

1 [COUNSEL LISTED ON SIGNATURE PAGE]

2

3

4

5

6

7

8

UNITED STATES DISTRICT COURT

9

NORTHERN DISTRICT OF CALIFORNIA

10

11 NATIONAL ABORTION FEDERATION (NAF),

Case No. 3:15-cv-3522-WHO

12 Plaintiff,

Judge: Hon. William H. Orrick, III

13 v.

**STIPULATION AND ORDER  
REGARDING BRIEFING  
SCHEDULE FOR MOTION TO  
DISSOLVE OR MODIFY THE  
PRELIMINARY INJUNCTION,  
AND MOTION FOR  
CLARIFICATION**

14 THE CENTER FOR MEDICAL PROGRESS,  
15 BIOMAX PROCUREMENT SERVICES LLC,  
16 DAVID DALEIDEN (aka "ROBERT SARKIS"),  
and TROY NEWMAN,

17 Defendants.

Date Action Filed: July 31, 2015

Trial Date: TBD

18

19

20

21

22

23

24

25

26

27

28

1 **STIPULATION**

2 Pursuant to Local Rules 6-2 and 7-12, National Abortion Federation (“NAF” or  
3 “Plaintiff”) and Defendants Center for Medical Progress, BioMax Procurement Services, LLC,  
4 and David Daleiden (collectively, “Defendants”), file this stipulation to specify the date on which  
5 NAF may file its opposition to Defendants’ Motion to Dissolve or Modify the Preliminary  
6 Injunction, and Motion for Clarification and Defendants may file their reply in support of their  
7 Motion to Dissolve or Modify the Preliminary Injunction, and Motion for Clarification.

8 WHEREAS, on July 17, 2018, the Court set a schedule for any preliminary motions that  
9 might be filed by Defendants (Dkt. No. 540);

10 WHEREAS, Defendants’ motions to dismiss were due on August 15, 2018, NAF’s  
11 oppositions are due on September 5, 2018, Defendants’ replies are due on September 19, 2018,  
12 and the hearing is set for October 3, 2018 (Dkt. No. 540);

13 WHEREAS, on August 15, 2018, Defendants filed a Motion to Dissolve or Modify the  
14 Preliminary Injunction, and Motion for Clarification in addition to a Motion to Dismiss and an  
15 Anti-SLAPP Special Motion to Strike (Dkt. Nos. 545, 546, 547);

16 WHEREAS, on August 15, 2018, Defendant Troy Newman also filed a Motion to Dismiss  
17 (Dkt. No. 544);

18 WHEREAS, under Local Rule 7-3(a), NAF’s response to the Motion to Dissolve or  
19 Modify the Preliminary Injunction, and Motion for Clarification is due August 29, 2018;

20 WHEREAS, under Local Rule 7-3(c), Defendants’ reply in support of the Motion to  
21 Dissolve or Modify the Preliminary Injunction, and Motion for Clarification is due September 5,  
22 2018;

23 WHEREAS, on September 14, 2018, the U.S. Court of Appeals for the Ninth Circuit will  
24 hear oral arguments in *National Abortion Federation v. Center for Medical Progress*, Case Nos.  
25 17-6622, 17-6862 (9th Cir.), the appeal from this Court’s finding of contempt;

26 WHEREAS, NAF requires additional time to respond to the Motion to Dissolve or  
27 Modify the Preliminary Injunction, and Motion for Clarification;

28 WHEREAS, twenty-one prior modifications have been made to deadlines in this matter,

1 including: (1) August 6, 2015: order granting stipulated modification of the briefing and hearing  
2 schedule on Plaintiff's motion for preliminary injunction (Dkt. No. 34); (2) August 20, 2015:  
3 order granting stipulated modification of the briefing schedule on Defendants' Motion to Clarify  
4 Temporary Restraining Order As It Relates to Nucatola Transcript (Dkt. No. 76); (3) August 25,  
5 2015: order granting stipulated modification of briefing schedule regarding whether a corporate  
6 entity may invoke the Fifth Amendment privilege (Dkt. No. 84); (4) November 10, 2015: order  
7 granting stipulated modification of briefing schedule regarding Response to the Motion  
8 Preliminary Injunction (Dkt. No. 214); (5) November 13, 2015: order clarifying filing deadline  
9 for responsive pleading (Dkt. No. 224); (6) November 20, 2015: order granting stipulated  
10 modification of briefing schedule (Dkt. No. 241); (7) November 25, 2015: order granting  
11 stipulated request to extend NAF's deadline to challenge state subpoenas (Dkt. No. 253); (8)  
12 December 17, 2016: order granting stipulated request to extend NAF's deadline to challenge state  
13 subpoenas (Dkt. No. 302); (9) January 12, 2016: order granting stipulated request to extend  
14 NAF's deadline to challenge state subpoenas (Dkt. No. 326); (10) January 22, 2016: order  
15 granting Defendants' modification of briefing schedule regarding Motion to Modify TRO (Dkt.  
16 No. 343); (11) February 22, 2016: order granting stipulated request to stay trial court proceedings  
17 pending Defendants' appeal of preliminary injunction order (Dkt. No. 358); (12) March 2, 2016:  
18 order granting stipulated request to extend NAF's deadline to challenge state subpoenas (Dkt. No.  
19 360); (13) April 6, 2016: order granting stipulated request to extend NAF's deadline to challenge  
20 state subpoenas (Dkt. No. 365); (14) April 19, 2016: order granting stipulated request to extend  
21 NAF's deadline to challenge state subpoenas (Dkt. No. 370); (15) May 23, 2016: order on  
22 stipulated request to extend NAF's deadline to challenge state subpoenas (Dkt. No. 374); (16)  
23 June 15, 2016: order granting stipulated request to extend deadline to challenge state subpoenas  
24 (Dkt. No. 378); (17) March 28, 2017: order granting stipulated request to extend deadline to  
25 challenge state subpoenas (Dkt. No. 399); (18) May 31, 2017: order granting stipulated request  
26 for modification of briefing schedule regarding Order to Show Cause re Contempt (Dkt. No.  
27 414); (19) June 6, 2017: order granting Defendants' request for modification of briefing schedule  
28 regarding Defendants' response to OSC (Dkt. No. 427); (20) June 9, 2017: order granting

1 respondents' request for further extension of time to file reply to OSC (Dkt. No. 436); (21) May  
2 3, 2018: order granting stipulated request to extend NAF's Deadline to Challenge State  
3 Subpoenas (Dkt. No. 532).

4 NOW THEREFORE, IT IS HEREBY STIPULATED and agreed to by and between the  
5 parties, subject to the approval of the Court, that:

6 1. NAF may file its Opposition to Defendants' Motion to Dissolve or Modify the  
7 Preliminary Injunction, and Motion for Clarification on or before September 17, 2018;

8 2. Defendants may file their Reply in Support of Defendants' Motion to Dissolve or  
9 Modify the Preliminary Injunction, and Motion for Clarification on or before September 24,  
10 2018;

11 3. The hearing on Defendants' Motion to Dissolve or Modify the Preliminary Injunction,  
12 and Motion for Clarification will be heard on October 3, 2018 at 2:00 p.m.

13  
14 Dated: August 20, 2018

DEREK F. FORAN (CA SBN 224569)  
CHRISTOPHER L. ROBINSON  
(CA SBN 260778)  
DIANA M. MALTZER (CA SBN 260410)  
MORRISON & FOERSTER LLP  
425 Market Street  
San Francisco, California 94105-2482  
Telephone: 415.268.7000  
Facsimile: 415.268.7522  
Email: Dforan@mofocom  
Email: DMaltzer@mofocom  
Email: ChristopherRobinson@mofocom

15  
16  
17  
18  
19  
20  
21 By:

22  
23 

24 *Attorneys for Plaintiff NATIONAL*  
25 *ABORTION FEDERATION (NAF)*

26  
27  
28 *Signature continue on next page.*

1 Dated: August 21, 2018

By: /s/ Jeffrey M. Trissell  
Jeffrey M. Trissell

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CHARLES S. LIMANDRI (CA Bar 110841)  
PAUL M. JONNA (CA Bar No. 265389)  
JEFFREY M. TRISSELL (CA Bar 292480)  
B. DEAN WILSON (CA Bar 305844)  
FREEDOM OF CONSCIENCE DEFENSE  
FUND  
P.O. Box 9520  
Rancho Santa Fe, CA 92067  
Tel: (858) 759-9948  
Fax: (858) 759-9938  
E-Mail: cslimandri@limandri.com  
E-Mail: pjonna@limandri.com  
E-Mail: jtrissell@limandri.com  
E-Mail: dwilson@limandri.com

*Attorneys for Defendants,  
The Center for Medical Progress, Biomax  
Procurement Services LLP, David Daleiden  
(aka "Robert Sarkis")*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ATTESTATION OF E-FILED SIGNATURE**

I, Derek Foran, am the ECF user whose ID and password are being used to file this STIPULATION REGARDING FILING OF AMENDED PLEADING. In compliance with General Order 45, X.B., I hereby attest that Freedom of Conscience Defense Fund, counsel for Defendants, The Center for Medical Progress, Biomax Procurement Services LLP, and David Daleiden (aka "Robert Sarkis") concurs in this filing.

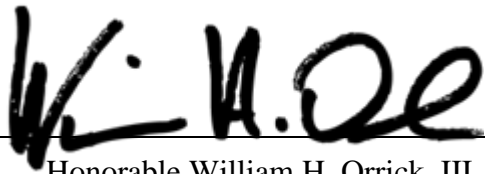
Dated: August 21, 2018

/s/ Derek Foran  
DEREK F. FORAN

**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: August 22, 2018

  
\_\_\_\_\_  
Honorable William H. Orrick, III  
United States District Court