

FILED

UNITED STATES COURT OF APPEALS

APR 08 2014

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

PLANNED PARENTHOOD OF
ARIZONA, INC.; et al.,

Plaintiffs - Appellants,

v.

WILLIAM HUMBLE, Director of the
Arizona Department of Health Services, in
his official capacity,

Defendant - Appellee.

No. 14-15624

D.C. No. 4:14-cv-01910-DCB
District of Arizona,
Tucson

ORDER

Before: GOODWIN, CANBY, and McKEOWN, Circuit Judges.

Appellee's motion to file an over-length opposition to the emergency motion for an injunction pending appeal is granted. The opposition was filed on April 4, 2014. Appellants' motion to file an over-length reply in support of the emergency motion is granted. The reply was filed on April 7, 2014.

Given the similarity of the issues already briefed for this motion and the issues on appeal, as well as the public interests at stake, the court sua sponte expedites the appeal.

The court has considered the emergency motion for an injunction pending appeal of the district court's March 31, 2014 order denying a preliminary injunction, and the opposition and reply thereto.

Upon our initial review, we conclude that this appeal, which presents an issue of first impression in this circuit regarding regulation of medication abortions, raises serious legal questions regarding the proper application of the "undue burden" standard to abortion regulations purporting to promote maternal health. *See Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 877-78 (1992); *Tucson Woman's Clinic v. Eden*, 379 F.3d 531, 540 (9th Cir. 2004). We also conclude that the balance of the hardships tips sharply in favor of the appellants, whose patients will likely suffer irreparable harm absent an injunction pending appeal because they will immediately lose access to a common abortion procedure as soon as the law takes effect. In light of these factors, as well as consideration of the public interest, appellants' emergency motion for an injunction pending appeal is granted. *See Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Alliance for Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). Enforcement of A.R.S. § 36-449.03(E)(6) and A.A.C. R9-10-1508(G) is temporarily enjoined to allow the court time to conduct a full review of the merits of the appeal and the propriety of a continued injunction.

The expedited briefing schedule shall proceed as follows: appellants' opening brief is due April 18, 2014; appellee's answering brief is due April 28, 2014; and appellants' optional reply brief is due May 2, 2014.

The Clerk shall calendar this case before a regularly scheduled merits panel for oral argument during the week of May 12, 2014, in San Francisco, California.