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LDF Files Amicus Brief in Case Regarding FDA Approval of Mifepristone

On Tuesday, the [Legal Defense Fund](#) (LDF) filed an [amicus brief](#) in the United States Court of Appeals for the Fifth Circuit in *Alliance for Hippocratic Medicine v. FDA*, a case regarding the U.S. Food and Drug Administration's (FDA) approval of mifepristone.

Last Friday, a federal judge in Texas issued an unprecedented opinion that could effectively ban the sale of mifepristone, which was approved by the FDA in 2000 and is one of two drugs commonly used in medication abortions. At the same time, a federal judge in Washington state issued a dueling opinion directing the FDA to maintain availability of the medication. The Department of Justice has already filed a notice of appeal in the Texas case, and the Supreme Court will likely make the ultimate decision. In the meantime, mifepristone remains available until a court resolves the issue. And patients can still use a different medication, misoprostol, instead of mifepristone for the termination of pregnancy.

In its amicus brief, LDF outlines the harms a ban on the sale of mifepristone would have on people who have relied on its availability for two decades. The impact would be acutely felt by Black and low-income people, who rely on the right to safe, legal abortion at higher rates than other groups, and face profound inequities in accessing essential health care as a result of a long history of systemic racism and discrimination. Over half of all abortions in the United States are medication abortions, which research has repeatedly shown to be both safe and effective, and mifepristone has shown no significant risk of harm to patients.

“The specter of a judicially imposed ban on a medication people have relied on for 20 years comes at a time when we are observing Black Maternal Health week, where the theme for 2023 is restoring Black autonomy and joy, and the emphasis is on the heightened harms and risks of mortality experienced by Black women and other Black pregnant people. Instead of uplifting efforts to address the Black maternal mortality crisis, we are faced with judicial measures that will only further exacerbate and entrench disparities,” said Tona Boyd, LDF Associate Director-Counsel. “There are also broader implications if the judiciary revokes the FDA’s approval of mifepristone; it could open the door for additional challenges that are based in politics rather than backed by science and evidence, thus creating a chilling effect on the manufacturing of new drugs and innovation of treatment that could improve the health of millions.”

LDF supports efforts to promote equitable access to reproductive healthcare, emphasizing the impact of restrictions on abortion access on Black women and other pregnant people living in poverty, and has litigated to ensure nondiscriminatory delivery of babies, as well as the adequacy of health care and hospital services available to Black communities.

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Founded in 1940, the [Legal Defense Fund](#) (LDF) is the nation's first civil rights law organization. LDF's Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the Legal Defense Fund or LDF. Please note that LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights.