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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON VICINAGE**

**FIRST CHOICE WOMEN'S
RESOURCE CENTERS, INC.,**

Plaintiff,

v.

MATTHEW PLATKIN, in his
official capacity as Attorney General
for the State of New Jersey,

Defendant.

Civil Action File No.: 3:23-cv-23076

**PLAINTIFF'S EMERGENCY
MOTION FOR INJUNCTION
PENDING APPEAL**

Expedited Consideration Requested

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Plaintiff First Choice Women's Resource Centers, Inc. hereby moves this Court on an emergency basis for an injunction pending appeal. *See* Fed. R. App. P. 8. First Choice **requests expedited consideration.**

First Choice commenced this action with the simultaneous filing of its Verified Complaint and a motion for a temporary restraining order and preliminary injunction. On November 12, 2024, the Court denied First Choice's motion for a temporary restraining order and preliminary injunction and *sua sponte* dismissed this action for lack of subject matter jurisdiction, finding First Choice's claims unripe. On November 13, 2024, First Choice filed a notice of appeal. To protect it from irreparable harm pending that appeal, First Choice now moves for an injunction pending appeal. First Choice recognizes that this Court has already rejected the primary findings required for such an injunction, having found that it lacks jurisdiction. Therefore, First Choice respectfully requests that the Court expeditiously rule on this motion so that, assuming the Court adheres to its prior determination, First Choice may promptly seek relief in the Third Circuit to protect it from imminent, irreparable harm. *See* Fed. R. App. P. 8; *see U. S. ex rel. Barnwell v. Rundle*, 461 F.2d 768, 769 (3d Cir. 1972) (denying motion for stay pending appeal where plaintiff failed to first move in district court).

As explained in First Choice's emergency motion for a temporary restraining order and preliminary injunction, as well as its supplemental filings and complaint—all of which First Choice relies on and incorporates here by reference—First Choice's constitutional claims are ripe for decision by this Court, and an injunction is warranted. First Choice respectfully submits that it has suffered concrete injuries

such that its claims are ripe, and the Court retains jurisdiction over this matter to enter an injunction. First Choice has present injuries based on the Attorney General’s threat—now backed by a state-court enforcement order—to enforce a Subpoena against it that violates its protected associational rights, free speech rights, and right not to be targeted for enforcement based on its protected speech. *B.H. ex rel. Hawk v. Easton Area Sch. Dist.*, 725 F.3d 293, 323 (3d Cir. 2013) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); N.J. Stat. Ann. §§ 45:17A-33(g), 56:8-6 (penalties for noncompliance with subpoena include contempt of court, suspension of corporate charter, and civil penalties). First Choice recognizes that the Court has rejected these arguments.

Facing enforcement of an unconstitutional subpoena would further cause First Choice irreparable harm. It would further chill First Choice’s speech and religious expression rights, as well as harm its associational interests by pushing away donors, officers, employees, volunteers, and vendors through fear of retaliation and public disclosure. *See* Compl. ¶¶ 75–79; *see also B.H. ex rel. Hawk*, 725 F.3d at 323. The balance of harms weighs heavily for First Choice because the Attorney General suffers no injury in having to wait for documents to pursue an organization that has been peacefully operating in New Jersey for 40 years. Nor does he need these documents to protect the public interest, for “[t]here is a strong public interest in upholding the requirements of the First Amendment.” *Amalgamated Transit Union*

Loc. 85 v. Port Auth. of Allegheny Cnty., 39 F.4th 95, 109 (3d Cir. 2022).

Accordingly, the factors here favor entering an injunction pending appeal.

WHEREFORE, First Choice requests that the Court grant the requested motion for an injunction pending appeal by enjoining the Attorney General from enforcing the Subpoena pending appeal. First Choice **further requests expedited consideration of this motion.**

Dated: November 13, 2024

Respectfully submitted,

/s/ Lincoln Davis Wilson

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of November, 2024, a copy of the foregoing document was served via the Court's CM/ECF system which served notice of this filing to all counsel of record.

s/ Lincoln Davis Wilson
Lincoln Davis Wilson