated as a common enterprise while engaging in the unfair, deceptive, and abusive acts and practices and other violations of the law alleged in this Complaint.

21. Defendants have conducted such alleged acts and practices through an interrelated network of entities, affiliates, and aliases that have common or shared owners, employees, executives, independent contractors, addresses, business practices, legal counsel, offices, telecommunication providers, and website administrators. Accordingly, each of them is jointly and severally liable for the unfair and deceptive acts and practices and violations of the law

alleged in this Complaint.

## VI. GENERAL BACKGROUND – FERTILITY SERVICES

22. Millions of Americans are affected by infertility: it is estimated that one in eight women between the ages of 15 to 49 have received infertility treatments in their lifetimes.<sup>2</sup> The causes of infertility are varied, and sometimes unknown, but common factors are sperm abnormalities for male patients and hormone imbalances or conditions impacting the reproductive organs (uterus, ovaries, fallopian tubes) for female patients.<sup>3</sup> Fertility facilities can work with patients to determine the specific issues causing their difficulty to conceive.

23. Assisted reproductive technology, or ART, encompasses all fertility treatments that involve handling either eggs or embryos.<sup>4</sup> An embryo is an egg that has been fertilized by sperm.<sup>5</sup>

24. In vitro fertilization, or IVF, is a type of ART where sperm and an egg are fertilized outside of the human body.<sup>6</sup> IVF accounts for over 99% of ART procedures.<sup>7</sup> The IVF process is complex and involves retrieving eggs from ovaries and manually combining them with sperm in a lab for fertilization.<sup>8</sup> The embryo is then placed inside the patient's uterus.<sup>9</sup> The

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<sup>2</sup> U.S. Dep't. of Health and Hum. Servs., Fact Sheet: In Vitro Fertilization (IVF) Use Across the United States (Mar. 13, 2024), [https://www.hhs.gov/about/news/2024/03/13/fact-sheet-in-vitro-fertilization-ivf-use-across-united-states.html#footnote3\\_41yjnjt](https://www.hhs.gov/about/news/2024/03/13/fact-sheet-in-vitro-fertilization-ivf-use-across-united-states.html#footnote3_41yjnjt)

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Embryo Freezing (Cryopreservation): Purpose & Results*, Cleveland Clinic, <https://my.clevelandclinic.org/health/treatments/15464-embryo-freezing-cryopreservation> (last visited Apr. 24, 2024).

<sup>6</sup> *IVF (In Vitro Fertilization): Procedure & How It Works*, Cleveland Clinic, <https://my.clevelandclinic.org/health/treatments/22457-ivf> (last visited Apr. 24, 2024).

<sup>7</sup> U.S. Dep't of Health and Hum. Servs., *supra* note 2.

<sup>8</sup> Cleveland Clinic, *supra* note 6.

<sup>9</sup> *Id.*

process can take four to six weeks on average.<sup>10</sup>

25. Before the IVF treatment starts, a healthcare provider may prescribe birth control pills or estrogen to control the timing of the patient's menstrual cycle and maximize the number of mature eggs retrieved.<sup>11</sup>

26. The next step in the process is ovarian stimulation. In a normal menstrual cycle, a group of eggs begin to mature, but only one typically becomes mature enough to ovulate while the rest disintegrate.<sup>12</sup> For IVF treatment, a patient will self-administer injectable hormone medications to encourage the full group of eggs to fully mature during their cycle.<sup>13</sup> A healthcare provider will tailor the type, dosage, and frequency of the pre-treatment medications to each patient's circumstances.<sup>14</sup> Patients are monitored daily or every few days during this phase via ultrasounds and blood work to track their uterus's response to the medication.<sup>15</sup> This tracking helps determine if patients' medications need to be adjusted and pinpoints when their eggs are ready for final maturation.<sup>16</sup>

27. Once the eggs are ready, patients are instructed to administer a "trigger shot" hormonal injection exactly 36 hours before their egg retrieval procedure.<sup>17</sup> The trigger shot is the last step of egg maturation.<sup>18</sup>

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*



28. Once the eggs are fully mature, the provider collects the patients' eggs through an egg retrieval procedure.<sup>19</sup> The embryologist will then, in the lab, inject the collected eggs with sperm to fertilize them.<sup>20</sup> Successfully fertilized eggs become embryos.

29. The embryos are then closely monitored to determine which properly develop to be suitable for transfer into the patient's uterus.<sup>21</sup> By day 3, providers assess the quality of the embryos in a process called "grading".<sup>22</sup> Embryos are assigned a rating, or a grade, based on factors such as the number cells in the embryo and the cells' appearance.<sup>23</sup> Embryos that have the optimal number of cells or the correct appearance are graded higher.<sup>24</sup> Embryos may also be graded on day 5.<sup>25</sup>

30. A patient can use either fresh or frozen embryos, the process is the same. Patients will take a combination of oral, injectable, vaginal, and/or transdermal hormones to prepare the patient's uterus for the embryo transfer.<sup>26</sup> The process can take three to four weeks and the patient is once again closely monitored through ultrasounds and blood tests to determine when the uterus is ready for transfer.<sup>27</sup>

31. To transfer the embryo, the provider uses a thin catheter to inject one or more

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *All About IVF Embryo Grading*, Healthline, <https://www.healthline.com/health/infertility/embryo-grading> (last visited Apr. 24, 2024).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Cleveland Clinic, *supra* note 6.

<sup>27</sup> *Id.*

embryos into the uterus.<sup>28</sup> If the embryo successfully implants itself in the lining of the patient's uterus, the patient becomes pregnant.<sup>29</sup> The provider typically does a blood test 9-14 days after the transfer to determine if the patient is pregnant.<sup>30</sup>

32. The IVF process is often very costly for patients. IVF treatment is often not covered by insurance, so patients are paying for treatments out of pocket.<sup>31</sup> It's estimated that a single cycle of IVF costs between \$15,000-\$20,000.<sup>32</sup> That does not include the cost of pre-treatment medication, which can cost approximately \$5,000 per cycle.<sup>33</sup> If patients need to use donor sperm, eggs, or embryos, that increases the price as well. The average number of IVF cycles needed to become pregnant is 2.5, so the total treatment cost can easily exceed \$40,000.<sup>34</sup>

33. The IVF process can also be very physically challenging for patients. Common side effects of fertility medications used to prepare for egg retrieval include nausea and vomiting, abdominal pain, hot flashes, and/or bruising from the injections.<sup>35</sup> Patients can also experience cramping, tenderness, or spotting after the embryo transfer procedure.<sup>36</sup> The sensitive nature of IVF treatments, coupled with the hormone medications, can cause patients to struggle with anxiety or depression.<sup>37</sup> Even if the whole process goes well and the patient becomes pregnant, the process is fraught with physical, emotional, and financial challenges.

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<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> U.S. Dep't of Health and Hum. Servs., *supra* note 2.

<sup>32</sup> *Id.*

<sup>33</sup> Cleveland Clinic, *supra* note 6.

<sup>34</sup> U.S. Dep't of Health and Hum. Servs., *supra* note 2.

<sup>35</sup> Cleveland Clinic, *supra* note 6.

<sup>36</sup> *Id.*

<sup>37</sup> *See id.*

34. Another common aspect of ART treatment includes collecting and freezing eggs or embryos for future use.<sup>38</sup> For embryos, this process is called embryo cryopreservation.<sup>39</sup> There are multiple ways to freeze embryos, but vitrification is the most popular.<sup>40</sup> In vitrification, a liquid is added to embryos called a cryoprotective agent, which acts like antifreeze.<sup>41</sup> It protects the embryo cells from developing ice crystals.<sup>42</sup> Once the cryoprotective agent is added, the embryos are placed in tanks of liquid nitrogen and stored at around -321 degrees Fahrenheit.

35. To thaw the embryos, providers will remove them from the liquid nitrogen and allow them to slowly return to their normal temperature.<sup>43</sup> The cryoprotective agent is removed and the embryos are ready to be transferred.<sup>44</sup>

36. People choose to freeze sperm, eggs, or embryos for a variety of reasons. Patients who have been diagnosed with cancer might freeze eggs, sperm, or embryos before they undergo cancer treatment because the treatment can often damage reproductive organs and make it difficult or impossible to conceive afterwards.<sup>45</sup> Military families may choose to freeze sperm and start the embryo transfer process while the spouse is deployed. The typical IVF process can result in multiple embryos, and patients may choose to freeze some for future family building.<sup>46</sup>

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<sup>38</sup> U.S. Dep't of Health and Hum. Servs., *supra* note 2.

<sup>39</sup> Cleveland Clinic, *supra* note 6.

<sup>40</sup> *See id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> U.S. Dep't of Health and Hum. Servs., *supra* note 2.

<sup>46</sup> *Freezing Embryos*, John Hopkins Medicine, <https://www.hopkinsmedicine.org/health/treatment-tests-and-therapies/freezing-embryos#:~:text=What%20You%20Need%20to%20Know,patient%20or%20in%20another%20person> (last visited Apr. 24, 2024).

37. Some couples may be unable to create their own embryos. Some fertility facilities allow patients to purchase donated embryos.<sup>47</sup> This process is often referred to as "embryo adoption".<sup>48</sup> The donated embryos may be leftovers from another couple's IVF cycle or the facility may create its own using donor eggs and donor sperm.

38. Frozen embryos are typically stored and monitored in hospital labs or commercial reproductive medicine centers.<sup>49</sup> Frozen embryos can be preserved for ten years or longer.<sup>50</sup> Patients typically pay the facility a storage fee for each year the embryo is stored.

## VII. FACTUAL ALLEGATIONS

### A. Background – Dr. Vasquez's Fertility Treatment Operations at the Facility.

39. CRH is a business headed by Dr. Vasquez that operates out of the Facility along with Dr. Vasquez's other businesses, namely, defendants CART, FLN, and AEAA.

40. CRH has been in business in Nashville, Tennessee, since 1995.

41. CRH represents itself as being a group of "Infertility & Reproductive Specialists."<sup>51</sup>

42. CRH states its "Philosophy of Care" as being a "full-service, advanced fertility clinic in Nashville offering a wide range of therapies to diagnose why you may be having trouble getting pregnant and working with you to put together a treatment plan to get you pregnant."

43. CRH, by Dr. Vasquez, offers a wide variety of treatments for patients struggling

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<sup>47</sup> *Paths to Parenthood: Receiving an Embryo Donation*, Ellen S. Glazer, Harvard Health Publishing (Feb. 3, 2022), <https://www.health.harvard.edu/blog/paths-to-parenthood-receiving-an-embryo-donation-202202032682> (last visited Apr. 24, 2024).

<sup>48</sup> *Id.*

<sup>49</sup> John Hopkins Medicine, *supra* note 46.

<sup>50</sup> *Id.*

<sup>51</sup> The Center for Reproductive Health, <https://www.crhnapville.com> (last visited Apr. 24, 2024).

with infertility.

44. Treatments range “from basic infertility care to the most advanced Assisted Reproductive Technologies (ART) technology available today.”<sup>52</sup>

45. Some of the available services include In Vitro Fertilization (“IVF”) and freezing and banking of eggs, sperm, and embryos.

46. AEAA is an Assisted Reproductive Technology association that purports to “offer every individual the opportunity to create a family through embryo donation and adoption” and “provide the highest quality of care that results in a healthy pregnancy for our patients.”<sup>53</sup>

47. The services offered by Dr. Vasquez at the Facility are costly for patients.

48. Patients can pay thousands if not tens of thousands of dollars for services relating to fertility treatment with Dr. Vasquez.

49. Many patients finance their infertility treatments with Dr. Vasquez through loans and lending options.

50. For a number of years, patients of Dr. Vasquez had positive experiences when receiving services at his clinic.

51. However, in or around late 2023 or early 2024, the quality and level of services, patient care, and communication from Dr. Vasquez rapidly declined.

52. As explained below, Dr. Vasquez failed to provide adequate continuity of care to his patients, in direct contradiction to representations that continuity of care was of utmost importance to Dr. Vasquez’s practice and would be provided. *See* Section VII.B., *infra*.

53. Further, Dr. Vasquez failed to provide fully secure, safe, and sanitary storage of

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<sup>52</sup> The Center for Reproductive Health, *Why Choose Us*, <https://www.crhnapshville.com/why-choose-us/> (last visited Apr. 24, 2024).

<sup>53</sup> American Embryo Adoption Agency, <https://embryooptionusa.com> (last visited Apr. 24, 2024).

frozen eggs, sperm, and embryos. This failure was directly contrary to representations to patients regarding capable, state-of-the-art storage services. *See* Section VII.C., *infra*.

54. Moreover, in or around early April 2024, due to a complete financial breakdown and business failure, Dr. Vasquez halted operations at the Facility. From that point forward, Dr. Vasquez wholly failed to provide a number of patients with the services and care for which they had already paid substantial amounts, imperiled the ongoing safety of the frozen eggs, sperm, and embryos that patients entrusted to his care and supervision, and proved incapable of adequately securing and timely delivering patient records in his possession. *See* Section VII.D., *infra*.

55. Upon suspending operations, communications to patients came to a halt, leaving dozens (or even hundreds) of patients in the dark about the status of their embryos under Dr. Vasquez's care and supervision, any scheduled or needed future treatments, and how to obtain their patient records.

56. Dr. Vasquez's refusal to communicate with his patients and patients' inability to have any meaningful contact with the clinic led to panic among Dr. Vasquez's patient population, which was depending on Dr. Vasquez and his businesses to help them start and/or expand their families.

57. Dr. Vasquez and the businesses that he runs out of the Facility are liable for each of these deceptive and unfair acts that harm his group of patient-consumers and violate the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-104.

#### **B. Dr. Vasquez's Failure to Provide Promised Continuity of Care to Patients.**

58. "Continuity of care" is defined by the American Academy of Family Physicians as "the process by which the patient and his/her physician-led care team are cooperatively

involved in ongoing health care management toward the shared goal of high quality, cost-effective medical care.”<sup>54</sup> CRH made two representations to patients regarding continuity of care: that patients would have the same CRH staff members assigned to their case for the entirety of their care and that CRH would facilitate transferring the patient to another facility at the patient’s request.

59. As of April 5, 2024, CRH has not provided either form of continuity of care for its patients.

60. CRH’s website and YouTube page repeatedly emphasize how CRH provides patients personalized care – where patients can expect to work with the same CRH providers throughout their treatment. On CRH’s website, “physician and nursing continuity” is listed as a top five reason why patients should choose the Center.<sup>55</sup> One of the Center’s YouTube videos explains how patients will have “[their] own go-to person during fertility treatment”.<sup>56</sup> In the video, IVF Coordinator/Andrologist Anita Carrico states, “I think the most important part [of the fertility treatment service] is having one person follow you all the way through. So you have that continuity, you have that connection with that person and you don’t feel like you’re getting shuffled from person to person to person... I think having one go-to person is very important for the patient.”

61. This point is echoed by Dr. Vasquez in another CRH YouTube video. He explains that part of CRH’s philosophy of care is striving “to do that part [of helping couples conceive] so

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<sup>54</sup> *Continuity of Care, Definition of*, Am. Acad. of Fam. Physicians (2020), [https://www.aafp.org/about/policies/all/continuity-of-care-definition.html#:~:text=Continuity%20of%20care%20is%20concerned,%2C%20cost%2Deffective%20medical%20care,\(last visited Apr. 24, 2024\)](https://www.aafp.org/about/policies/all/continuity-of-care-definition.html#:~:text=Continuity%20of%20care%20is%20concerned,%2C%20cost%2Deffective%20medical%20care,(last%20visited%20Apr.%2024,%202024).).

<sup>55</sup> The Center for Reproductive Health, *infra* note 38.

<sup>56</sup> Center for Reproductive Health, *Your Own “Go To” Person During Fertility Treatment*, YouTube (Jun. 25, 2015), <https://youtu.be/6wo-4pSallw?si=2fQDoUuvSuiO2TT9>

well that it becomes a personal service and there is continuity. And you can see the same face, the same nurse, carrying you through the process. The same doctor.”<sup>57</sup>

62. This is a common theme of CRH’s promotional videos. Another video features Dr. Vasquez and promises “a fertility doctor who gets to know you”.<sup>58</sup> Videos also include patient testimonials on how at larger clinics you’re made to feel like a number – rushed through appointments and with little access to the doctor.<sup>59</sup> The patient testimonials state that in contrast, at CRH, Dr. Vasquez personally spent time explaining treatment options to them and answered all of their questions.<sup>60</sup> Give the highly stressful and personal nature of fertility treatments, it makes sense that the promise of having the same providers for every appointment would persuade consumers to choose CRH.

63. CRH also promised to assist the patient in transferring providers if a patient chose to change fertility clinics. Continuity of care is particularly important for fertility treatments because many procedures, like egg retrieval or embryo transfer, are highly time sensitive. Patients spend weeks taking medication to prepare, and there’s often only a window of a few days to do the procedure. A smooth transition between facilities ensures continuity of care, so patients don’t lose their opportunity for treatment or the value of time and money already spent. CRH promises on its website that patients have the right “to receive assistance in receiving

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<sup>57</sup> Center for Reproductive Health, *Dr. Vasquez Philosophy of Care*, YouTube (Jun. 25, 2015), <https://youtu.be/npTzTBxIk8Q?si=1QTV6XxNvTf8EaAw>

<sup>58</sup> Center for Reproductive Health, *A Fertility Doctor Who Gets to Know You*, YouTube (Jun. 25, 2015), [https://youtu.be/HFQa68CFoy0?si=6O\\_CnsU4to01SKoO](https://youtu.be/HFQa68CFoy0?si=6O_CnsU4to01SKoO)

<sup>59</sup> Center for Reproductive Health, *Dr Vasquez- A Different Approach to Patient Care*, YouTube (Jun. 25, 2015), <https://youtu.be/dpytHVVH6iCY?si=Jj9UYTFdjVkyGD4p>

<sup>60</sup> Center for Reproductive Health, *Patient Expectations Exceeded At The Center For Reproductive Health*, YouTube (Jun. 25, 2015) <https://youtu.be/xRHXnM1n8dE?si=z1IbEEK2uYWxOKEn>



continuity of care and help in locating an alternative physician when desired.”<sup>61</sup> Before a patient can be seen by a new provider, the patient’s original provider must send the new facility the patient’s full medical record.

64. The Center’s suspension of operations in April 2024 led to a complete disruption of patients’ continuity of care. On April 4, 2024, the Center for Reproductive Health and the American Embryo Adoption Agency sent a letter to employees stating that “tomorrow’s payroll will be late due to a lack of funds.” Despite not being paid, staff showed up to work the next day and saw patients. Staff pressed Dr. Vasquez on when they could expect to be paid, but he could not provide an answer. The remaining employees determined they would not return until they were paid.<sup>62</sup> This resulted in the Center losing almost all of its staff, besides Dr. Vasquez.

65. This is not a case of a lack of continuity of care because a few employees left and their patients had to be reassigned. Here, CRH was so mismanaged that it could not meet its basic payroll obligations to employees. Fulfilling a promise to patients that they will have the same providers throughout their fertility service requires maintaining the basic infrastructure to retain staff.

66. Patients of CRH fully felt the effects of the CRH’s lack of staff. One of the most immediate effects was patients unable to connect with CRH. CRH did not immediately contact patients to inform them ahead of time that CRH was suspending operations. In some instances, patients arrived at CRH for their scheduled appointments only to discover that CRH had closed. Others found out through word-of-mouth or the News Channel 5 story. Frantic patients called

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<sup>61</sup> The Center for Reproductive Health, *Patient Rights and Responsibilities*, <https://www.crhnapville.com/patient-rights-and-responsibilities/> (last visited Apr. 24, 2024).

<sup>62</sup> Hannah McDonald, ‘I trusted them.’ Nurses, medical assistants walk off the job at Nashville Center for Reproductive Health (Apr. 9, 2024, 11:57 AM), <https://www.newschannel5.com/news/i-trusted-them-nurses-medical-assistants-walk-off-the-job-at-nashville-center-for-reproductive-health>.

CRH and showed up at the office. Most patients were unable to connect with Dr. Vasquez, and those who managed to get through were not provided with any meaningful information. In a follow up article, News Channel 5 reported that many patients reached out to the news outlet because no one at CRH was answering the phone.<sup>63</sup> A fundamental part of continuity of care is the patient's ability to communicate with their healthcare providers, which they cannot do at CRH.

67. Along with the lack of communication, patients have also had their procedures interrupted. Jane Doe 1, a patient of CRH since 2017, was scheduled for an embryo transfer on April 28, 2024. To prepare for the transfer she was required to take daily medication (both via injections and pills) two and a half months beforehand. The medication was highly disruptive hormone therapies. Jane Doe 1 began treatment in February and was in contact with her IVF coordinator a few times a week. On April 5, 2024, her IVF coordinator told her to stop taking the medication but did not provide an explanation. Jane Doe 1 and her husband were devastated, as stopping the medication meant she could not go through with the embryo transfer. They were also frantic for answers. Jane Doe 1 called and emailed the clinic, rarely getting through and not getting any information when she did. Jane Doe 1's family has paid \$5,500 out of pocket to CRH for an embryo transfer they never received. They also spent \$1,000 on the pre-transfer medication, which Jane Doe 1 will need to begin all over again at a new facility.

68. Another patient of CRH, Jane Doe 2, was scheduled for an embryo transfer on April 27, 2024. Everything was normal when she went to her regularly scheduled ultrasound and blood work appointment at 8:00 am on April 5<sup>th</sup>. But that afternoon her IVF nurse called to tell her the

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<sup>63</sup> Hannah McDonald, *'It's a nightmare.'* Patients could seek legal recourse after closure of popular Nashville fertility clinic (Apr. 9, 2024, 5:53 PM), <https://www.newschannel5.com/news/its-a-nightmare-patients-could-seek-legal-recourse-after-closure-of-popular-nashville-fertility-clinic>.

transfer was cancelled. The nurse told Jane Doe 2 to continue her pre-treatment medication and CRH would reschedule the procedure for May. Jane Doe 2 continued her pre-treatment medication until April 8<sup>th</sup>, when a coworker told her that her fertility clinic was on the news. Jane Doe 2 and her husband watched the news report about CRH's closure in shock. They had been two weeks away from being able to try and start a family and now all that money and physical preparation was gone. The couple had paid \$2,824 out of pocket for the embryo transfer. Insurance will not cover a second embryo transfer, even though the first one at CRH never happened.

69. Patients of CRH struggled not only from being cut off from their promised “go-to” providers, but also in their efforts to transfer their care. In the days after the clinic suspended operations, patients scrambled to get their patient records so they could establish with a new provider. Despite CRH promising patients assistance in transferring to other clinics, patients were left in the dark on how to get their records. Some patients resorted to waiting outside the Facility for hours in the hopes a staff member would come out and help them. Others called and emailed. CRH responded to requests erratically, with a lucky few being given their records but many getting no response. On April 16, 2024, the Center posted on its website that patients could email a specific account to request their records and/or their embryos, but even then they did not send a direct message to current patients. Multiple patients said they would have never known about the website notice if other patients hadn't let them know. CRH continues to fail to provide patients records they are entitled to, and they were promised. Instead of patients “[getting] assistance in receiving continuity of care,”<sup>64</sup> patients have been left to scramble on their own to try and set up continuing care.

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<sup>64</sup> The Center for Reproductive Health *supra* note 61.

70. Obtaining patient records is even harder for patients who have donor embryos. Fertility facilities often require additional documentation for a donor embryo, like an infectious disease screening required by the FDA, before they will accept embryos transferred from another facility. Jane Doe 2 has spent weeks emailing and calling CRH to try and get the necessary documents, with little success. The Facility's online donor portal has also been shut down, so she cannot get information from there either. Another patient, Jane Doe 3, has paid the American Embryo Adoption Agency \$11,020 for two donor embryos. None of the fertility clinics she's contacted will accept the transfer because the donated embryo documentation is missing. If she cannot get the documentation, she will be unable to transfer her donor embryos. Thus far she has not been able to contact CRH in order to get the necessary paperwork.

**C. CRH's False and Misleading Representations Related to Storage of Embryos and Other Genetic Material.**

71. Throughout its website, CRH makes numerous express claims about the characteristics and standards of the services it provides with regard to the freezing and storage of embryos and other genetic materials.

72. CRH boasts that its ART Laboratory has received accreditation by the Commission on Laboratory Accreditation of the College of American Pathologists, meaning CRH's lab "is one of an exclusive group of reproductive laboratories around the country that meet the highest standards of excellence as recognized by its peers."<sup>65</sup> While CRH's lab may have such accreditation, it is currently falling short of even basic standards.

73. CRH offers embryo, egg, and sperm freezing services.

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<sup>65</sup> See, [M.D. \(crhnashville.com\)](http://M.D.(crhnashville.com))

74. CRH tells consumers that should they fail to conceive from “the initial stimulated cycle,” that consumers can try again using “cryopreserved embryos.”<sup>66</sup>

75. According to CRH’s website, cryopreservation “is the process of freezing embryos at a very low temperature so that they can be thawed and used later.”<sup>67</sup>

76. CRH further represents that “[c]ryopreserved or frozen embryos can potentially remain *for an indefinite period of time* at CRH’s cryobank.”(emphasis added).<sup>68</sup>

77. CRH also offers egg freezing services.

78. CRH represents that the eggs it freezes are preserved through a process known as vitrification.

79. According to CRH’s website, vitrification “is a flash freezing method that prevents the formation of ice crystals, which can damage the egg, sperm, embryo or ovarian tissue under other conventional freezing techniques.”<sup>69</sup>

80. CRH further assures consumers that the eggs it freezes will be “brought from a temperature of 98.6°F (37°C) all the way down to -320°F (-196°C) instantaneously.”<sup>70</sup>

81. CRH pitches this vitrification method as superior to the types of freezing used by other clinics, stating that “[s]urvival rates during the thawing process for vitrification are up to 99% versus the typical 55% for traditional freezing methods because the combination of

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<sup>66</sup> See [Egg Freezing, Embryo Freezing and Sperm Freezing \(crhnashville.com\)](http://crhnashville.com)

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

cryoprotectants and flash freezing/thawing has a better chance of safely restoring the cell back to its original state.”<sup>71</sup>

82. CRH also offers sperm freezing services.

83. CRH cites sperm freezing services as an option for men with “upcoming military service, occupational risks, [or] upcoming cancer treatment...”<sup>72</sup>

84. CRH represents that the sperm it freezes will be kept in its “advanced laboratory.”<sup>73</sup>

85. These representations led consumers to believe that should they opt to utilize CRH’s freezing services, their embryos, eggs, and sperm specimens would be kept in a state-of-the-art facility, using superior freezing methods, and would be kept safe and viable indefinitely.

86. CRH also markets donated frozen embryos for “adoption.”

87. When CRH patients have stored embryos that they do not need, they may opt to donate these embryos for other patients seeking to adopt.

88. CRH represents that these donated embryos are also stored onsite at CRH.<sup>74</sup>

89. Like its representations about its other freezing services, CRH represents that adoptable embryos are frozen “using the latest vitrification techniques, ensuring proper and equivalent methods for the thaw and preparation of those embryos will be employed at the time of transfer.”<sup>75</sup>

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<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> See, [Embryo Adoption at The Center for Reproductive Health, Nashville TN \(crhnashville.com\)](http://crhnashville.com)

<sup>75</sup> *Id.*

90. Again, the express representations about CRH's embryo freezing services led consumers to believe that CRH uses high quality and up-to-date methods to freeze adoptable embryos.

91. However, the reality of the standards and characteristics of CRH's freezing and storage services stands in stark contrast to the numerous representations CRH makes in marketing these services.

92. Debra Verna, Public Health Regional Regulatory Program Manager at the Tennessee Health Facilities Commission inspected the CRH facility on April 12, 2024.

93. Verna reports that at the time of her visit, CRH did not have adequate staff present to continue its operations.

94. Verna also observed that the temperature of the cryogenic tanks had not been documented since April 6, 2024, indicating a lack of quality assurance that specimens were being kept frozen at the proper temperatures.

95. Verna also observed Dr. Vasquez open storage tanks containing embryos and sperm without wearing proper PPE, presenting a risk of infection to the specimens.

96. Verna also observed that a cart next to the storage tank had an unidentified sticky substance on it along with broken glass from equipment.

97. The CRH laboratory also had a cryogenic tank with markings indicating it was a back up tank.

98. Cryogenic tanks are supposed to be equipped with an alarm system that will alert if the tank reaches an unsafe temperature.

99. If set and functioning properly, these alarms will alert a designated individual that the tank needs immediate attention to ensure preservation of the specimens contained inside.

100. The “back up” tank Verna observed was not equipped with such an alarm system.

101. This “back up” tank also bore a sign marked “mice embryos.”

102. During her inspection, Verna also requested that Dr. Vasquez provide a copy of CRH’s policies and procedures. Verna reviewed the documents Dr. Vasquez provided and noted these policies were 20 years out of date.

103. Each of Verna’s observations indicate that the actual quality of freezing and storage services provided by CRH are not in conformity with what is promised to consumers in CRH’s marketing of these services—state of the art technology meeting the highest industry standards.

104. Mary Harmon, property manager of the CRH location had to send security to the CRH facility on April 9, 2024, after reports that the doors were unlocked and no staff was present.

105. Ms. Harmon directed security to lock the doors and check that they were locked every two hours.

106. The Attorney General’s Investigator Tristina Craft visited the facility on April 15, 2024.

107. Despite ringing the doorbell numerous times at the front door, Investigator Craft was only able to enter the facility after two potential consumers waiting in the waiting room let her in.

108. Upon entering the facility, Investigator Craft noted that there were no staff present at the front desk of the facility and she did not observe any other staff present.

109. Investigator Craft observed that the front desk had a set of keys sitting out where anyone could access them.



110. Despite CRH's representations that its on-site laboratory meets the highest standards, CRH in fact left consumers' specimens vulnerable to tampering by leaving the cryogenic tanks in an unlocked facility, leaving out keys, and failing to properly staff the facility.

111. Former CRH employees also report concerns that the quality of services actually being provided do not comport with the representations made to consumers.

112. Registered Nurse Shay Mann worked at CRH from May 2021 to January 2024.

113. Ms. Mann returned to CRH in March 2024 to assist in training a new embryologist.

114. After returning to CRH, Mann soon discovered that the facility was understaffed, allegedly due to its failure to pay employees.

115. CRH asked Ms. Mann to be the person the alarm systems on the cryogenic tanks would alert should the tanks reach dangerous temperatures.

116. Ms. Mann declined because her schedule would not allow her to be on call to attend to the tanks at any hour of the day.

117. CRH therefore opted to have Dr. Vasquez be the point of contact for the alarms to alert.

118. Ms. Mann does not believe that Dr. Vasquez knows how to properly care for the tanks.

#### **D. Complete Operational Failure at Dr. Vasquez's Medical Operations.**

116. As noted above, by letter dated April 4, 2024, Elena Vasquez, as an administrator for CRH and AEAA, sent a letter to all staff at the Facility informing them they would not be paid due to a "financial deficit."

117. Upon information and belief, nonpayment of staff wages began before Ms.

Vasquez's April 4, 2024, letter.

118. Staff members are owed significant back wages for work performed before April 4, 2024.

119. Due to nonpayment of wages, essentially all staff at the Facility have ceased working for Dr. Vasquez and Defendants. Indeed, on or about April 12, 2024, surveyors from the State of Tennessee's Health Facilities Commission ("HFC") entered Dr. Vasquez's medical facility for an unannounced inspection. Among other things, the surveyors found evidence that Dr. Vasquez had failed to pay his facility's embryologist and other staff, and as a result, the facility did not have the requisite staff to continue operations.

120. Accordingly, there are no nurses, embryologists, patient representatives, or other support staff needed to operate Dr. Vasquez's Facility and provide the fertility services for which many of Dr. Vasquez's patients have already paid substantial amounts of money.

121. Nor are there any staff at the Facility capable of timely providing requested medical records to Dr. Vasquez's patients, assisting patients seeking transfers of their frozen embryos, eggs, and sperm, settling accounts with patients owed money from Dr. Vasquez and other Defendants, or performing essential maintenance and assessment of frozen embryos, eggs, and sperm stored at the Facility.

122. There is no one to timely respond to patient calls, messages, or emails requesting information regarding continuity of care, preservation of embryos, eggs, and sperm, security of records, and transfer of records.

123. On or around April 16, 2024, CRH added a banner to its website titled "Notice to Our Active Patients" advising, among other things, that "[w]e have recently suspended operations at the Center for Reproductive Health, P.C."

124. Upon information and belief, at the time Dr. Vasquez's clinic suspended operations, many of Dr. Vasquez's patients had made up-front payments to Defendants for services that were never delivered.

125. It is the essence of unfairness for patients to have paid for services that they never received, and at this point, will never receive due to suspension of operations at the Facility.

126. Defendants have not provided refunds or credits to Dr. Vasquez's patients who paid for services that were never delivered and that the patients will never receive.

127. Upon information and belief, Dr. Vasquez's patients have paid him tens if not hundreds of thousands of dollars for services that they had not received at the time Dr. Vasquez's businesses suspended operations.

128. For example, Jane Doe 1 and her husband have paid CRH \$5,500 for an embryo transfer procedure they will never receive.

129. Jane Doe 2 and her husband have also paid CRH \$2,824 for an embryo transfer procedure that will never happen. They estimate they will need to spend an additional \$10,000 to do the transfer at a new facility.

130. Jane Doe 3 and her husband paid CRH \$4,950 for an embryo transfer procedure that was cancelled indefinitely. This last procedure has them financially tapped out, so it will be a struggle to pay for another IVF cycle at a new clinic. Jane Doe 3 is also in her early forties and is worried that time is running out for her to be able to physically conceive.

131. In January 2024, Jane Doe 4 and her husband paid CRH \$600 for storage of their two embryos for the year. It is now April 2024 and Jane Doe 4 is trying to transfer the embryos to a new facility as she no longer feels comfortable keeping the embryos stored at CRH after everything that has happened.

132. These four cases are only a small, representative sample of all of the patients who paid CRH for services they will never receive.

133. In addition, upon information and belief, Dr. Vasquez is in arrears on facility rent, which creates a risk of eviction and imperils on-site embryo preservation equipment.

134. Hundreds of embryos are currently being stored at CRH without a guarantee of constant, specialized care and properly functioning equipment, which could cause them to become unviable.

## VIII. VIOLATIONS OF THE LAW

### COUNT I

#### Violations of the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-104

135. The State realleges and incorporates by reference the allegations set forth in all preceding paragraphs of this Complaint as if fully set forth herein.

136. The TCPA is a broad, remedial statute that is “necessary for the protection of the consumers of the state of Tennessee and elsewhere.” Tenn. Code Ann. § 47-18-115.

137. The TCPA was enacted to “protect consumers and legitimate businesses enterprises from those who engage in unfair or deceptive acts or practices in the conduct of any trade or commerce in part or wholly within this state.” Tenn. Code Ann. § 47-18-101(2).

138. All Defendants have committed acts or practices that have affected the conduct of any trade or commerce in the state of Tennessee as defined in Tenn. Code Ann. § 47-18-1083(19).

139. The TCPA outlaws unfair or deceptive acts or practices that affect the conduct of any trade or commerce in Tennessee. *See* Tenn. Code Ann. § 47-18-104(a).

140. By representing to consumers that they would receive continuity of care and failing to deliver on that promise, Defendants have engaged in deceptive trade practices in

violation of the TCPA, Tenn. Code Ann. § 47-18-104(a) and (b)(27).

141. By representing to consumers that CRH's freezing and storage services had characteristics that they did not, Defendants have engaged in deceptive trade practices in violation of the TCPA, Tenn. Code Ann. § 47-18-104(a) and (b)(27).

142. By failing to, among other things, provide consumers services for which they paid, Defendants have engaged in unfair trade practices in violation of the TCPA, Tenn. Code Ann. § 47-18-104(a).

### **IX. PRAYER FOR RELIEF**

Therefore, Plaintiff, the State of Tennessee, pursuant to the TCPA and the Attorney General's Power at common law, and this Court's own equitable powers, requests that the Court:

A. Enter judgment against Defendants and in favor of the State for each violation alleged in this Complaint;

B. Grant the State such injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action, and to preserve the possibility of effective final relief, including, but not limited to, an order appointing a pendente lite receiver and an order freezing assets;

C. Enter a temporary restraining order, a preliminary injunction, and a permanent injunction to prevent future violations of the TCPA by Defendants;

D. Award such relief as the Court finds necessary to redress consumer injury resulting from Defendants' violations of the TCPA, including, but not limited to, rescission or reformation of contracts, restitution, refund of monies paid, and disgorgement of ill-gotten gains;

E. Adjudge and decree that Defendants have engaged in the aforementioned acts or practices that violate the TCPA;

F. Make such orders or render such judgments as may be necessary to restore to any consumer or person any ascertainable losses, including statutory and prejudgment interest, suffered by reason of the alleged violations of the TCPA, and requiring that Defendants be taxed with the costs of administering the same;

G. Enter judgment against Defendants and for the State for the reasonable costs and expenses of the investigation and prosecution of Defendants' actions, including attorney's fees, expert and other witness fees, and costs;

H. Adjudge and decree that each Defendant separately pay civil penalties of not more than \$1,000 per violation to the State for each violation of the TCPA, as provided by Tenn. Code Ann. § 47-18-108(b)(3);

I. Order that all costs in this case be taxed against the Defendants and that no costs be taxed to the State as provided in Tenn. Code Ann. § 47-18-116; and

J. Award the State the costs of bringing this action and such other additional relief as the Court may determine just and proper.

Respectfully submitted,

/s/ Jonathan Skrmetti /s/  
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*Attorneys for Plaintiff, State of Tennessee*

#### VERIFICATION

I, Matthew D. Janssen, Sr. Assistant Attorney General/Managing Attorney, verify that the facts alleged in the foregoing Civil Law Enforcement Complaint are true and correct to the best of my knowledge, information, and belief.



MATTHEW D. JANSSEN, B.P.R. No. 035451  
Sr. Assistant Attorney General/Managing Attorney

**CERTIFICATE OF SERVICE**

I, Matthew D. Janssen, do hereby certify that, upon filing with the Court, a true and correct copy of the foregoing will be sent by electronic mail to the following counsel for Defendants:

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On this the 26<sup>th</sup> day of April, 2024.



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