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 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA

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 12 **A WOMAN'S FRIEND PREGNANCY**
RESOURCE CLINIC, CRISIS
 13 **PREGNANCY CENTER OF NORTHERN**
CALIFORNIA, ALTERNATIVES
 14 **WOMEN'S CENTER,**

Plaintiffs,

v.

17 **XAVIER BECERRA, ATTORNEY GENERAL**
 18 **OF THE STATE OF CALIFORNIA, IN HIS**
 19 **OFFICIAL CAPACITY,**

Defendant.

2:15-cv-02122-KJM-AC

STIPULATION AND JOINT REQUEST
FOR COURT ORDER RE: THE
PARTIES' SETTLEMENT OF
PLAINTIFFS' CLAIM FOR
ATTORNEY'S FEES AND COSTS;
ORDER

1 Plaintiffs A Woman’s Friend Pregnancy Resource Center and Alternatives Women’s Center
2 and Defendant Xavier Becerra, Attorney General for the State of California, sued in his official
3 capacity, agree and stipulate as follows:

4 **BACKGROUND**

5 1. On October 10, 2015, Plaintiffs filed the complaint in this lawsuit. Plaintiffs filed an
6 amended complaint on October 19, 2015.

7 2. On November 13, 2015, Plaintiffs moved this Court for a preliminary injunction
8 against enforcement of the Reproductive FACT Act, California Health and Safety Code section
9 123470, et. seq. (“the Act”). On December 4, 2015, Defendant filed an opposition to the motion.
10 On December 11, 2015, Plaintiffs filed a reply in support of the motion. On December 21, 2015,
11 the Court issued an order denying the motion.

12 3. On December 23, 2015, Plaintiffs filed in the U.S. Court of Appeals, Ninth Circuit, a
13 notice of appeal of this Court’s ruling. Between January 20, 2016, and March 2, 2016, the parties
14 briefed the appeal. On October 14, 2016, the Ninth Circuit issued an order affirming this Court’s
15 ruling.

16 4. On March 20, 2017, Plaintiffs filed in the U.S. Supreme Court a petition for a writ of
17 certiorari regarding the Ninth Circuit’s ruling. Between May 24, 2017, and June 2, 2017, the
18 parties briefed the petition for a writ of certiorari. On June 28, 2017, the Supreme Court granted
19 the petition for certiorari, vacated the Ninth Circuit’s decision in *LivingWell Med. Clinic, Inc. v.*
20 *Harris*, 669 Fed. Appx. 493 (9th Cir. 2016), and remanded the case for further consideration in
21 light of *National Institute of Family and Life Advocates v. Becerra*, 585 U.S. ____ (2018)
22 (“NIFLA”).

23 5. On August 28, 2018, pursuant to the Supreme Court’s decision in NIFLA, the Ninth
24 Circuit reversed in part, and vacated in part, this Court’s decision denying Plaintiffs’ motion for a
25 preliminary injunction;

26 6. On October 17, 2018, this Court entered an order: (1) permanently enjoining
27 Defendant Becerra, in his official capacity as the Attorney General of California, from enforcing
28 the Act; (2) declaring Plaintiffs prevailing parties for purposes of 42 U.S.C. § 1988; and (3)

1 dismissing the action with prejudice;

2 7. On November 14, 2018, Plaintiffs filed a motion for attorney’s fees and costs,
3 pursuant to 42 U.S.C. § 1988.

4 **THE PARTIES’ REQUEST**

5 Plaintiffs and Defendant Becerra have reached an agreement regarding attorney’s fees and
6 costs and jointly request that the Court enter the following order:

7 1. Defendant Becerra will pay to Plaintiffs a total of \$244,475.89 in attorney’s fees and
8 costs (\$232,531.42 in attorney’s fees and \$11,944.47 in costs).

9 2. This payment will completely satisfy Defendant Becerra’s obligation to pay
10 attorney’s fees and costs in this matter; Plaintiffs will not be entitled to any interest.

11 3. This payment is contingent upon certification of availability of funds, the approval of
12 the Director of the California Department of Finance, and the enactment by the Legislature and
13 Governor of a “claims bill” that includes the agreed-upon amount.

14 4. Plaintiffs understand that the submission of the claims bill cannot be made without an
15 order of this Court regarding the Parties’ agreement for the payment of attorney’s fees and costs.

16 5. Defendant Becerra anticipates that a claims bill including the settlement amount of
17 \$244,475.89 will be introduced in the Legislature in early 2019. Defendant Becerra agrees to
18 keep Plaintiffs apprised of the bill’s progress, and to act in good faith to facilitate its enactment as
19 soon as practicable.

20 6. If the State fails to enact such a bill, or Defendant Becerra otherwise fails to pay the
21 agreed-upon sum of \$244,475.89 by June 30, 2019, Plaintiffs retain the right to ask this Court to
22 put their motion for attorney’s fees and costs back on calendar for hearing. In those
23 circumstances, Defendant Becerra agrees not to oppose the request to put the matter back on
24 calendar for hearing, and said request will be deemed timely.

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Dated: January 3, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ANTHONY R. HAKL
Supervising Deputy Attorney General

/s/ Noreen P. Skelly

NOREEN P. SKELLY
Deputy Attorney General

Dated: January 3, 2019

BY: */s/ KEVIN T. SNIDER*

KEVIN T. SNIDER, PACIFIC JUSTICE
INSTITUTE, ATTORNEY FOR PLAINTIFFS

FILER'S ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3), regarding signatures, I hereby attest that concurrence in the filing of this document has been obtained from all signatories above.

Dated: January 3, 2019

/s/ Noreen P. Skelly
NOREEN P. SKELLY

1 **ORDER**

2 1. Defendant Becerra will pay to Plaintiffs a total of \$244,475.89 in attorney’s fees and
3 costs (\$232,531.42 in attorney’s fees and \$11,944.47 in costs).

4 2. This payment will completely satisfy Defendant Becerra’s obligation to pay
5 attorney’s fees and costs in this matter; Plaintiffs will not be entitled to any interest.

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7 the Director of the California Department of Finance, and the enactment by the Legislature and
8 Governor of a “claims bill” that includes the agreed-upon amount.

9 4. Plaintiffs understand that the submission of the claims bill cannot be made without an
10 order of this Court regarding the Parties’ agreement for the payment of attorney’s fees and costs.

11 5. Defendant Becerra anticipates that a claims bill including the settlement amount of
12 \$244,475.89 will be introduced in the Legislature in early 2019. Defendant Becerra agrees to
13 keep Plaintiffs apprised of the bill’s progress, and to act in good faith to facilitate its enactment as
14 soon as practicable.

15 6. If the State fails to enact such a bill, or Defendant Becerra otherwise fails to pay the
16 agreed-upon sum of \$244,475.89 by June 30, 2019, Plaintiffs retain the right to ask this Court to
17 put their motion for attorney’s fees and costs back on calendar for hearing. In those
18 circumstances, Defendant Becerra agrees not to oppose the request to put the matter back on
19 calendar for hearing, and said request will be deemed timely.

20 IT IS SO ORDERED.

21 DATED: January 9, 2019.

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23 _____
24 UNITED STATES DISTRICT JUDGE
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