

1
2
3
4
5
6
7
8
9
10
11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **SOUTHERN DIVISION**

14 JANE DOE, *et al.*,

15 *Plaintiffs.*

16 v.

17 ROB BONTA, in his official capacity as
18 Attorney General; *et al.*,

19 *Defendants.*
20
21
22
23
24
25
26
27
28

No. 8:19-cv-02105 DOC (ADSx)

**STIPULATED FINAL
JUDGMENT, PERMANENT
INJUNCTION, AND STAY
PENDING APPEAL**

1 Several Plaintiffs¹ in these related cases filed complaints in 2019 alleging
 2 that Assembly Bill No. 290, ch. 862, 2019 Cal. Stat. ____ (“AB 290”), violates their
 3 rights under the First and Fourteenth Amendments of the United States
 4 Constitution and was preempted by federal law, and therefore could not be
 5 lawfully administered or enforced by Defendants.² ECF No. 1; *Fresenius* docket,
 6 Case No. 8:19-cv-2130, ECF No. 1.

7 On December 30, 2019, the Court granted a preliminary injunction,
 8 enjoining the administration or enforcement of AB 290 in full. *See* ECF No. 58.
 9 On January 9, 2024, the Court granted in part and denied in part Plaintiffs’ motions
 10 for summary judgment, holding that certain provisions of AB 290 violate the First
 11 Amendment of the United States Constitution, and are therefore void. *See* ECF
 12 No. 189. The Court also granted in part and denied in part Defendants’ motions
 13 for summary judgment, holding that other provisions of AB 290 are constitutional.
 14 *See id.* On April 4, 2024, the Court denied Defendants’ motion for
 15 reconsideration. *See* ECF No. 214.

16 Without waiving their rights to appeal, Plaintiffs and Defendants, by and
 17 through their counsel, have agreed to the entry of this Stipulated Final Judgment,
 18 Permanent Injunction, and Stay Pending Appeal to (i) effectuate the Court’s
 19 summary judgment decision, and (ii) to preserve the status quo during the
 20
 21
 22

23 ¹ The Plaintiffs are Jane Doe; Stephen Albright; the American Kidney Fund,
 24 Inc., Dialysis Patient Citizens, Inc., Fresenius Medical Care Orange County, LLC;
 25 DaVita Inc.; Fresenius Medical Care Holdings, Inc., doing business as Fresenius
 Medical Care North America; and U.S. Renal Care, Inc.

26 ² Defendants are Rob Bonta, in his Official Capacity as Attorney General of
 27 California; Ricardo Lara, in his Official Capacity as the Director of the California
 28 Department of Insurance; Mary Watanabe, in her Official Capacity as Director of
 the California Department of Managed Health Care; and Tomás J. Aragón, in his
 official capacity as Acting Director of the California Department of Public Health.

pendency of any appeal.³ The Court having considered the filings, and with good cause therefor appearing, **HEREBY ORDERS, ADJUDGES, AND DECREES** as follows:

DECLARATORY JUDGMENT AND PERMANENT INJUNCTION

1. This Court has jurisdiction over the subject matter of this case and over the parties pursuant to 42 U.S.C. § 1331 and 42 U.S.C. § 1983.

2. The Court may declare the legal rights and obligations of the parties in this action pursuant to 28 U.S.C. § 2201.

3. Venue in this District is proper under 28 U.S.C. § 1391(b).

4. Sections 2(a), 3(b)(4), and 5(b)(4) of AB 290 violate the First Amendment of the United States Constitution and are void and shall not be administered or enforced by any Defendant or by any Defendant's agents, servants, or employees.

5. Sections 3(b)(2) and 5(b)(2) of AB 290 violate the First Amendment of the United States Constitution and are void and shall not be administered or enforced by any Defendant or by any Defendant's agents, servants, or employees.

6. Sections 3(c)(2) and 5(c)(2) of AB 290 violate the First Amendment of the United States Constitution and are void and shall not be administered or enforced by any Defendant or by any Defendant's agents, servants, or employees.

7. Sections 2(a), 3(b)(4), and 5(b)(4), sections 3(b)(2) and 5(b)(2), and sections 3(c)(2) and 5(c)(2) are severable from the remainder of AB 290.

8. Sections 3(e)(1), 3(f)(1), 5(e)(1), and 5(f)(1) of AB 290 do not violate the First Amendment of the United States Constitution.

³ Plaintiffs and Defendants have submitted the Stipulated Final Judgment solely for the purpose of facilitating the entry of Final Judgment, and they do so expressly preserving all available rights to challenge on appeal any aspect of the Court's summary judgment decision underlying the Final Judgment.

3 10. Section 7 of AB 290 does not violate the First Amendment of the
4 United States Constitution.

11. With regard to Plaintiffs' claims that AB 290 is preempted by the United States Constitution, as well as Plaintiffs claims arising under the Contracts, Due Process, and Takings Clauses of the United States Constitution, judgment is entered in favor of Defendants.

STAY PENDING APPEAL

1 Court finds that the standards for the stay of this Judgment pending appeal are
2 satisfied.

3 13. Pending the final resolution of any appeals, the Court may consider
4 any appropriate modifications to this Final Judgment or other relief.

5 **ATTORNEYS' FEES**

6 14. It does not appear to the Court that consideration of any appeal would
7 be better informed if accompanied by a decision on attorneys' fees and costs.
8 Further, the result of any appeals may affect whether and in what amount
9 attorneys' fees are warranted. *See* Fed. R. Civ. P. 58, Advisory Committee Notes
10 (1993 Amendment) ("Particularly if the claim for fees involves substantial issues
11 or is likely to be affected by the appellate decision, the district court may prefer to
12 defer consideration of the claim for fees until after the appeal is resolved.").

13 15. Accordingly, the filing and briefing of any motions for attorneys' fees,
14 including expenses and costs, is hereby temporarily postponed until after the
15 resolution of any and all appeals of this Judgment filed by any of the parties, or if
16 no party seeks to appeal this Judgment, until after the parties' time for filing an
17 appeal of this Judgment has elapsed. The deadline for filing any motion for
18 attorneys' fees and bill of costs is extended until the end of the 60th day following
19 the final resolution of all appeals. This order is without prejudice to any party
20 seeking to modify the schedule if appellate proceedings are delayed or good cause
21 otherwise exists for addressing the issue of attorneys' fees, including expenses and
22 costs, before the appeals are fully and finally resolved.

23
24 **IT IS SO ORDERED.**

25 Dated: May 9, 2024

26 

27 **DAVID O. CARTER**
28 United States District Judge