

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

ALLEGHENY REPRODUCTIVE :  
HEALTH CENTER, *et al.*, :  
 :  
 :  
 : *Petitioners*, :  
 : No. 26 MD 2019  
vs. :  
 :  
 :  
 :  
 : PENNSYLVANIA DEPARTMENT OF :  
HUMAN SERVICES, *et al.*, :  
 :  
 :  
 :  
 : *Respondents*. :

**APPLICATION FOR RELIEF FROM SUPERSEDEAS**

Pursuant to Pennsylvania Rule of Appellate Procedure 1732, Petitioners Allegheny Reproductive Health Center, *et al.*, respectfully request relief in the nature of a stay from the automatic *supersedeas* entered in this matter pursuant to Rule 1736, and in support thereof state as follows:

1. Petitioners filed this action on January 16, 2019, challenging 18 Pa. C.S. § 3215(c) and (j) of the Pennsylvania Abortion Control Act (“the Coverage Exclusion”) as violative of the Pennsylvania Equal Rights Amendment, Article I, Section 28, of the Pennsylvania Constitution, and of the Constitution’s equal protection provisions, specifically Article I, Sections 1 and 26, and Article III, Section 32.

2. On January 29, 2024, the Supreme Court issued a mandate that ruled that, among other things, the Coverage Exclusion is presumptively unconstitutional under the ERA and remanded this matter to the Commonwealth Court to apply the highest level of scrutiny under the ERA and to conduct a commensurate means end review under Article I, Section 26. *See Allegheny Reproductive Health Ctr. v. Pa. Dep't of Human Servs.*, 309 A.3d 808, 947 (Pa. 2024).

3. On April 20, 2026, this Court issued an opinion and order granting Petitioners' application for summary relief; declaring that the Coverage Exclusion is unconstitutional under the ERA and Article I, Section 26; finding a fundamental right to reproductive autonomy in the Pennsylvania Constitution; and permanently enjoining the Commonwealth from enforcing the Coverage Exclusion and its associated regulations. *See Allegheny Reproductive Health Ctr. v. Pa. Dep't of Human Servs.*, 2026 WL 1053998, at \*19 (Pa. Commw. Ct. Apr. 20, 2026).

4. On May 19, 2026, the Attorney General, on behalf of Intervenor, the Commonwealth of Pennsylvania, filed a notice of appeal to the Pennsylvania Supreme Court regarding this Court's April 20, 2026 decision. *See Notice of Appeal*, 26 MD 2019 (May 19, 2026).

5. Pursuant to Rule 1736(b), this matter is subject to an automatic *supersedeas*. Rule 1736(b) provides that “[u]nless otherwise ordered pursuant to this chapter the taking of an appeal by any party specified in Subdivision (a) of this

rule shall operate as a *supersedeas* in favor of such party, which *supersedeas* shall continue through any proceedings in the United States Supreme Court.” Pa. R.A.P. 1736(b). Subdivision (a) includes “[t]he Commonwealth or any officer thereof, acting in his official capacity.” Pa. R.A.P. 1736(a).

6. Rule 1732 permits an application to the trial court for a stay of any *supersedeas*. Pa. R.A.P. 1732(a).

7. Petitioners make this application for a stay of the *supersedeas* in accordance with the factors set forth in *Department of Environmental Resources v. Jubelirer*, 614 A.2d 199 (Pa. 1989). Accordingly, for the reasons set forth in Petitioners’ brief in support of this application, Petitioners have made a substantive case on the merits and will suffer irreparable injury from the *supersedeas*. A stay of the *supersedeas* will not harm the other parties and in fact favors, rather than harms, the public interest.

8. Counsel for Respondents have consented to Petitioners’ requested relief. The Office of Attorney General does not consent to the requested relief.

**WHEREFORE**, Petitioners respectfully request that the Court grant this application for relief in the form of a stay of the automatic *supersedeas*.

Date: May 29, 2026

Christine K. Castro (Bar No. 326694)

Respectfully submitted,

By: /s/ Susan Frietsche

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**CERTIFICATION REGARDING PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: May 29, 2026

A handwritten signature in black ink, appearing to read 'Adam R. Martin', written over a horizontal line.

Adam R. Martin

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **Application for Relief from Supersedeas** was served upon all parties in this matter via PACFile.

Dated: May 29, 2026

A handwritten signature in black ink, appearing to read 'Adam R. Martin', written over a horizontal line.

Adam R. Martin

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	:	
<i>Respondents.</i>	:	

**[Proposed] ORDER**

AND NOW, upon consideration of Petitioners’ Application for Relief from *Supersedeas* and Petitioners’ Brief in Support thereof, it is hereby ORDERED as follows:

1. Petitioners’ Application for Summary Relief is GRANTED in its entirety;
2. The automatic *supersedeas* issued in this matter pursuant to Pennsylvania Rule of Appellate Procedure 1736(b) following the Notice of Appeal filed May 19, 2026, is VACATED; and

3. This Court's April 20, 2026, order that the Commonwealth is permanently ENJOINED from enforcing the Coverage Exclusion and its associated regulations is hereby ENFORCED.

By the Court,

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