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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

REBECCA CHAMORRO and PHYSICIANS FOR REPRODUCTIVE HEALTH,

Plaintiffs,

v.

DIGNITY HEALTH; DIGNITY HEALTH d/b/a MERCY MEDICAL CENTER REDDING,

Defendants.

Case No. 15-549626

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF CALIFORNIA MEDICAL ASSOCIATION'S MOTION FOR LEAVE TO FILE COMPLAINT IN INTERVENTION

Date: May 25, 2016
Time: 9:30 am
Dep't: 302
Judge: Hon. Harold Kahn

Hearing Reservation no. 04260525-06

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INTRODUCTION

On behalf of approximately 41,000 individual members, along with their patients, and 80 hospital medical staff organizations throughout the state, the California Medical Association ("CMA") seeks to intervene as a plaintiff in this important case involving issues of improper lay interference with physician medical judgment and the doctor–patient relationship as well as threats to the quality and accessibility of needed reproductive care for women at all hospitals operated by Defendant Dignity Health, including specifically Mercy Medical Center Redding ("Mercy Hospital"). The plaintiffs here are challenging hospital administrators' use of Ethical and Religious Directives for Catholic Health Care ("ERDs") to reject a sensitive medical decision made between a patient and her physician for a specific sterilization procedure known as immediate postpartum tubal ligation. The enforcement of the ERDs in this manner may involve nonmedical church administrators but does not involve the hospital's professional medical staff, and it runs counter to evidence-based, sound medical judgment. The plaintiffs accordingly allege violations of laws prohibiting sex discrimination, unlawful business practices and the corporate practice of medicine.

CMA agrees that Dignity Health has violated the laws as alleged by the plaintiffs and endorses the request for injunctive relief barring Dignity Health's enforcement of the ERDs. Representing its individual physician and medical staff members at Dignity Health hospitals, CMA nevertheless seeks to intervene as a plaintiff because its members have direct and immediate interests that will be impacted by the resolution of this case. Plaintiffs do not oppose CMA's intervention. Declaration of Francisco J. Silva ("Silva Decl.") ¶10. In such circumstances, and because CMA has moved to intervene in a timely manner, CMA is entitled to intervene both as a matter of right and as a permissive intervenor under Code of Civil Procedure sections 387(b) and (a), respectively.

CMA accordingly urges the Court to grant its motion for leave to file the Complaint in Intervention that accompanies the motion.

FACTUAL AND PROCEDURAL BACKGROUND

I. ALLEGATIONS OF INTERFERENCE WITH THE DOCTOR-PATIENT RELATIONSHIP AND MEDICAL DECISION-MAKING IN THE PENDING LAWSUIT

Plaintiffs Rebecca Chamorro ("Chamorro") and Physicians for Reproductive Health ("PRH") (collectively, "Plaintiffs") initiated the instant action on December 28, 2015. They challenge the policy and practice of Defendant Dignity Health applying Catholic, nonmedical religious directives to prevent physicians from performing a direct sterilization procedure known as immediate postpartum tubal ligation ("tubal") on female patients in Dignity Health hospitals. After the Court denied a motion for preliminary injunction on January 14, 2016, the parties stipulated to the filing of a first amended complaint and a deadline of May 4, 2016, for Dignity Health to demur or file Defendant's first responsive pleading. Plaintiffs' First Amended Complaint ("FAC") was filed on February 29, 2016. Dignity Health has not yet filed a responsive pleading.

According to the First Amended Complaint, at the time this case was initiated, Chamorro was pregnant with her third child and scheduled to deliver via Cesarean Section ("C-section") at the end of January 2016 at Dignity Health's Mercy Hospital. FAC ¶10. She and her husband decided that they did not want any more children and that she would undergo a tubal to prevent any further pregnancies. *Id.* at ¶11. Chamorro consulted with her obstetrician-gynecologist, Dr. Samuel Van Kirk ("Dr. Van Kirk"), who agreed it was a medically appropriate procedure and recommended performing the tubal immediately after Chamorro's scheduled C-section, consistent with the standard of medical care. *Id.* at ¶12. Otherwise, Chamorro may require another procedure involving another anesthetic event to obtain a tubal ligation or may require a different form of less effective birth control (making her susceptible to higher risk of unplanned pregnancy). *Id.* at ¶¶35-36. Mercy Hospital, however, denied the request to perform the tubal on Chamorro pursuant to the ERDs. *Id.* Mercy Hospital has relied upon the ERDs to deny Dr. Van Kirk's requests for tubals for at least 50 other patients over the last eight years. *Id.* at ¶7.

Plaintiff PRH is a national non-profit organization comprised of physicians who seek to ensure meaningful access to comprehensive reproductive health services. FAC ¶15. PRH has about 1,200 physician members who practice in California, including some who have patients that have delivered or plan to deliver a child at a Dignity Health hospital. *Id.* Some patients of PRH physician members will want a tubal after their delivery, and accordingly some of these patients will be denied a tubal by Dignity Health based on the ERDs and/or sterilization policies reflecting the ERDs. *Id.* at ¶16.

The U.S. Conference of Catholic Bishops promulgated the ERDs.[1] The ERDs state that "[d]irect sterilization of either men or women, whether permanent or temporary, is not permitted in a Catholic health care institution." They further designate direct sterilization as "intrinsically evil" and of "the most pressing concerns." The ERDs do not, however, rely on evidence-based, sound medical judgment to reject any sterilization procedures, including tubals.

Plaintiffs allege Dignity Health's denial of tubals pursuant to the ERDs "unlawfully disrupts the patient-doctor relationship and denies patients the standard of care and pregnancy-related care." FAC ¶5. According to Plaintiffs, Dignity Health's actions constitute sex discrimination in violation of the Unruh Act and Government Code section 11135. *Id.* at ¶¶63-67 and ¶¶69-75. Plaintiffs also allege violation of California's bar on the corporate practice of medicine, violation of Health and Safety Code section 1258 (prohibiting imposition of nonmedical criteria as a condition of sterilization procedures), and violation of the Unfair Competition Law. *Id.* at ¶¶77-82, ¶¶84-86, and ¶¶88-91. They seek a declaratory judgment and injunctive relief "enjoining Dignity Health from prohibiting doctors from performing immediate postpartum tubal ligation in its hospitals based on nonmedical religious directives." FAC at 22:1-3.

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[1] U.S. Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services* (Fifth ed., Nov. 17, 2009), online at http://www.usccb.org/issues-and-action/human-life-and-dignity/health-care/upload/Ethical-Religious-Directives-Catholic-Health-Care-Services-fifth-edition-2009.pdf.

II. INTERESTS OF CMA AND ITS MEMBERS

A. CMA's History and Mission Focused on Protecting the Practice of Medicine and the Health and Well-Being of Patients

CMA was founded in 1856 by a group of about 75 pioneering physicians who helped settle the West during the Gold Rush, treating Californians against cholera, typhoid and smallpox, among many other dangerous diseases. Silva Decl. ¶2. The organization and its leaders laid much of the foundation of our modern health care system, including starting the state public health department in the 1870s, instituting critical public health policies such as mandatory immunization in school children, developing programs to fund health care for the poor during the Great Depression, creating a physician credentialing system that led to formation of the Medical Board of California, and starting California's first medical schools, later to become Stanford Medical School and the UCSF School of Medicine. *Id.*

Today, CMA is a non-profit, incorporated professional association for physicians and medical students with approximately 41,000 individual members, with a mission "to promote the science and art of medicine, the care and well-being of patients, the protection of public health, and the betterment of the medical profession." Silva Decl. ¶3. CMA's membership is comprised of California physicians engaged in the practice of medicine in all specialties and settings. *Id.*

CMA also has a specialty section, the Organized Medical Staff Section ("OMSS"), composed of organized medical staffs in hospitals throughout California. Silva Decl. ¶4. All physicians practicing in a California hospital must be members of, and granted practice privileges by, the hospital's medical staff. *See* Bus. & Prof. Code §2282. Medical staffs are unincorporated associations governed by a set of bylaws and officers. All medical staffs are eligible to join CMA's OMSS as official members with access to the benefits and services provided by CMA. Silva Decl. ¶4. The purpose of OMSS is to provide resources and information for medical staffs of hospitals, other health facilities and emerging delivery systems. *Id.* at ¶5. CMA also advocates on behalf of medical

staffs to protect and preserve their independence and self-governance rights established under law. *Id.* There are approximately 80 medical staffs that are active members of OMSS. *Id.*

B. CMA Members' Specific Interests in this Litigation

To further its mission, CMA consistently advocates for laws and policies that preserve and protect the doctor-patient relationship, the ability of physicians to exercise medical judgment free from external lay interference, and the enforcement of California's bar on the corporate practice of medicine. CMA policy is set each year at its annual House of Delegates ("HOD") session. Silva Decl. ¶6. Hundreds of physician leaders representing all different sectors of medicine convene at the HOD session to debate and pass resolutions that express CMA members' interests and reflect their experiences. *Id.* The adopted resolutions become CMA's official position on a particular subject at hand unless and until circumstances render the position or some aspect of it moot, or subsequent action by the HOD or CMA Board of Trustees is taken to rescind or modify the position. *Id.*

CMA's HOD in 2000 adopted an official position statement entitled, "Women's Access to Comprehensive Health Care" (HOD no. 617-00). Silva Decl. ¶7. It provides that, "in the case of mergers and/or acquisitions of health care systems," CMA supports ensuring continued patient access "to reproductive health care including, but not limited to, birth control, tubal ligation and vasectomy." *Id.* CMA further supports requiring "that *any hospital* providing perinatal services must permit its staff physicians to perform tubal sterilization so long as they are trained and qualified to do so." (emphasis added). *Id.* Finally, in furtherance of these principles, CMA opposes any interference by health care systems "with patient/physician communications concerning reproductive health care." *Id.*

The issues in this litigation also impact specific individual physician and medical staff members of CMA. CMA members have a large presence at Dignity Health hospitals. There are CMA physician members practicing at Dignity Health hospitals

throughout California. Silva Decl. ¶8. Dr. Van Kirk – Plaintiff Chamorro's obstetrician – is a CMA member, along with numerous other obstetricians and physicians of various specialties who practice at Mercy Hospital. *Id.* Additionally, medical staffs at numerous Dignity Health hospitals are or have been members of CMA's OMSS, including the medical staff of Mercy Hospital.

ARGUMENT

CMA intervention in this case is warranted under Code of Civil Procedure section 387 both as a matter of right and as a matter of the Court's exercise of its discretion to permit intervention. CMA members at Dignity Health hospitals have direct and immediate interests in this case – i.e., protection of the doctor-patient relationship and medical judgment against the corporate practice of medicine – that will be impacted by any resolution of the case. Such interests are not adequately represented by Plaintiffs, especially the interests of CMA medical staff members to preserve and protect medical staff self-governance and independence. Plaintiffs do not oppose CMA's intervention (Silva Decl. ¶10), CMA's involvement would not enlarge the issues in the case, and the intervention is timely undertaken. For these reasons, CMA should be permitted to intervene.

I. CMA HAS ASSOCIATIONAL STANDING.

CMA asserts associational standing on behalf of its individual physician and medical staff members. "Under the doctrine of associational standing, an association that does not have standing in its own right may nevertheless have standing to bring a lawsuit on behalf of its members." *Airline Pilots Assn. Internat. v. United Airlines, Inc.* (2014) 223 Cal. App. 4th 706, 726 (quoting *Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court* (2009) 46 Cal. 4th 993, 1003). "[A]n association has standing to bring suit on behalf of its members when: (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's

purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Washington Apple Advertising Comm'n* (1977) 432 U.S. 333, 343.

CMA meets all three requirements for associational standing. *First*, CMA individual physicians and medical staffs at Dignity Health hospitals have standing to sue in their own right. Such physicians – such as Dr. Van Kirk – suffer direct professional harm when a Dignity Health hospital denies a tubal for their patients pursuant to the ERDs or a hospital sterilization policy carrying out the ERDs. *See* Van Kirk Decl. ¶13. To be sure, the physicians are required to seek approval of all tubals and to submit supporting evidence for the request. When Dignity Health rejects the request based on non-medical criteria, it impedes the physician's medical judgment and professional recommendation and unduly interferes with the physician's relationship with his or her patient. The physician furthermore may have to deal with the consequences when a patient is denied a tubal, such as making arrangements for a tubal ligation at another time or another facility, providing the patient with other forms of contraception, or dealing with a subsequent unplanned pregnancy with potential complications. *Id.*

Medical staffs at Dignity Health hospitals also suffer direct harm. They make up an integral part of the hospital structure and are placed primarily in charge of the medical services provided at the hospital. *See El-Attar v. Hollywood Presbyterian Medical Center* (2013) 56 Cal. 4th 976, 983 ("Hospitals in this state have a dual structure, consisting of an administrative governing body, which oversees the operations of the hospital, and a medical staff, which provides medical services and is generally responsible for ensuring that its members provide adequate medical care to patients at the hospital"). California law further vests in medical staffs the right to self-governance and independence over the medical care in a hospital. *See* Bus. & Prof. Code §§2282 and 2282.5. Tubals are medical procedures that fall within the medical staff's purview and directly involve questions of patient care and physician competence. The denial of a request for a tubal pursuant to the ERDs bears directly on the medical staff's self-governance rights and

responsibilities within the dual structure of a hospital.

Second, the member interests that CMA would be protecting are germane to the organization's purpose. CMA's core mission is to protect physicians' ability and independence to make medical decisions for their patients, as well as to preserve as sacrosanct the doctor-patient relationship. CMA furthermore created its OMSS in order to advocate for medical staff independence and self-governance rights. CMA's official position (as determined at the HOD session in 2000) is that "any hospital providing perinatal services must permit its staff physicians to perform tubal sterilization so long as they are trained and qualified to do so." Silva Decl. ¶7. Dignity Health's refusal to permit tubals runs directly counter to such official position and CMA's general core mission.

Third and finally, the claims asserted and relief requested in this case would not require the participation of CMA's members. As a Plaintiff-Intervenor, CMA would seek only declaratory and injunctive relief. There are no claims for individual damages that would involve facts peculiar to any individual member or medical staff. In these circumstances, CMA has met the requirements for associational standing to assert the interests of its physician and medical staff members. *See California Assn. for Health Services at Home v. State Dept. of Health Services* (2007) 148 Cal. App. 4th 696, 707 (association of health care providers had associational standing to challenge state agency's review process for setting health care reimbursement rates, which directly affects members' right to compensation); *California Dental Assn. v. California Dental Hygienists' Assn.* (1990) 222 Cal. App. 3d 49, 61-62 (individual members' participation not necessary and associational standing met where provider association sought only injunctive relief in challenging restraint on trade practices).

CMA's associational standing includes the right to assert claims that its member physicians could assert on behalf of their patients based on tangible harm patients incur as a result of enforcement of the ERDs. *See Wood v. Superior Court* (1985) 166 Cal. App. 3d 1138, 1145 ("A physician has standing to assert his patient's rights where they may not otherwise be established").

II. CMA IS ENTITLED TO INTERVENE AS A MATTER OF RIGHT.

California Code of Civil Procedure section 387(b) provides:

> [I]f the person seeking intervention claims an interest relating to the property or transaction which is the subject of the action and that person is so situated that the disposition of the action may as a practical matter impair or impede that person's ability to protect that interest, unless that person's interest is adequately represented by existing parties, the court shall, upon timely application, permit that person to intervene.

CMA satisfies each of these elements, and moreover CMA's intervention is consistent with the purpose behind section 387, which is to "promote fairness" by allowing "all parties" who may be affected by the outcome of the litigation to participate. *Lincoln Nat'l Life Ins. Co. v. State Bd. of Equalization* (1994) 30 Cal. App. 4th 1411, 1423. For that reason, courts have recognized that section 387 "must [be] liberally construe[d] in favor of intervention." *See City of Malibu v. California Coastal Comm'n* (2005) 128 Cal. App. 4th 897, 902 (citation omitted).

A. CMA's Physician and Medical Staff Members Have Direct Interests in Preventing the Corporate Practice of Medicine and Preserving Medical Staff Self-Governance that Could be Impaired and Impeded by the Disposition of this Case.

Dr. Van Kirk and other CMA physician members providing obstetric care at Dignity Health hospitals have direct interests relating to the "property or transaction" at issue – i.e., whether Dignity Health hospitals can impose non-medical criteria, the ERDs, to prevent doctors from providing the standard of care for their patients within the doctor-patient relationship – that could be impaired or impeded by the outcome of this case. *See California Physicians' Service v. Superior Court* (1980) 102 Cal. App. 3d 91, 96 (interpreting the "property or transaction" element of section 387(b) by reference to Black's Law Dictionary's definition of transaction as, in relevant part, "*Something which has taken place, whereby a cause of action has arisen*"). The enforcement of the ERDs has and will continue to affect the way these CMA physicians care for their patients in several ways. Physicians are being required to submit to an administrative review process to enforce the ERDs, appearing to involve non-physicians applying non-medical criteria.

See Van Kirk Decl. ¶¶6-11. Dignity Health is effectively countermanding the physicians' medical judgment without proper medical reasons when it denies a request for a tubal; and it does not appear that Dignity Health conducts a full review of the medical evidence substantiating the physician's medical judgment. *See id.* at ¶11. Finally, enforcement of the ERDs can impede the important doctor-patient relationship. A physician's ethical duties, as established by the American Medical Association, are premised on the recognition that a "clinical encounter between a patient and a physician is fundamentally a moral activity that . . . . is based on trust and gives rise to physicians' ethical obligations to place patients' welfare above their own self-interest and above obligations to other groups, and to advocate for their patients' welfare." AMA ethical policy E-10.015. "Within the patient-physician relationship, a physician is ethically required to use sound medical judgment, holding the best interests of the patient as paramount." *Id.*

The enforcement of the ERDs bears directly on physicians' legally recognized interest against undue interference in the care of their patients, as reflected in California's well-established law barring the corporate practice of medicine. *See* Bus. & Prof. Code §§2052 and 2400; *California Medical Ass'n v. Regents of University of California* (2000) 79 Cal. App. 4th 542, 550 (stating "purpose of section 2400 [is] . . . to protect the professional independence of physicians"). The California Attorney General has confirmed "as being settled that . . . a corporation may neither engage in the practice of medicine directly, nor may it do so indirectly . . . . [and the rule is] designed to protect the public from possible abuses stemming from the commercial exploitation of the practice of medicine." 65 Ops. Cal. Atty. Gen. 223, 225 (1982).

CMA's medical staff members also have a legally recognized interest that stands to be impaired with enforcement of the ERDs. Business and Professions Code sections 2282 and 2282.5 establish a medical staff's right to self-governance. This includes the right to determine issues affecting the quality of care at a hospital. Bus. & Prof. Code §2282.5(a)(2); *see also* 42 C.F.R. §482.22 (Medicare Conditions of Participation require that hospitals "must have an organized medical staff that operates under bylaws approved

by the governing body, and *which is responsible for the quality of medical care provided to patients by the hospital*") (emphasis added). As already noted, the enforcement of the ERDs to refuse a tubal is a decision about the medical care provided at a Dignity Hospital. The medical staff has a right to be involved in such decisions. Medical staff involvement is especially critical when nonmedical criteria are being applied by persons without practice privileges at the hospital on decisions that dictate the care that patients can receive. However, medical staffs at Dignity Hospitals do not appear to have any meaningful involvement or input in the decisions relating to enforcement of the ERDs. Van Kirk Decl. ¶12.

A decision in this case that upholds Dignity Health's enforcement of the ERDs to deny tubals will irrevocably harm the various interests of CMA's physician and medical staff members discussed herein. Accordingly, not only do CMA members have a direct interest in the subject of this case, they are "so situated that the disposition of the action may as a practical matter impair or impede that . . . ability to protect that interest." Code Civ. Proc. §387(b).

B. CMA's Interests Are Not Adequately Represented by the Plaintiffs in the Case.

CMA is further entitled to intervention as a matter of right because the interests of CMA members are not adequately represented by the plaintiffs in the case. While CMA would seek the same remedies that are sought in the First Amended Complaint (declaratory and injunctive relief) and CMA's claims would, in some respects, align with Plaintiffs' claims, CMA's interests differ from Plaintiffs' interests. "The most important factor in determining the adequacy of representation is how the interest [of an intervening applicant] compares to the interests of existing parties." *Arakaki v. Cayetano* (9th Cir. 2003) 324 F.3d 1078, 1086.

Chamorro brings an important patient perspective in challenging Dignity Health's enforcement of ERDs to deny her a tubal. Her interests, however, are taken from her particular experience with the ERDs and are different from the interests of CMA

members, which arise from the perspective of physicians and medical staffs practicing throughout the Dignity Health hospital system.

CMA's interests differ from the interests of PRH as well. CMA is uniquely situated to argue on behalf of practicing physicians and medical staffs in California. CMA is the largest association of practicing physicians in California, and is the only organization in the state that directly represents medical staffs as well. CMA successfully sponsored the legislation that enacted medical staff self-governance rights under Business and Professions Code section 2282.5. Silva Decl. ¶5. Both components of CMA's membership – physicians and medical staffs – have significant, direct interests in this case. CMA physician members practice in every Dignity Health hospital in California, and CMA further represents the medical staffs in a number of Dignity Health hospitals. While PRH is an association of physicians, some of whom practice in Dignity Health hospitals in California, PRH does not have the same scope of represented interests in California, nor are Plaintiffs raising the independent interests of medical staffs in their complaint.

In addition, CMA has a larger interest in the doctrines barring the corporate practice of medicine and allowing the independence and self-governance of medical staffs that are unique to California. PRH is a national doctor network with a mission of enhancing access to comprehensive reproductive health care across the United States. By contrast, while CMA shares the goal of enhancing access to reproductive care, CMA's core mission is more generally in protecting the doctor-patient relationship, the independence and integrity of physicians' medical judgment, and the self-governance rights of medical staffs. This difference in scope in the interests of CMA and PRH may result in distinct litigation strategies, with differences in the types of arguments made and the emphases on various issues. Courts have found that an intervening party's interests are not likely to be adequately represented in similar circumstances as found here. *Hodge v. Kirkpatrick Development, Inc.,* (2005) 130 Cal. App. 4th 540, 555 (holding intervention was appropriate where the existing parties' interests differed with those of the intervenors

during the course of the litigation); *Idaho Farm Bureau Federation v. Babbitt,* (9th Cir. 1995) 58 F.3d 1392, 1398 (stating that adequacy of representation can be measured by "determining whether the party on whose side the applicant seeks intervention is capable of and willing to make the intervenor's arguments").

C. The Motion to Intervene is Timely.

Parties seeking to intervene must make a "timely"' application. Code of Civ. Proc. §387(b). Intervention has been found timely at any point in the litigation where otherwise appropriate, even after the court has issued a judgment. *See Mallick v. Superior Court,* (1979) 89 Cal. App. 3d 434, 437 (leave to intervene granted even after judgment had been rendered because "intervention is possible, if otherwise appropriate, at any time"). This case is in only the nascent stage of litigation. Defendants did not file a response to the original complaint and have yet to file any response to the First Amended Complaint, which was filed on February 29, 2016. CMA's motion to intervene is therefore timely.

In sum, CMA – asserting associational standing on behalf of its individual physician and medical staff members – has a right to intervene under Code of Civil Procedure section 387(b) because its members have direct and immediate interests in this lawsuit against the defendants that cannot be adequately represented by the plaintiffs, and CMA has timely moved for intervention.

III. ALTERNATIVELY, CMA SHOULD BE PERMITTED TO INTERVENE.

Pursuant to section 387(a) of the Code of Civil Procedure, CMA should be permitted to intervene because it satisfies the applicable requirements: "[t]he nonparty has a direct and immediate interest in the litigation; and [t]he intervention will not enlarge the issues in the case; and [t]he reasons for intervention outweigh any opposition by the existing parties." *Truck Ins. Exchange v. Superior Court* (1997) 60 Cal. App. 4th 342, 346.

As demonstrated above, CMA's individual and medical staff members have a direct and immediate interest in the subject matter of this case. To reiterate, the

enforcement of ERDs to deny tubals to patients at Dignity Health hospitals amounts to improper lay interference with physician medical judgment and the doctor–patient relationship as well as the medical staff's responsibilities and rights of self-governance. Such effects of the enforcement of ERDs harms legally recognized interests of physicians and medical staffs.

CMA's intervention will not enlarge the issues in the case. Courts evaluating the second factor in permissive intervention have focused on whether the proposed intervenor would broaden or alter the ultimate relief sought in the case. *See San Diego v. Otay Municipal Water Dist.* (1962) 200 Cal. App. 2d 672, 681 (denying permissive intervention because "it is evident that the contentions advanced by the interveners extend the scope of the remedy sought through the original complaint"); *Lindsay-Strathmore Irr. Dist. v. Wutchumna Water Co.* (1931) 111 Cal. App. 707, 712-13. Although CMA would bring different interests and arguments to the case, it seeks to challenge precisely the same policy that Plaintiffs are challenging (i.e., enforcement of the ERDs to deny tubals) and the end-result being sought would not change. CMA does not seek any type of relief that is not already being sought; as Plaintiffs do in their First Amended Complaint, CMA would only seek declaratory relief and injunctive relief to prevent denial of tubals based on the ERDS or any other non-medical religious policy.

Finally, the reasons supporting CMA's intervention outweigh any objections that Defendants may raise. CMA's intervention will not adversely impact the ability of existing parties to litigate the case. Plaintiffs do not oppose CMA's intervention. Silva Decl. ¶10. For the most part, CMA would rely on the same witnesses and documents that Plaintiffs are likely to rely upon in asserting their claims and arguments. CMA accordingly would not make the litigation more protracted or expensive.

CONCLUSION

For the foregoing reasons, CMA urges the Court to grant the motion for leave to file the complaint in intervention, thereby allowing CMA to participate in the above-captioned matter as a plaintiff-intervenor.

DATED: April 27, 2016

Respectfully,

Center for Legal Affairs
CALIFORNIA MEDICAL ASSOCIATION

By: _____
LONG X. DO

Attorneys for CALIFORNIA MEDICAL ASSOCIATION