

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

12 Plaintiff,

Judge: Hon. William H. Orrick, III

13 v.

**STIPULATION AND ORDER TO
EXTEND NATIONAL ABORTION
FEDERATION (NAF)'S
DEADLINE TO CHALLENGE
STATE SUBPOENAS**

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

Date Action Filed: July 31, 2015
Trial Date:

17 Defendants.

18

19

20

21

22

23

24

25

26

27

28

1 Pursuant to Local Rules 7-1(a)(5) and 7-12 and Federal Rule of Civil Procedure 15,
2 National Abortion Federation (“NAF” or “Plaintiff”) and Defendants Center for Medical
3 Progress, Biomax Procurement Services, LLC, David Daleiden (collectively, “CMP Defendants”)
4 and Troy Newman (collectively, “Defendants”), file this stipulation to extend NAF’s deadline to
5 challenge subpoenas issued by the Arizona Attorney General and Louisiana Inspector General to
6 CMP:

7 WHEREAS, the Court issued its ruling on NAF’s motion for preliminary injunction on
8 February 5, 2016 (Dkt. 354);

9 WHEREAS, on April 18, 2016, the parties stipulated to extend NAF’s deadline to either:
10 (1) complete its meet-and-confer discussions with the Arizona Attorney General and/or the
11 Louisiana Inspector General; or (2) initiate litigation concerning the subpoenas to May 30, 2016
12 (Dkt. 368);

13 WHEREAS, the parties also stipulated that “no audio or video footage, documents, or any
14 other material covered by this Court’s Preliminary Injunction Order, as modified by the Court,
15 may be produced in response to the subpoenas issued by the Arizona Attorney General and
16 Louisiana Inspector General unless and until: (1) NAF and representatives of either or both the
17 Arizona Attorney General and Louisiana Inspector General reach agreement concerning the
18 scope, terms, and conditions of any production in response to their respective subpoenas. An
19 agreement with one state does not authorize a response with respect to the other state; or (2) If
20 NAF initiates litigation in accordance with Paragraph 1 above, disputes concerning the particular
21 subpoena are resolved by the court in which that litigation is filed.” *Id.*

22 WHEREAS, the Court granted the parties’ stipulation on April 19, 2016 (Dkt. 370);

23 WHEREAS, counsel for NAF represents that it has engaged in meet and confer
24 discussions directly with representatives of the Arizona Attorney General and Louisiana Inspector
25 General;

26 WHEREAS, it is in the best interests of ~~the Court and~~ the parties to extend NAF’s
27 deadline to reach agreement concerning the appropriate scope of a production or initiate litigation
28

1 from May 30, 2016 to September 30, 2016 or thirty (30) days after the Ninth Circuit's ruling
2 regarding the preliminary injunction, whichever comes first;

3 WHEREAS, extending this deadline will not impact the existing schedule in this
4 litigation;

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

7 1. NAF may have until **JUNE 20, 2016** ~~or thirty (30) days after the Ninth Circuit's ruling~~
8 ~~regarding the preliminary injunction, whichever comes first~~, to either (1) complete its meet-and-
9 confer discussions with the Arizona Attorney General and/or the Louisiana Inspector General, or
10 (2) initiate litigation concerning the subpoenas issued by the Arizona Attorney General and/or
11 Louisiana Inspector General in the appropriate fora.

12 2. No audio or video footage, documents, or any other material covered by this Court's
13 Preliminary Injunction Order may be produced in response to the subpoenas issued by the
14 Arizona Attorney General and Louisiana Inspector General unless and until: (1) NAF and
15 representatives of either or both the Arizona Attorney General and Louisiana Inspector General
16 reach agreement concerning the scope, terms, and conditions of any production in response to
17 their respective subpoenas. An agreement with one state does not authorize a response with
18 respect to the other state; or (2) If NAF initiates litigation in accordance with Paragraph 1 above,
19 and disputes concerning the particular subpoena are resolved by the court in which that litigation
20 is filed. In the event that NAF does not reach an agreement or initiate litigation with respect to
21 either or both subpoenas, CMP may respond to the particular subpoena or subpoenas for which
22 there is no agreement or litigation pending after the applicable deadline as set forth in Paragraph 1
23 above.

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

Dated: May 20, 2016

LINDA E. SHOSTAK (CA SBN 64599)
DEREK F. FORAN (CA SBN 224569)
CHRISTOPER L. ROBINSON
(CA SBN 260778)
NICHOLAS S. NAPOLITAN
(CA SBN 251762)
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: 415.268.7000
Facsimile: 415.268.7522
Email: LShostak@mof.com
Email: Dforan@mof.com
Email: ChristopherRobinson@mof.com

By: /s/ Derek F. Foran
DEREK F. FORAN

*Attorneys for Plaintiff NATIONAL
ABORTION FEDERATION (NAF)*

1 Dated: May 20, 2016

By: /s/ Steven Wood
Steven Wood

2 STEVEN N.H WOOD (CA SBN 161291)
3 wood@wcjuris.com
4 BRUCE A. McINTOSH (SBN 175607)
bmcintosh@wcjuris.com
5 STEPHEN C. SETO (SBN 175458)
sseto@wcjuris.com
6 BERGQUIST WOOD McINTOSH SETO
LLP
7 1470 Maria Lane, Suite 300
Walnut Creek, CA 94596
8 Telephone: (925) 938-6100
Fascimile: (925) 938-4354

9 *Attorneys for Defendants The Center for*
10 *Medical Progress and Biomax Procurement*
Services, LLC

11 Dated: May 20, 2016

By: /s/ Erik Zimmerman
Erik Zimmerman

12 JAY ALAN SEKULOW (DC Bar
13 496335)
14 CARLY F. GAMMILL (TN Bar 28217)
cgammill@aclj-dc.org
15 ABIGAIL A. SOUTHERLAND (TN Bar
022608)
asoutherland@aclj.org
16 JOSEPH WILLIAMS* (TN Bar 033626)
17 AMERICAN CENTER FOR LAW &
JUSTICE
201 Maryland Avenue, NE
18 Washington, DC 20002
Tel: (202) 546-8890; Fax: (202) 546-
19 9309

BRIAN R. CHAVEZ-OCHOA (CA Bar
190289)
brianr@chavezocholaw.com
20 CHAVEZ-OCHOA LAW OFFICES, INC.
4 Jean Street, Suite 4
21 Valley Springs, CA 95252
Tel: (209) 772-3013; Fax: (209) 772-3090

EDWARD L. WHITE III (MI Bar P62485)
ewhite@aclj.org
22 ERIK M. ZIMMERMAN (MI Bar P78026)
ezimmerman@aclj.org
23 AMERICAN CENTER FOR LAW &
JUSTICE
3001 Plymouth Road, Suite 203
24 Ann Arbor, MI 48105
Tel: (734) 680-8007; Fax: (734) 680-8006

Vladimir F. Kozina (CA Bar 95422)
25 MAYALL HURLEY, P.C.
2453 Grand Canal Boulevard
26 Stockton, CA 95207
Tel: (209) 477-3833; Fax: (209) 473-4818

27 *Attorneys for Defendant,*
28 *Troy Newman*

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

Dated: May 20, 2016

By: /s/ Catherine Short
CATHERINE SHORT

CATHERINE W. SHORT (CA Bar 117442)
LIFE LEGAL DEFENSE FOUNDATION
P.O. Box 1313
Ojai, CA 93024-1313
Tel: (707) 337-6880
Fax: (805) 640-1940
E-Mail: LLDFOjai@earthlink.net

Thomas Brejcha
Peter Breen
Corrine Konczal
Thomas More Society
19 La Salle St., Ste. 603
Chicago, IL 60603
Email: tbrejcha@thomasmoresociety.org

*Attorneys for Defendant,
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 F. Foran, am the ECF User whose ID and password are being used to file this STIPULATION TO EXTEND NAF'S DEADLINE TO CHALLENGE STATE SUBPOENAS. In compliance with General Order 45, X.B., I hereby attest that Derek Foran, Steven Wood, Erik Zimmerman, and Catherine Short concur in this filing.

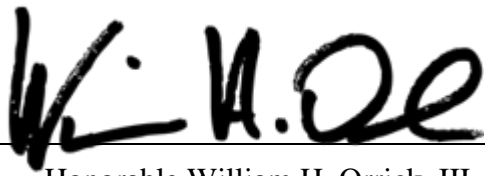
Dated: May 20, 2016

/s/ Derek F. Foran
DEREK F. FORAN

ORDER

PURSUANT TO STIPULATION, NAF may have until **JUNE 20, 2016** to either (1) complete its meet-and-confer discussions with the Arizona Attorney General and/or the Louisiana Inspector General, or (2) initiate litigation concerning the subpoenas issued by the Arizona Attorney General and/or Louisiana Inspector General in the appropriate fora.

A Telephonic Conference to discuss the status of the meet-and-confer discussions will be held on Tuesday **June 14, 2016 at 3:30 pm**. Plaintiffs shall give notice of this Telephonic Conference to counsel for Arizona and Louisiana, who may participate in the telephonic conference if they wish. Counsel wishing to participate in the telephone conference should make arrangements to do so with the Courtroom Deputy.



Honorable William H. Orrick, III
United States District Court

Dated: May 23, 2016