

# **EXHIBIT 5**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

Paul A. Isaacson, M.D., on behalf of himself and  
his patients, et al.,

Plaintiffs,

v.

Mark Brnovich, Attorney General of Arizona, in  
his official capacity; et al.

Defendants.

Case No.

**DECLARATION OF CIVIA TAMARKIN, PRESIDENT OF THE NATIONAL**  
**COUNCIL OF JEWISH WOMEN (ARIZONA SECTION), INC.**

I, CIVIA TAMARKIN, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the President of the National Council of Jewish Women (Arizona Section), Inc. (“NCJW AZ”), which is a nonprofit 501(c)(3) corporation incorporated and headquartered in Scottsdale, Arizona. NCJW AZ is a Section of the National Council of Jewish Women (“NCJW”), a national nonprofit 501(c)(3) corporation incorporated in New York and headquartered in Washington, D.C.

2. Founded in 1893, NCJW is a grassroots organization of volunteers and advocates who turn progressive ideals into action. Inspired by Jewish values, NCWJ and NCJW AZ have a shared mission to strive for social justice by improving the quality of life for women, children, and families and by safeguarding individual rights and freedoms. NCJW AZ advances this mission by working across varied platforms and in cooperation with other organizations to promote social justice through advocacy, activism, public education, and community service. NCJW’s priorities

include, among others: protecting and advancing reproductive health, rights and justice; civil rights; immigration and refugees; and gender-based and sexual violence.

3. An integral component of NCJW AZ's mission is advancing the goals of reproductive justice so every person can make their own moral and informed decisions about their body, regardless of race, income, sexual orientation, gender, immigration status, ability, or geography. This includes supporting and advocating for health equity and universal access to health coverage, services, and information, specifically including abortion and contraceptive care; comprehensive sex education; and comprehensive family planning information and services.

4. As President of NCJW AZ, my responsibilities include: (i) serving as the official spokeswoman for and representative of NCJW AZ; (ii) presiding at meetings of NCJW AZ and of the NCJW AZ Board of Directors; (iii) signing all contracts, agreements and legal documents on behalf of NCJW AZ; (iv) serving as a member of all NCJW AZ committees, with the exception of the nominating committee; and (v) setting NCJW AZ's strategic direction and organizational agenda, priorities, and focus in carrying out NCJW AZ's mission.

5. I have held the position of NCJW AZ President since April 2019. Prior to that, I served as Vice President of Social Justice. I have been a member of NCJW AZ since 2017, when I was specifically invited to both become a member of NCJW AZ and participate on the Board of Directors based on my significant experience with reproductive rights and justice during my career as an investigative journalist, as well as my work as the co-writer, director, and producer of "Birthright: A War Story," a critically acclaimed feature-length documentary that was theatrically released in more than 45 cities in 2017 and focuses on the effects of policies that criminalize pregnancy or otherwise punish pregnant people for exercising their right to procreative and bodily autonomy.

6. I have reviewed and am familiar with S.B. 1457, 55th Leg., 1st Reg. Sess. (Ariz. 2021) (“S.B. 1457” or the “Act”), including its provisions banning abortions sought because of a fetal diagnosis, Act §§ 2, 10, A.R.S. §§ 13-3603.02, 36-2157 (as amended) (the “Reason Ban”) and imposing related reporting requirements, Act §§ 11, 13, A.R.S. §§ 36-2158(A)(2)(d), - 2161(A)(25) (as amended) (collectively, the “Reason Ban Reporting Requirements”) (collectively, the “Reason Ban Scheme”), as well its provision altering the entire Arizona Code to require its laws be “interpreted and construed” in a manner that gives all fertilized eggs, embryos, and fetuses the same “rights, privileges and immunities available to other persons,” Act § 1, A.R.S. § 1-219 (as amended) (the “Personhood Provision”).

7. I am over the age of 18 and I make this declaration based on my personal knowledge, unless I have indicated otherwise. If called as a witness, I would testify competently and truthfully to these matters.

### **The Organizational Structure of NCJW AZ**

8. NCJW AZ has over 480 members, who live throughout the state of Arizona and include people with capacity to become pregnant.

9. NCJW AZ is an all-volunteer organization governed by a Board of Directors, which consists of: President; Senior Vice President Policy and Advocacy; Senior Vice President Membership; Vice President Communications; Vice President Development; Vice President Legal Affairs; Vice President Marketing; Vice President Strategic Planning; Recording Secretary; Treasurer; Events Director; and seven Directors at Large.

10. NCJW’s budget is comprised mainly of membership fees and funds generated from donations and fundraising events.

### **NCJW AZ’s Reproductive Justice Initiative**

11. NCJW AZ advocates for social justice within a reproductive justice framework. This means that NCJW AZ aims to create a world where everyone, regardless of race, class, gender, sexuality, ability, or immigration status, is able to control their body, sexuality, and future.

12. The formal reproductive justice framework was created in the mid-1990s by women of color. Inspired by universal human rights concepts, it grew out of a discussion of how U.S. health care reform proposals would impact Black women's lives and communities. From there, the reproductive justice movement was born, committed to achieving human rights for all. Specifically, these rights include: (i) the right to have full autonomy over our bodies; (ii) the right to have or not have children; (iii) the right to birth and/or parent our children with dignity; and (iv) the right to live and/or raise a family in a safe, healthy environment.

13. The reproductive justice framework goes beyond the basic legal right to access key reproductive health services. Using a broader social justice and human rights lens, it seeks to advance moral and bodily autonomy, health equity, and unfettered access to comprehensive reproductive health care for all individuals and communities. It also emphasizes how multiple systems of discrimination intersect and influence these rights among marginalized communities. As a movement, it works to place the voices of those who have been marginalized at the center to lead the conversation for social change.

### **NCJW AZ's Activities**

14. As an ally to the reproductive justice movement, NCJW AZ seeks to promote legislative measures and public policies that advance justice, combat regressive policies, and dismantle the deep-rooted systems of discrimination and inequality from which harmful policies arise. Building on our legacy of raising our Jewish voice for progress, NCJW AZ engages in

grassroots organizing, legislative advocacy, and community awareness to advocate for health equity, procreative liberty, and true moral and bodily autonomy for all.

15. For example, NCJW AZ is a member of the Arizona Reproductive Rights Coalition, which engages in legislative advocacy, grassroots organizing, and community awareness actions with the goal of advancing reproductive rights and blocking legislation that would limit access to full spectrum reproductive healthcare or criminalize pregnancy.

16. NCJW AZ, in particular, has publicly opposed and actively lobbied against proposed legislation that would ban previability abortion as well as bills classifying fertilized eggs, zygotes, embryos, and fetuses as people with full legal rights and protections. For example, NCJW AZ publicly opposed S.B. 1457 in 2021 and, in partnership with the Arizona Reproductive Rights Coalition and other Arizona reproductive rights and justice advocacy organizations, worked to prevent its passage by enlisting and guiding witness testimony, directly engaging with legislators, encouraging NCJW AZ members and the general public to take action against the bill and providing them with resources for doing so, writing op eds, taking out print and digital newspaper ads, and participating in press conferences. NCJW AZ similarly engaged in legislative advocacy in 2021 to defeat H.B. 2650, which would have included fetuses within the legal definition of “person,” and allowed both doctors who provide abortion care and people who receive abortions to be prosecuted for first degree murder.

17. NCJW AZ also provides its membership with access to trainings and tools to assist them in effectively advocating against legislation that threatens to take away people’s rights to control their bodies, sexuality, and future. We host several presentations annually and small group weekly training sessions that are intended to encourage NCJW AZ members to become engaged

in legislative advocacy. These presentations almost always discuss legislative advocacy to protect and advance reproductive rights and justice.

18. NCJW AZ has also engaged in efforts to educate our membership and the public about the dangers of abortion bans and fetal-centric personhood laws and policies, including by holding multiple public events since 2017 to raise awareness of the ways in which procreative liberty and bodily autonomy are being threatened in the United States. For example, in 2017, 2019, and 2021 NCJW AZ hosted screenings of the critically acclaimed documentary, “Birthright: A War Story,” which exposes the ways pregnant people in the United States are being jailed, physically violated, and even put at risk of dying due to states’ attempts to control whether, when, and how people bear children. In 2021, NCJW AZ also joined an amicus brief filed in the Arizona Court of Appeals on behalf of 45 organizations, experts, and advocates in support of an Arizona mother found to have committed child neglect for using medical marijuana (for which she had a medical authorization) to treat hyperemesis gravidarum, a severe health condition that only occurs during pregnancy. NCJW AZ also conducted a public webinar in July 2021 featuring nationally recognized experts on the criminalization of pregnancy who discussed the ways in which prosecutors and other state officials have used ambiguous, fetal-centric laws like S.B. 1457 to penalize pregnant patients, harm public health, separate families, and ruin lives.

19. NCJW AZ also frequently hosts and supports events and campaigns to educate our members and the general public about laws and public policies that threaten reproductive rights and the goals of reproductive justice. For example, during the summer of 2018, the NCJW AZ Board of Directors voted to focus all of NCJW AZ’s organizational events for the following year around reproductive health and justice. NCJW AZ then organized and hosted several events to specifically educate our membership on threats to reproductive health and the goals of reproductive

justice in both Arizona and in the United States. These events included a public presentation in October 2018 during which panelists engaged in reproductive rights, health, and justice advocacy in Arizona discussed their work and ways attendees could become involved in and/or support similar advocacy; and an event in February 2019 in which Robin Marty, author of the book “Handbook for a Post-Roe America,” educated attendees about the various worst-case scenarios that could occur if *Roe v. Wade* is overturned, and offered guidance on how to use existing networks and create new ones to ensure all people can access the abortion care they need. Additionally, in February 2019, NCJW AZ’s annual awareness luncheon included a panel discussion focused on educating attendees about how people can access reproductive health care in Arizona, the rising maternal mortality rate in the U.S. and its causes, what will happen if *Roe v. Wade* is overturned, and actions individuals can take to protect and advance procreative liberty and health equity in Arizona. The panelists for this event included myself (in my role as an investigative journalist and filmmaker); abortion and family planning providers; public health experts; and a maternal fetal medicine specialist. At the event, NCJW AZ presented its Impact Award to the leader of the Planned Parenthood Clinic Escorts.

20. In April 2021, NCJW AZ also conducted a virtual meeting and mock trial called “You Be The Judge” in which members debated various state reproduction and abortion laws, reached a “judicial decision” on the laws, and then evaluated the actual decisions made by federal courts when those laws were challenged.

21. While NCJW AZ’s reproductive justice initiative is focused on achieving health equity and universal access to health coverage, services, and information, specifically abortion and contraception, our activities also address a range of issues that fall within the four basic reproductive justice human rights concerns.

22. For example, the right to have full autonomy over our bodies includes the ability to live free from sexual assault, harassment, and violence. In furtherance of this principle, NCJW AZ is currently dedicating a significant amount of our organizational resources to creating Ruth Place, a comprehensive trauma recovery treatment program and social support network to empower survivors of sexual assault and exploitation to take control over their lives and futures. Ruth Place will address the social, emotional, and psychological needs of a diverse population of survivors, their families, and allies, at all stages of the recovery process by providing no-cost or low-cost individual counseling, group therapy, emergency intervention, mentorships, and social support networks to enable long-term.

23. As an additional example, NCJW AZ has sought to further the right to live and/or raise a family in a safe, healthy environment by advocating for just, humane immigration policies and taking actions to assist asylum seekers who enter Arizona through its shared border with Mexico. NCJW AZ has provided its members with information and opportunities to assist local and international rescue organizations in opposing inhumane treatment of asylum seekers in Arizona, and to support asylum seekers released in Arizona with obtaining necessary supplies and services, such as shelter, clothing, toiletries, and health care. We have also conducted events to raise community awareness of the conditions women and girls face when seeking asylum in the United States, including procreative coercion and denial of health care services.

**S.B. 1457 Will Irreparably Harm NCJW AZ's Mission and Members**

24. If the Reason Ban Scheme or Personhood Provision go into effect, NCJW AZ will be significantly harmed as an organization; addressing either or both laws would cause us to divert resources and would seriously frustrate our mission.

25. If the Reason Ban Scheme and Personhood Provision go into effect, NCJW AZ would have to devote significant resources to educating our membership and the communities we serve about the new laws and their likely impacts. To do this, NCJW AZ would first have to allocate volunteer time and organizational resources to developing a deeper understanding of the laws and their potential impacts on our membership and the public. NCJW AZ's all-volunteer Board of Directors would accordingly have to form a task force and then recruit among our membership volunteers that would, at minimum, have to locate volunteer attorneys to assist with legal analysis, and also consult with the NCJW's national office, NCJW Sections in other states, and other Arizona reproductive rights and justice organizations.

26. NCJW AZ would thereafter divert additional organizational resources and volunteer time to developing programming and initiatives to educate our membership and the public about the Reason Ban Scheme and Personhood Provision, and provide assistance to members of our communities who are impacted by the laws. Given the significant breadth of these new laws, this would require us to expend considerable organizational and financial resources, as well as volunteer time.

27. For example, if the Reason Ban Scheme or Personhood Provision go into effect, NCJW AZ would have to develop and execute a significant public education or "Know Your Rights" campaign, likely in partnership with one or more other reproductive rights or justice organizations in Arizona. To be consistent with NCJW AZ's mission of seeking social justice through a reproductive justice lens, this campaign would have to be intersectional and meet the needs of NCJW AZ's membership *and* the marginalized communities in Arizona that are most likely to be negatively impacted by the new laws. This would be challenging, given that those communities are located in remote areas, such as the Navajo Nation in northeast Arizona, or are

otherwise difficult to access, such as pregnant people who are incarcerated or asylum seekers being held in detention centers. Arizona also has a significant Spanish-speaking population, as well as refugee communities who primarily speak Russian or Arabic, and indigenous communities who speak Navajo. NCJW AZ would accordingly have to structure the campaign to include multiple types of communications translated into multiple languages, such as a multi-platform social media campaign; print leaflets and brochures for tabling events; postcards and other mailings to NCJW AZ members and impacted communities; advertisements in newspaper and other media outlets; writing op eds; and potentially purchasing billboard space in strategic locations.

28. If the Reason Ban goes into effect, NCJW AZ would also have to educate our membership and the communities we serve about the potential liability imposed on medical professionals who provide abortion referrals as well as physicians who provide abortion care. We would accordingly need to partner with other reproductive rights and justice organizations in Arizona to develop resources and programming to assist the public with navigating these restrictions and locating abortion providers in Arizona or elsewhere.

29. If the Reason Ban Scheme goes into effect, people with fetal diagnoses may have to travel long distances to obtain abortion care. In response, NCJW AZ would seek to collaborate with partner organizations to develop programming and initiatives to assist such people with obtaining abortion care. This would likely require NCJW AZ Board members to organize and recruit teams of volunteers from NCJW AZ's membership that would provide or assist affected pregnant people with the provision of travel, lodging, child care, and other assistance necessary to obtain abortion care in Arizona, and/or coordinating with NCJW Sections in neighboring states to assist such people with locating an abortion provider in, and traveling to, another state.

30. Finally, if the Personhood Provision goes into effect, people in Arizona may be criminally prosecuted or subject to other legal penalties based on allegations that their actions during pregnancy harmed their fertilized egg, embryo, or fetus. In addition to the public education campaign described above, NCJW AZ would take further action in response to pregnancy prosecutions facilitated by the Personhood Provision. For example, NCJW AZ has in the past assisted people punished for actions alleged to have harmed their developing fetus with locating legal experts to assist with their legal cases and providing support through amicus briefs. We would be compelled to provide such support on a larger scale if the Personhood Provision goes into effect, which would in turn require us to divert time and organizational resources from other projects.

31. If the Reason Ban Scheme or Personhood Provision go into effect, the campaigns, programming, and initiatives described above would be necessary for NCJW AZ to carry out its mission of protecting reproductive rights and advancing the goals of reproductive justice. Specifically, the Reason Ban Scheme would prohibit some people from receiving previability abortion care in Arizona, and the Personhood Provision may put pregnant people at risk of criminal prosecution or other serious penalties for actions that would be legal if they were not pregnant. Both laws are direct attacks to procreative liberty and bodily autonomy. Pregnant people seeking abortion care because of a fetal diagnosis will lose their right to previability abortion unless they receive information about the Reason Ban Scheme and resources to obtain an abortion outside Arizona. Others may lose their right to previability abortion care unless they understand the conditions imposed by the Reason Ban Scheme and have the resources to navigate those conditions. And if pregnant people in Arizona are to avoid being prosecuted for actions that would be legal if they were not pregnant, such as undergoing methadone treatment for a substance use disorder or remaining in an abusive relationship, they will need to be made aware of the

Personhood Provision and informed of actions taken during pregnancy that could put pregnant people at risk of criminal prosecution or other penalties.

32. If either the Reason Ban Scheme or Personhood Provision, or both, go into effect, NCJW AZ would have to divert resources away from its existing programs, initiatives, and activities. Significantly, NCJW AZ is an all-volunteer organization. We rely on volunteers from within our membership to execute any program, initiative, or event. Our budget is also derived only from membership dues, donations, and fundraising (which typically requires an upfront financial investment to be successful). Our resources are, therefore, necessarily limited. The campaigns, initiatives, actions, and programs described above that would be necessary to both serve the needs of NCJW AZ's membership and carry out our mission would require NCJW AZ to launch a significant fundraising campaign and divert our most precious resource—our volunteers' time—away from existing programming and initiatives.

33. Specifically, to carry out an effective public education campaign, NCJW AZ would have to increase the workload of its paid social media consultant, who works on contract, to develop and execute a multi-platform social media strategy that would reach NCJW AZ's membership as well as members of the communities most in need of information about the new laws. NCJW AZ would also need to pay for printed fliers, booklets, postcards, and other informational materials, as well as postage for mailings to its membership and other contacts. To reach all of the communities impacted by the new laws, NCJW AZ would have to pay for these resources to be translated into languages other than English, such as Spanish, Navajo, Russian, and Arabic. It may also be necessary for NCJW AZ to engage the services of a consultant to develop a marketing strategy campaign and other resources to assist with public outreach and community awareness. This may include paying for advertisements on billboards, in newspapers,

or in other media outlets. All of these activities would require substantial volunteer time and effort to be diverted from NCJW AZ's other programs and initiatives.

34. To cover these expenses, NCJW AZ would need to engage in significant fundraising efforts. A fundraising campaign of the magnitude necessary to pay for the programming, actions, and initiatives described above—include raising funds to directly aid people in obtaining abortion care—would require NCJW AZ to divert funds from its existing budget—especially to the extent fundraising activities require upfront payments, such as securing a facility rental or hiring a production studio to conduct a virtual fundraiser. Such fundraising activities would also require the NCJW AZ Board to recruit volunteers to participate in several task forces or initiatives to carry out the various tasks involved in planning, developing, and executing a fundraising campaign. Given NCJW AZ's current resources, launching any new fundraising campaign would necessarily divert additional time and organizational resources away from NCJW AZ's other programming—including our current campaign to raise money to purchase and renovate the building that will house the Ruth Place.

35. The anticipated new actions, programming, campaigns, and initiatives described in this Declaration would result in a diversion of resources from NCJW AZ's current activities, including our ongoing legislative advocacy activities, community service programs, and community awareness and education events. Most significantly, responding to the Reason Ban Scheme and Personhood Provision would require NCJW AZ to shift resources from our volunteers' ongoing efforts to launch the Ruth Place program and our capital campaign to raise funds for the building that will house the program. Responding to the new laws would also require NCJW to divert resources from its ongoing social justice initiatives, such as our work assisting

asylum seekers and sex trafficking survivors, as well as our social justice actions, such as supporting voting rights and just immigration policies.

36. The Reason Ban Scheme and the Personhood Provision directly frustrate NCJW AZ's mission of advancing the goals of reproductive justice so every person can make their own moral and informed decisions about their body. In particular, the new laws would directly obstruct NCJW AZ's reproductive justice initiative by, among other things, threatening or taking away pregnant peoples' moral and bodily autonomy to make decisions about their health care and whether or not to have children; exacerbating inequitable access to health care by banning previability abortion for people with fetal diagnoses and restricting pregnant people's access to health care that may harm a fertilized egg, embryo, or fetus; and restricting access to comprehensive reproductive health care for all individuals and communities by imposing significant restrictions on medical providers' ability to have open and honest communications with patients and make appropriate referrals.

37. Finally, by soliciting funds to assist people in obtaining an abortion, I understand that NCJW AZ would open itself up to criminal liability if we know that a pregnant person is seeking an abortion for a fetal condition prohibited by the Reason Ban Scheme.<sup>1</sup>

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

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<sup>1</sup> A.R.S. § 13-3603.02(B)(2).

Dated this 13<sup>th</sup> day of August, 2021.

A handwritten signature in cursive script, reading "Civia Tamarkin", written over a horizontal line.

Civia Tamarkin  
President, National Council of Jewish  
Women (Arizona Section), Inc.