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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO
SOUTHERN DIVISION**

IDAHO FEDERATION OF TEACHERS et al.,

Plaintiffs,

v.

RAÚL LABRADOR, in his official capacity as
Attorney General of the State of Idaho, et al.,

Defendants.

Case No. 1:23-CV-353

**DECLARATION OF LUIGI
BOSCHETTI IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

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**DECLARATION OF LUIGI BOSCHETTI IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Luigi Boschetti, hereby declare that:

1. My name is Luigi Boschetti. I am over the age of 18 years. I have personal knowledge of the following facts and if called to testify could and would competently do so.

The University of Idaho Faculty Federation

2. I was President of the University of Idaho Faculty Federation, Local 3215 of the American Federation of Teachers (“UI Federation”) from September of 2020 to June of 2023. I remain a member of the UI Federation, and I am authorized to provide this declaration on behalf of the UI Federation.

3. The American Federation of Teachers (“AFT”) is a national union of professionals founded in 1916. As of June 2022, the AFT had more than 1.7 million members. The AFT’s mission is to champion fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. The AFT is committed to advancing these principles through various methods including community engagement, organizing, collective bargaining, and political activism, at the national, state, and local level.

4. The AFT represents 300,000 higher education faculty, as well as professional staff and graduate employees, in all sectors of higher education, both public and private. The AFT Higher Education division’s mission is “to help our affiliates and their members prosper in the face of political, economic and technological forces challenging the most basic assumptions about the union’s role on campus.” *See* Am. Fed’n of Teachers, *About AFT Higher Education*, <https://www.aft.org/highered/about-aft-higher-education>.

5. The AFT grants charters to local federations, like the UI Federation, that consist of at least ten dues-paying members. Am. Fed'n of Teachers, AFT Constitution art. IV, § 1, <https://www.aft.org/sites/default/files/media/documents/2022/aftconstitution2022.pdf>. Local federations are charged with developing their own constitutions and by-laws consistent with those of the AFT, *id.*, and locals may send voting delegates to the biennial AFT convention, *id.* art. VIII, §§ 1–2.

6. According to its constitution, the UI Federation's purpose is “to offer the highest quality education to the students; . . . to advance professional interests of college and university teachers; [and] to improve instruction in institutions of higher learning.” *See* Ex. A art. II §§ 1, 3–4. To advance these aims, the UI Federation holds regular meetings with its members, and its leadership meets or speaks with individual members on a regular basis.

7. As of May 2023, the UI Federation represented 66 dues-paying members, including faculty and professional staff, located in a wide range of departments including Modern Languages and Cultures; English; Law; History; Sociology/Anthropology; Theatre and Film; Politics and Philosophy; and Psychology & Communications.

The No Public Funds for Abortion Act and UI Federation Members' Academic Speech

8. On May 10, 2021, the No Public Funds for Abortion Act (“NPF AA”) went into effect. The NPF AA states that “[n]o public funds . . . shall be used in any way to . . . promote abortion [or] counsel in favor of abortion.” Idaho Code § 18-8705(1) (2021). Additionally, “[n]o person, agency, organization, or any other party that receives [public] funds . . . may use those funds to . . . promote abortion.” *Id.* § 18-8705(2).

9. The NPF AA provides that a violation of these provisions by a public employee “shall be considered a misuse of public moneys punishable under section 18-5702,” which

authorizes criminal punishments, including fines and terms of imprisonment. *Id.* §§ 18-8709, 18-5702. It further provides that a violation of these provisions will result in termination for cause from public employment and require “restitution of any public moneys misused.” *Id.* § 18-5702(5).

10. The NPFAA’s prohibition on promoting and counseling in favor of abortion has given rise to confusion, fear, and a profound chilling effect among members of the UI Federation, who fear prosecution for their teaching and scholarship related to abortion. Because the scope of the NPFAA is vague and unclear, UI Federation members cannot safely determine what academic speech might be construed as promoting or counseling in favor of abortion. In order to avoid criminal prosecution, faculty have removed or plan to remove valuable educational materials related to abortion from their syllabi, have avoided or plan to avoid engaging in classroom debates or discussions in which they could be viewed as presenting a pro-abortion viewpoint, have restricted or plan to restrict student research topics to exclude those related to abortion, and have altered the promotion of their academic scholarship related to abortion. UI Federation members have therefore been chilled in their speech on important academic issues, to their detriment and the detriment of their students.

Guidance from the University of Idaho and UI Federation Members’ Academic Speech

11. The University of Idaho has issued various forms of guidance related to the NPFAA. Rather than alleviate UI Federation members’ concerns regarding the risk of prosecution for their academic speech, this guidance has only confirmed those concerns.

12. While the NPFAA has been in effect since May 2021, the U.S. Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*, 142 S. Ct. 2228 (2022), in June 2022, brought renewed attention to the statute. On September 23, 2022, the University of Idaho issued a memorandum from the General Counsel’s Office on its interpretation of the applicability of the

NPFAA to University of Idaho employees. Kim. Decl. Ex. 1. The memorandum directs that “classroom discussion” about abortion “should be approached carefully,” and that “[w]hile academic freedom supports classroom discussions of topics related to abortion, these should be limited to discussions and topics relevant to the class subject.” *Id.* at 6. The memorandum instructs that “[a]cademic freedom is not a defense to violation of law, and faculty or others in charge of classroom topics and discussion must themselves remain neutral on the topic [of abortion] and cannot conduct or engage in discussions in violation of these prohibitions without risking prosecution.” *Id.*

13. The University of Idaho issued additional statements that highlight the uncertainty professors face under the law. On the one hand, the University stated that the school had not changed its academic freedom policies in light of the NPFAA and that “[t]he university supports faculty leading discussions on any related educational topic within the classroom.” Kim Decl. Ex. 2 at 1. On the other hand, the University continued to underscore the risk of potential prosecution. In a “Frequently Asked Questions” document, in response to the question, “Can I teach or talk about abortion in my class?,” the document explains that although faculty have academic freedom, “the [NPFAA] applies criminal penalties to individuals” and the “language of the law is vague in many respects which creates uncertainty as to the extent of the law.” Kim Decl. Ex. 3 at 2. The document cautions that “[c]onsequently, the administration wants each individual employee to know they can choose to assess for themselves what level of risk they are comfortable with when determining what they teach or talk about in performing their job.” *Id.* In a question asking, “Will the university defend my alleged violation of these laws?,” the document states that “[i]n a criminal prosecution . . . the university may not be able to provide a legal defense to university employees.” *Id.*

14. The University of Idaho’s response to the NPFAA has not assuaged UI Federation members’ concerns regarding the risk of prosecution for their academic speech, and the guidance does not offer clarity on the law’s applicability to professors and their classrooms. In fact, the university response only affirmed members’ belief that their academic speech falls within the purview of the NPFAA, and that they are prohibited from freely assigning materials, leading classroom discussion, providing feedback on student research and writing, and promoting their own scholarship about abortion.

The NPFAA’s Impact on the Academic Speech of Individual UI Federation Members

15. In my role as President of the UI Federation, many members have reached out to me regarding their fear of prosecution under the NPFAA. These members have described the statute’s serious chilling effect on their professional speech, including teaching and research. Many members have removed or changed reading materials, class discussion, student research and writing assignments, and—in some cases—entire units of their courses related to or implicating abortion in order to avoid violating the NPFAA. Some members have also refrained from promoting their academic work as a result of the NPFAA.

Global Studies Professor Ashley Kerr

16. Ashley Kerr, an Associate Professor in the School of Global Studies, plans to change her curriculum and limit the research topics her students may explore. One of her Spanish-language courses, “Health and Environment in Latin America,” has historically featured a unit on abortion and reproductive rights. The unit focused on comparative case studies of abortion policies in a number of Latin American countries, and Professor Kerr assigned essays, cases, and articles on abortion that were discussed in class. The unit included discussion of Latin American countries that have legalized abortion, as well as countries in which abortion is criminalized and harshly

prosecuted. Professor Kerr is concerned that the materials she has previously assigned could be perceived as promoting or counseling in favor of abortion, such as statistical research demonstrating that legalizing abortion can lead to a decrease in maternal mortality rates. Furthermore, class discussions regarding this unit frequently covered multiple viewpoints on abortion, including those favorable to abortion, and Professor Kerr is concerned as to how she may moderate and respond to such comments under the NPFAA. Professor Kerr worries that the materials she assigns or her statements in class discussions could be interpreted as reflecting a viewpoint favorable to abortion. To avoid exposure to prosecution under the NPFAA, Professor Kerr will therefore remove the unit on abortion and reproductive rights the next time she teaches the course in Spring 2024.

17. Professor Kerr's course also contains a research paper component, and students have frequently selected abortion or abortion-related issues as topics for their papers, which are presented at an undergraduate fair. The last time Professor Kerr taught the course, research topics selected by students included abortion, IUDs, and long-term birth control options. Professor Kerr works closely with students on these assignments, including meeting with students to discuss topic selection, recommending sources, and providing in-depth feedback on drafts. She is concerned that this direction to students in their independent research could be characterized as expressing a viewpoint favorable to abortion, as could working with students to exhibit their work in the undergraduate fair. She also fears that giving a high grade for a paper expressing abortion-supportive views or a low grade for a paper critical of abortion could be interpreted as promoting or counseling in favor abortion. As a result of her fear of prosecution under the NPFAA, she plans to limit potential research paper topics to prevent students from choosing to write about abortion the next time she teaches the course.

18. Professor Kerr believes the materials she has assigned for this course and attendant classroom discussions have a significant value that is closely related to her teaching objectives for the course. Abortion policy is the subject of important cultural debates in Latin America, and therefore she believes it is critical to explore this topic, particularly for students who are from Latin America, or who may travel to or live in Latin American countries. She has observed the benefit to such students in discussing these topics, and has observed that students across the political spectrum, including those with anti-abortion stances, have participated in active and respectful conversations regarding these complex issues and gained from these discussions. With regard to the research paper, Professor Kerr believes it is important for students' work to be driven by their personal academic interests, and has observed that students who choose to devote their research project to abortion have benefited from the opportunity to explore and share their interest in this critical issue. Despite the importance of the topic of abortion policy in the context of the course, and the beneficial nature of class discussions and student research papers on the topic, Professor Kerr does not feel that she can properly teach the topic of abortion in her course without fear of prosecution.

History Professor Rebecca Scofield

19. Rebecca Scofield, an Associate Professor of American History, will likely change the curriculum in her courses "The History of Women in American Society" and "The Long 1960s," and is considering changing her approach to classroom discussion in her "Introduction to U.S. History" course. One of the major pillars of Professor Scofield's course on "The History of Women in American Society" is exploring how women have experienced birth and sought to control family size throughout history, as those issues have been central to women's lives across time. In this course, she has previously assigned materials on abortifacients, including "Potions,

Pills and Jumping Ropes: The Technology of Birth Control,” an article regarding the use of abortifacients in early American society;¹ Sasha Turner’s *Contested Bodies: Pregnancy, Childbearing, and Slavery in Jamaica*;² and oral histories that mention therapeutic abortions in 1930s Idaho. These materials have been a valuable topic of class discussion and are assigned alongside readings on wet nurses, midwives, and the birth control pill. However, Professor Scofield is concerned that materials she assigns or statements she makes during class discussions on these materials could be interpreted as reflecting a viewpoint favorable to abortion and expose her to prosecution under the NPFSA. When she next teaches the course, Professor Scofield will likely remove materials that explicitly reference abortion. Professor Scofield believes that removing abortion-related materials from the course will deprive students of a thorough education in how people have understood women’s bodies over time, but she feels that she cannot properly teach the historical reality of abortion in the course without fear of prosecution.

20. Similarly, reproductive rights are a central topic in Professor Scofield’s course on “The Long 1960s,” which covers major political, social, and cultural developments between 1955 and 1975 in the United States. Professor Scofield previously assigned a number of materials related to the abortion debate, such as oral histories from Clara Bingham’s *Witness to the Revolution*.³ She has also encouraged her students to engage in active classroom discussion on the role of abortion and *Roe v. Wade*, 410 U.S. 113 (1973), in the radical political, social, and cultural changes of that era, particularly around the intersection of the Civil Rights Movement and second-wave feminism.

¹ Susan E. Klepp, *Potions, Pills, & Jumping Ropes*, in *Revolutionary Conceptions: Women, Fertility, and Family Limitation in America, 1760–1820*, 179 (2009).

² Sasha Turner, *Contested Bodies: Pregnancy, Childbearing, and Slavery in Jamaica* (2017).

³ Clara Bingham, *Witness to the Revolution: Radicals, Resisters, Vets, Hippies, and the Year America Lost Its Mind and Found Its Soul* (2017).

Professor Scofield believes that these materials and discussions are essential to the course's objective of helping students understand the centrality of reproductive debates to the social upheaval of the 1960s, how society's conception of abortion has changed over time, and what those changes indicate about American society. However, because she is concerned that assigning and discussing such material could be viewed as expressing a pro-abortion viewpoint, she will likely remove these materials the next time she teaches the course.

21. In her "Introduction to U.S. History" course, Professor Scofield previously led class discussions regarding the role of abortion in the political realignment of the 1970s era, with a focus on the politicization of abortion and the role of figures such as Phyllis Schlafly. In the past, Professor Scofield would show her students a 1973 Gallup poll demonstrating that, at that time, Republicans were more likely than Democrats to hold the view that abortion is a private decision between a woman and her doctor. Professor Scofield found that the poll helped students understand how the platforms of the political parties have shifted over time and how certain issues have had different political valences in different eras. Professor Scofield now worries that engaging in critical discussion of the Gallup poll or figures like Schlafly could be perceived as promoting or counseling in favor of abortion under the NPFSA. As a result of her fear of prosecution under the NPFSA, Professor Scofield is considering excising these materials the next time she teaches the course.

Sociology Professor Deborah Thorne

22. Deborah Thorne, a Professor of Sociology, has changed her approach to classroom discussion regarding abortion in both her "Sociology of Law" and "Introduction to Sociology" courses. In the past, in both courses, Professor Thorne has discussed with her students how changes in core social institutions are interrelated. For example, she presented to her students the idea that

the institution of law can powerfully affect the institution of gender—highlighting how women’s lives would be impacted if they did not have access to legal abortion, including that their lives might be cut short if they had to turn to illegal abortion services, they might be less likely to leave abusive relationships if unable to terminate an unwanted pregnancy, and they might have more limited access to financial and educational opportunities as a result of having additional children. Following the decision in *Dobbs*, Professor Thorne also considered incorporating fulsome discussion of the impact of the case into her course as well. However, because of the NPFAA, Professor Thorne is concerned that discussing any benefits of access to abortion or disadvantages of lack of access to abortion will be viewed as promoting or counseling in favor of abortion and expose her to prosecution. As a result, due to the NPFAA, she does not discuss the impact of either *Roe* or *Dobbs*, indicating simply that both opinions affected the lives of many Americans. Nor does she raise the other topics related to abortion that she has previously presented to her students. Professor Thorne feels that without discussing access to abortion, she cannot effectively teach her students about the powerful connections between the most influential institutions in our society—*e.g.*, law, healthcare, gender, and the economy—even though such connections are critical to the discipline of sociology.

History Professor Alyson Roy

23. Alyson Roy, an Assistant Professor in the History Department, has changed her approach to classroom discussion in her “The Roman Empire” and “Ancient Mythology” courses and is considering changing her curriculum in her “Introduction to Greek and Roman Civilizations” course. Professor Roy’s “The Roman Empire” course has a unit on gender and sexuality, which includes materials on the use of abortifacients in that period, a topic central to the course’s exploration of gender and sexuality in the ancient world. For example, Professor Roy has

assigned a chapter from an ancient source, Soranus' Gynecology, which specifically mentions the use of abortifacients and questions of safety. Similarly, in Professor Roy's "Ancient Mythology" course, she assigns a chapter from David Leeming's *Sex in the World of Myth* regarding the use of, and attitude toward, abortifacients in Mesopotamia.⁴

24. Given the NPFSA and the university guidance, Professor Roy became hesitant to assign the materials on abortifacients in both courses, because they include sources in which the author assigns blame to women for miscarriages and abortions. She is concerned that assigning these materials and classroom discussion of them—including discussion critical of the views they reflect—could be interpreted as expressing a pro-abortion viewpoint. Professor Roy has experienced significant anxiety in teaching these courses, particularly regarding classroom discussion that relates to abortion, and is concerned that her statements could subject her to prosecution under the NPFSA. Due to her fear of prosecution, Professor Roy did not directly raise or discuss the materials and their implications during classroom discussion the last time she taught both courses, as she normally would in order to encourage fulsome student engagement with the materials.

25. By changing her approach to classroom discussion on materials related to abortion, Professor Roy has made it unlikely students will engage in discussion of them in her courses, depriving the students of meaningful academic conversation and reducing the value of their educational experience. Professor Roy believes these materials and related discussion have significant value that is closely tied to her teaching objectives of enhancing understanding of historical perspectives and providing a comparator to contemporary debates. For example, the use of abortifacients, and the broader question of women's reproductive health, was the subject of

⁴ David Leeming, *Mesopotamia*, in *Sex in the World of Myth* 19 (2018).

important debate in the ancient world and that debate also provides important perspective on current debates on abortion. Nevertheless, Professor Roy does not feel that she can encourage classroom discussion on the topic of abortion in her courses as she did in the past without fear of prosecution under the NPFSA. Professor Roy plans to continue this practice when teaching these two courses in the future.

26. Professor Roy also teaches a survey course, “Introduction to Greek and Roman Civilizations,” which in the past has included materials on the use of abortifacients in the ancient world. The materials were assigned in two units in the course, one on gender and sexuality and the other on ancient magic. She will likely teach this course again in Spring 2024, and due to her fear of prosecution under the NPFSA, she is considering removing the material on abortifacients. If she continues to assign the materials, she will adopt similar practices as described, namely refraining from raising or discussing these materials during class.

Associate Professor of Sociology

27. An Associate Professor of Sociology and Director of the Academic Certificate in Equity and Justice has changed her curriculum and has also refrained from promoting her book. This Professor’s course on the “Sociology of Gender” previously included a unit on the history of reproductive rights, in which she assigned essays, cases, and articles on abortion and held class discussions on these materials. For example, this Professor had included in her syllabus excerpts from Kristin Luker’s *Abortion and the Politics of Motherhood*,⁵ and discussion of the history of the Comstock laws and the evolution of Planned Parenthood and abortion access. This Professor believes that these materials are central to her course, as they discuss the evolution and theory of rights that afford women the ability to make decisions for themselves and exert control over their

⁵ Kristin Luker, *Abortion and the Politics of Motherhood* (1985).

bodies and reproductive health, which is integral to understanding the history of reproductive rights. In the past, this unit has led to active and engaged classroom discussion that this Professor believes has enhanced her students' critical thinking and communication skills.

28. Despite the centrality of this unit to this Professor's "Sociology of Gender" course, she is concerned that the materials she assigns or any statements she makes in classroom discussions may be perceived as expressing a viewpoint regarding abortion that could expose her to prosecution under the NPFSA. For example, in connection with material she assigns on abortion, this Professor is concerned that if she were to make any statement highlighting the importance of the concept of female bodily autonomy in the history of reproductive rights, or were to appear to endorse such a statement made by a student during a classroom discussion, such an expression could be promoting or counseling in favor of abortion under the law. As a result of this Professor's fear of violating the NPFSA, she has removed the unit on the history of reproductive rights from her course, depriving her students of the opportunity to engage with, analyze, and discuss abortion-related topics central to her course.

29. The NPFSA has also impacted this Professor's participation in academic discourse, as she has refrained from promoting her book due to fear of prosecution under the NPFSA. The book is about rural obstetric care, and includes topics such as how our culture tends to prioritize the health of the fetus or baby over the health of the mother, and how pregnant women are charged with crimes related to potentially endangering the fetus. The paperback edition of the book was published in Spring 2023. This Professor sought counsel from the University's legal department as to whether she could engage in promotion of the paperback edition, but received no response. Because she fears that the book could be seen as reflecting a pro-abortion viewpoint, this Professor has decided not to promote the book until she has assurance that doing so will not result in

prosecution under the NPF AA. This Professor's decision not to promote her book limits her ability to engage in meaningful academic discourse on her research and will also likely limit sales of her book, which could impact her ability to obtain research grants or other funding.

The NPF AA's Diversion of UI Federation Resources and Impairment of Its Mission

30. In addition to the NPF AA's impact on individual members of the UI Federation, the NPF AA has harmed and continues to harm the UI Federation as an organization. The UI Federation has been forced to divert resources to address the impact of the NPF AA that otherwise would have been devoted to key aspects of its mission, such as member recruitment, advocating for salary increases, and fighting to improve working conditions for its members.

31. Following the passage of the NPF AA and the university guidance interpreting the statute, many members sought counsel from the leadership of the UI Federation, including myself, to understand the contours of what they could and could not teach and say in their classrooms. For example, many members were concerned that if their teaching and classroom discussion did not present "both views" on abortion, they could be vulnerable to prosecution under the NPF AA. I consulted extensively with outside legal counsel regarding the scope of the NPF AA and its impact on UI Federation members. I then relayed this legal guidance at several meetings with the UI Federation membership and through individual conversations with UI Federation members. In fact, after the passage of the NPF AA, the majority of my time as President of the UI Federation was devoted to this issue, at the expense of other critical union-related matters.

32. In my role as the President of the UI Federation, I and other UI Federation leadership also expended significant resources on a number of activities and discussions related to the NPF AA. For example, the UI Federation collaborated with other organizations to organize rallies and workshops to raise awareness of the impact of the NPF AA. I assisted with preparation

and promotion of the events, as well as day-of support. I also served as a speaker at the events, which required significant preparation. These activities detracted from the time and resources the UI Federation was able to dedicate to its other core activities and goals.

Conclusion

33. AFT's mission at the national level is to champion high-quality public education, and to help our members prosper. At the local level, the objectives of the UI Federation are to ensure that University of Idaho students receive the highest quality education, and to advance the professional interests of the UI Federation's faculty members. By placing members of the UI Federation at risk of criminal prosecution for their academic speech, the NPFSA restricts the UI Federation's ability to accomplish those objectives. Where University employees are forced to alter their syllabi, limit their classroom discussions, avoid feedback on student research and writing, or refrain from promoting their own scholarship, the harm extends from those individuals to the classroom environment, the university, the state, and beyond.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 1, 2023 in Moscow, Idaho.

A handwritten signature in black ink, appearing to read 'Luigi Boschetti', written in a cursive style.

Luigi Boschetti