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ST. JOSEPH HEALTH NORTHERN CALIFORNIA, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF HUMBOLDT

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

ST. JOSEPH HEALTH NORTHERN CALIFORNIA, LLC AND DOES 1-10,

Defendants.

Case No. CV2401832

DEFENDANT ST. JOSEPH HEALTH NORTHERN CALIFORNIA, LLC d/b/a ST. JOSEPH HOSPITAL – EUREKA'S:

(1) MOTION TO MODIFY OR DISSOLVE STIPULATION ORDERED ON OCTOBER 29, 2024; AND

(2) OPPOSITION TO PLAINTIFF'S MOTION TO ENFORCE STIPULATION

Filed Concurrently with:
(1) Declaration of the Most Reverend Bishop Robert Vasa;
(2) Declaration of Dougal Hewitt;
(3) Declaration of Sr. Sharon Becker, CSJ;
(4) Declaration of Traci Ober; and
(5) Request for Judicial Notice

Hearing Date: August 29, 2025
Time: 10:30 a.m.
Dept: 4
Action Filed: September 30, 2024
Trial Date: None Set

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on August 29, 2025 at 10:30 a.m., or as soon thereafter as this matter may be heard in Courtroom 4 of the above-entitled Court, located at 825 Fifth Street, Eureka, California 95501, defendant St. Joseph Health Northern California, LLC d/b/a St. Joseph Hospital – Eureka ("SJHE" or the "Hospital") will and hereby does move for an order:

1. Modifying the Stipulation and Order entered by the Court on October 29, 2024 (the "Stipulation") to allow SJHE to apply the Ethical and Religious Directives for Catholic Health Care Services ("ERDs") on a case-by-case basis taking into account the clinical and ethical factors presented in each case, to reinstate the right of the SJHE board to govern the Hospital as required by California law and to remove the specification of abortion procedures that may be performed by physicians at their discretion; or
2. In the alternative, dissolving the Stipulation.

The Motion will be based upon this Notice, the accompanying Memorandum of Points and Authorities, the concurrently filed Declarations of the Most Reverend Bishop Robert Vasa, Dougal Hewitt, Sister Sharon Becker, CSJ, and Traci Ober, the concurrently filed Request for Judicial Notice, the pleadings and papers on file in this action, and any other evidence or argument the Court shall permit at the hearing on this matter.

Dated: July 22, 2025

MANATT, PHELPS & PHILLIPS, LLP

By: _____
Harvey L. Rochman
Attorneys for Defendant
ST. JOSEPH HEALTH NORTHERN CALIFORNIA, LLC d/b/a ST. JOSEPH HOSPITAL – EUREKA

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Attorney General ("AG") mis-describes the Stipulation and Order entered by the Court on October 29, 2024 (the "Stipulation") as requiring nothing more than compliance with the Emergency Services Law (the "ESL"). That is clearly incorrect. The Stipulation far exceeds the reach of the ESL and, as a result, it severely burdens and compromises St. Joseph Hospital Eureka's ("SJHE" or the "Hospital") religious mission and its very status as a Catholic hospital. Moreover, due to the Stipulation's overreach, the Stipulation violates California law and public policy, improperly interferes with the Hospital's autonomy as a religious institution, and violates the Hospital's First Amendment right to Free Exercise of Religion. These are not hypothetical concerns. After the Stipulation was entered by the Court, the Most Reverend Bishop Robert Vasa, the Bishop for the Diocese of Santa Rosa, which includes the Hospital, determined that the Stipulation was irreconcilable with the Hospital's obligation to comply with the Ethical and Religious Directives for Catholic Health Care Services (the "ERDs") and must be modified to allow for application of the ERDs or else must be terminated. (Declaration of the Most Reverend Bishop Robert F. Vasa ("Vasa Decl."), ¶¶ 5, 6; Declaration of Dougal Hewitt, ¶ 4; Ex. A.) Accordingly, the AG's Motion to Enforce the Stipulation ("MTE") must be denied and, for the same reasons, the Stipulation should be modified or dissolved.

II. SUMMARY OF ARGUMENTS

First, the Stipulation far exceeds the scope of the ESL by specifying abortion procedures that may be performed at the Hospital and giving physicians discretion to determine when such procedures should be performed. The ESL does *not* specify procedures that must be performed at any hospital, much less at a Catholic hospital, and does *not* give physicians discretion to determine the procedures that may be performed. Indeed, doing so contradicts California law which unequivocally makes it the right and obligation of the Hospital's board to make decisions regarding the services provided by the Hospital, with input from the medical staff. The Stipulation must be modified to reinstate the right of the Hospital board to govern the Hospital as required by California and federal law and to remove the specification of procedures that may be

performed by physicians at their discretion. Moreover, the ESL, which is the authority for the Stipulation ordered by the Court, does not require that any specific abortion procedures be allowed at a hospital. Rather, the ESL simply requires a hospital to provide a medical screening exam and, if an emergency medical condition is identified, to provide the care, treatment, and surgery necessary to relieve or eliminate the condition. The ESL does not mention abortions or abortion-related procedures. It is not an abortion-rights statute.

Second, the Stipulation is contrary to the Conditions of Consent, binding regulatory commitments that were issued by the AG in 2016 in connection with the affiliation of Providence Health & Services and St. Joseph Health System. In the Conditions of Consent, the AG expressly agreed and mandated that the Hospital would continue to apply the ERDs on a case-by-case basis at least through 2027. The Conditions of Consent have the force of law and, having been issued after notice and a public hearing, also embody California public policy. Accordingly, the Stipulation must be modified to allow the Hospital to apply the ERDs. In the absence of such a modification, the Stipulation is contrary to law and public policy.

Third, the Stipulation is fundamentally muddled and unclear given its multiple contradictions of California law and the Conditions of Consent, which the Stipulation does not mention. The Stipulation itself recites that the Hospital "commits to fully comply with its own existing policies which are consistent with" the ESL. The Stipulation thus recites that the Hospital may continue to comply with the ERDs and necessarily incorporates existing law, including the Conditions of Consent that require application of the ERDs. But, the Stipulation is in fact contrary to the Hospital's policies, which necessarily include compliance with the ERDs, and it is contrary to the Conditions of Consent, which specifically require application of the ERDs on a case-by-case basis. Thus, in this litigation, the AG is claiming that the Stipulation precludes that very compliance which is central to the Hospital's mission and mandated by the Conditions of Consent. Given that the Stipulation is a mandatory injunctive order requiring the Hospital (i) to allow physicians to decide issues of policy at the Hospital and (ii) to allow pregnancy terminations and abortion procedures at the Hospital that are contrary to the ERDs, the lack of statutory support and muddled nature of the Stipulation preclude entry of the Stipulation as an

injunction pending trial and full merits adjudication of the AG's claims.[1]

Fourth, the Stipulation impermissibly interferes with the Hospital's autonomy as a religious institution. The Hospital is a Catholic religious institution. The Hospital, St. Joseph Health System ("SJHS"), St. Joseph Health Ministry ("SJHM"), and Providence St. Joseph Health ("Providence") are all listed in the Official Catholic Directory ("OCD"), evidencing that they are part of the Catholic Church, and the organizational documents of each entity expressly provide that they will follow the ethical teachings of the Church that are embodied in the ERDs. As a religious institution, the Hospital is entitled to be free from interference with internal decisions that are essential to the mission of the institution which includes compliance with the ERDs. The Stipulation directly interferes with that mission by forcing the Hospital to allow abortions whenever a physician determines an abortion is medically appropriate and orders it on demand. That discretion is fundamentally at odds with the case-by-case decision-making based on religious and medical considerations that, as the Conditions of Consent make clear, is at the core of the application of the ERDs. Accordingly, the Stipulation must be modified to allow the Hospital to apply the ERDs as the AG himself had agreed in 2016.

Fifth, the AG's attempt to weaponize the ESL in contravention of its limited statutory requirements by turning it into an abortion rights law that can be used against Catholic hospitals violates the Hospital's First Amendment right to Free Exercise of Religion. Given the Stipulation's infringement of multiple constitutional rights including the right to free exercise and free expression, the lack of neutrality evidenced by the AG's actions and the ESL's lack of general applicability, the Court must apply strict scrutiny to the AG's use of the ESL against a Catholic hospital.

The Hospital cannot, and this Court should not, ignore these fundamental defects in the Stipulation, which led to Bishop Vasa's determination that the Stipulation must be modified or terminated. The Bishop's detailed letter describing defects in the Stipulation focused on the very

[1] The Stipulation obviated the need for a hearing on the AG's motion for a preliminary injunction so the Court has not had an opportunity to consider these defects. The AG has attached its preliminary injunction motion and supporting evidence to the Declaration of Katelyn Wallace, even though its MTE is not a motion for a preliminary injunction. It seeks to enforce the Stipulation and related order solely based on a contract theory which is not applicable as described below.

provisions of the Stipulation that *exceed* the dictates of the ESL—physician determination regarding the types of procedures that may be performed and the specific call-out of abortions—as particularly problematic under the ERDs. In fact, there is no conflict between the ESL—properly interpreted—and Catholic hospitals that have co-existed with the ESL for decades. The purported conflict at the center of this litigation is the product of overreach by the AG who is attempting to stretch a basic emergency services law into an abortion rights law and is going far beyond the plain language and intent of the law to do so.

The Hospital cannot ignore the Bishop's determination and still remain a Catholic hospital. Under Canon Law, the Bishop's ecclesiastical authority includes interpreting and applying the ERDs in the Diocese of Santa Rosa. Bishop Vasa must ensure that all Catholic hospitals within his Diocese follow the ERDs in both name and fact, and he can withdraw the Catholic status of the Hospital, the ultimate sanction for a Catholic hospital. Can. 216, 381, § 1, 392, §§ 1-2; Vasa Decl., ¶ 4. As a Catholic institution that is part of the Catholic Church, the Hospital must obtain a modification of the Stipulation to bring it into conformity with the ERDs.

The alternative to a modification—forcing a Catholic hospital to allow procedures that violate its religious faith—is something that this Court must, and does, take extremely seriously. *See* Ruling on Defendant's Demurrer to Complaint at 11, n. 2 ("this Court is not, at this stage of the proceedings, ordering Providence to perform abortions, but is simply allowing the People's case to move forward"). Given that the AG contends the Stipulation requires the Hospital to perform abortions when physicians order them, the Court's appropriate refusal to enter an order compelling the Hospital to perform abortions also requires that the Stipulation be revisited. Nor can the AG be allowed to ignore the AG's own agreement in the Conditions of Consent (which has the force of law, as it was issued pursuant to statute and formal regulations) that the Hospital must continue to apply the ERDs. That binding and enforceable promise was made in light of the fact that the Hospital is in fact bound by the ERDs and cannot agree to violate them.

For each of these reasons, the AG's MTE must be denied and the Stipulation must be modified or terminated.

III. STATEMENT OF FACTS

A. The Health Ministry of Jesus.

Health care has been a core mission of the Catholic church for over 2,000 years. The Catholic healing ministry is rooted in Jesus' care for the sick described in gospel accounts of Jesus' ministry: Jesus cleansed a man of leprosy (Mt 8; Mk 1:40-42) and he gave sight to two people who were blind (Mt 20: 2934; Mk 10:46-52). The Catholic Church strives to embody Jesus' concern and care for the sick, the hungry, and the poor.[2] Catholic hospitals have been providing services in North America since before the founding of the United States. Today, there are over 650 Catholic hospitals operating in the United States, and the Catholic health ministry is the largest group of nonprofit health care providers in the nation.[3] These hospitals operate under the same fundamental principles as when their healing ministry began over 2,000 years ago, striving to "answer God's call to foster healing, act with compassion, and promote wellness for all persons and communities, with special attention to our neighbors who are poor, underserved, and most vulnerable."[4]

B. The Ethical and Religious Directives for Catholic Health Care Services.

The ERDs are promulgated by the U.S. Conference of Catholic Bishops (the "USCCB"). (Request for Judicial Notice ("RJN"), Ex. 1.) The ERDs are the culmination of centuries of efforts of Catholic health care practitioners to minister in accord with the Church's teaching, and were adopted to provide uniform instructions to U.S. Catholic health care providers on ethical medical practices. (*Id*. at p. 5 (Preamble).) The ERD's purpose is to "reaffirm the ethical standards of behavior in health care that flow from the Church's teachings about the dignity of the human person" and "to provide authoritative guidance on certain moral issues that face Catholic health care today." *Means v. U.S. Conference of Catholic Bishops,* 2015 WL 3970046, at *3 (W.D. Mich. June 30, 2015), *aff'd*, 836 F.3d 643 (6th Cir. 2016). Directive 5 provides that "Catholic health care services *must adopt these Directives* as a policy, [and] *require adherence to*

[2] Request for Judicial Notice ("RJN"), Ex. 1, at p. 6 (*Ethical and Religious Directives for Catholic Health Care*, General Introduction).
[3] http://www.chausa.org/about/about
[4] https://www.chausa.org/about/our-association/shared-statement-of-identity

them within the institution as a condition for medical privileges and employment, and provide appropriate instruction regarding the Directives for administration, medical and nursing staff, and other personnel." (RJN, Ex. 1, at p. 9 (emph. added).)

The ERDs prohibit "abortion," which is narrowly defined in Directive No. 45 as "the directly intended termination of pregnancy before viability or the directly intended destruction of a viable fetus." (*Id.*, at p. 18.) Abortion so defined, including but not limited to abortion "on demand," is never permitted in a Catholic hospital. This prohibition includes materially cooperating with the provision of abortions.[5] In addition, Catholic health care institutions must avoid "scandal"[6] in any association with abortion providers. (RJN, Ex. 1, at pp. 18-19.) However, Directive 47 provides that some pregnancy terminations may be allowed. These include "[o]perations, treatments, and medications that have as their direct purpose the cure of a proportionately serious pathological condition of a pregnant woman . . . when they cannot be safely postponed until the unborn child is viable, even if they will result in the death of the unborn child." (*Id*., at p. 19.) Accordingly, Catholic hospitals that must comply with the ERDs do not prohibit all pregnancy terminations. Instead, as the AG acknowledges in the Conditions of Consent, Catholic hospitals determine on a case-by-case basis whether the termination is permissible, in consultation with physicians and ethics committees familiar with Catholic medical ethics and the ERDs. (*Id*., at p. 15 (ERD 37).) Moreover, the ERDs recognize that application of the ERDs may result in Catholic hospitals having to refuse to perform some procedures. "[W]ithin a pluralistic society, Catholic health care services will encounter requests for medical procedures contrary to the moral teachings of the Church. Catholic health care does not offend the rights of individual conscience by refusing to provide or permit medical procedures that are judged morally wrong by the teaching authority of the Church." (*Id*., at p. 8.)

[5] "Material cooperation" is defined as "assisting in another's wrongdoing without approving it. The help given assists a person to perform the sinful action, although of itself the help is not wrong." Fr. John A. Hardon, S.J., *Modern Catholic Dictionary* (1999), *available at* https://www.catholicculture.org/Culture/library/dictionary/index.cfm?id=34788&randomterm=false.

[6] "Scandal" is defined as "Any action or its omission, not necessarily sinful in itself, that is likely to induce another to do something morally wrong." *Id*., at https://www.catholicculture.org/culture/library/dictionary/index.cfm?id=36307.

C. The Catholic Hospitals of Providence St. Joseph Health.

1. The Sisters of St. Joseph of Orange

The Sisters of St. Joseph of Orange are a congregation of women religious whose origins can be traced back to a religious community that provided health care in 17th Century France.[7] In 1912, at the invitation of the local bishop, a small group of sisters traveled to Eureka, California to open a school. When the influenza epidemic exploded in 1918, the sisters shifted their efforts to care for the sick, opening their first hospital, St. Joseph Hospital-Eureka, with 28 beds in 1920.[8]

2. The Hospital in Eureka

The Hospital is in the Roman Catholic Diocese of Santa Rosa, which includes six counties in Northern California. (Vasa Decl., ¶ 3.) Accordingly, it is the responsibility of the Bishop of the Diocese of Santa Rosa to ensure that the Hospital, like all other Catholic hospitals in the Diocese, follows the ERDs both in name and in fact. (*Id*.)

The Hospital is owned by defendant St. Joseph Health of Northern California, LLC ("SJHNC"). Its sole member is St. Joseph Health System ("SJHS"). (Declaration of Sister Sharon Becker, CSJ ("Becker Decl."), ¶ 4; Ex. 1.) SJHNC's Operating Agreement provides, " . . . the Company and SJHS acknowledge that the Member operates in a manner that is consistent with the SJHS Mission and Core Values and the Roman Catholic moral tradition as articulated in such documents as the ERDs." (*Id*.; Ex.1, at § 3.3.) The Hospital's mission is: "As expressions of God's healing love, witnessed through the ministry of Jesus, we are steadfast in serving all, especially those who are poor and vulnerable."[9] The Hospital is obviously a Catholic religious hospital, featuring Catholic iconography such as the cross and crucifix, and it has a chapel where Mass is said regularly and the Sacraments are offered. (*Id*., ¶ 5.) The provision of OB-GYN services is part of the Hospital's mission as a Catholic organization to respond to the needs of the community in alignment with the teachings of the Catholic Church.[10]

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[7] https://www.csjorange.org/our-history
[8] https://www.csjorange.org/the-california-foundation
[9] https://www.providence.org/locations/norcal/st-joseph-hospital-eureka/about-us
[10] The Introduction to Part Four of the ERDs, entitled "Issues in Care for the Beginning of Life," provides: the "Catholic health care ministry witnesses to the sanctity of life 'from the moment of conception until death.' The

3. St. Joseph Health System and St. Joseph Health Ministry

SJHS, the sole member of SJHNC, is a California not-for-profit corporation whose purpose is to "govern and manage a health care system comprised of charitable hospitals and other charitable health programs to carry out the purposes of the Sisters of St. Joseph of Orange . . . , St. Joseph Health Ministry . . . , and the *ethical principles of the Roman Catholic Church*." (Becker Decl., ¶ 6, Ex. 2, § 1.1 a. (emph. added).) The express policy of SJHS is to "[o]perate in accordance with the Congregation's mission and philosophy of health care and ethical principles of the Roman Catholic Church." (*Id*. § 1.2 b.) St. Joseph's Health Ministry ("SJHM"), a public juridic person,[11] has reserved powers "to further the purposes of the health care ministry of the Congregation, in accordance with the tradition, teachings, spirit and *ethical principles of the Roman Catholic Church*." (*Id*. § 3.2 a (emphasis added).) As a public juridic person, SJHM was established by the Dicastery for Institutes of Consecrated Life and Societies of Apostolic Life, a department within the Roman Curia responsible for, among other things, religious orders and congregations.[12] (Becker Decl., ¶ 7, Ex. 3 (Canonical Statutes, Preamble, Art. I.)) The purpose of SJHM is "to carry forward the healing ministry of Jesus Christ in the Church through the ownership, management and governance of health care facilities . . .. *The activities will be conducted in a manner consistent with the Ethical and Religious Directives for Catholic Health Care Services as approved by*" the USCCB. (*Id*., Art. II (emph. added).)

4. Providence St. Joseph Health

Providence St. Joseph Health ("Providence") is a not-for-profit Catholic health system that includes 51 hospitals and over 1,000 clinics and employs more than 100,000 caregivers in

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Church's defense of life encompasses the unborn and the care of women and their children during pregnancy. The Church's commitment to life is seen in its willingness to collaborate with others to alleviate the causes of the high infant mortality rate and to provide adequate health care to mothers and their children before and after birth." (RJN, Ex. 1, at p. 16.) The ERDs include numerous Directives regarding the provision of OB-GYN services. (*Id*., Directives 40-42, 44, 45, 47, 52, 53 and 70.)

[11] "The canon-law equivalent of a corporation is a 'public juridic person.' Under canon law, a public juridic person is an aggregate of persons or things 'constituted by competent ecclesiastical authority so that, within the purposes set out for them, they fulfill in the name of the Church, according to the norm of the prescripts of the law, the proper function entrusted to them in view of the public good.' [Citation.] Since U.S. law does not recognize public juridic persons organized under canon law, public juridic persons need civil-law counterparts—normally nonprofit corporations—in order to transact civil-law business, such as holding title to property." *Medina v. Catholic Health Initiatives,* 877 F.3d 1213, 1222–1223 (10th Cir. 2017). SJHS is the civil law counterpart to SJHM.

[12] See https://www.vatican.va/content/romancuria/en/dicasteri/dicastero-vita-consacrata.index.html#dicasteri.

Alaska, California, Montana, New Mexico, Oregon, Texas, and Washington. (Becker Decl., ¶ 9.)[13] Providence was formed through the affiliation of Providence Health & Services, also a Catholic health system, and SJHS.

5. The Conditions of Consent

The affiliation between Providence and SJHS required the approval of California's AG. The California AG is empowered to make a unilateral written decision to consent to, give conditional consent to, or not consent to a proposed transaction. *See* Corp. Code §§ 5920-21. The statute provides that decisions are within the discretion of the AG. Corp. Code § 5923. In 2016, after notice and a public hearing, the AG (then Kamala Harris) recognized that the Hospital is a Catholic hospital subject to the ERDs and approved the affiliation *subject to the Conditions of Consent*. Cal. Code Regs., tit. 11, § 999.5(e)(3).[14] (RJN., Ex. 2). Section XIV of the Conditions of Consent requires that "***application of the Ethical and Religious Directives [by the Hospital] shall continue to be conducted on a case-by-case basis taking into account the clinical and ethical factors presented in each case*** by the multi-disciplinary local ministry ethics teams." (*Id*. at p. 7 (Art. XIV) (emphasis added).) The Conditions of Consent can only be amended in accordance with 11 Cal. Code Regs. § 999.5(h), which has *not* occurred. The AG has described the Conditions of Consent as an "agreement." (RJN, Ex. 2, at p. 2.)[15]

6. Providence St. Joseph Health, St. Joseph Health System, St. Joseph Health Ministry, and St. Joseph Hospital - Eureka are Listed in the Official Catholic Directory

Providence, SJHS, SJHM, and the Hospital are listed in the Official Catholic Directory

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[13] https://www.providence.org/about

[14] The imposition of the conditions on the affiliation of the two systems constituted an administrative *decision* by the Attorney General. Corp. Code §§ 5920-22; *see also* Cal. Code Regs., tit. 11, § 999.5 (e)(3), (f). The Conditions of Consent have the force of law. Corp. Code § 5296 ("The Attorney General may enforce conditions imposed on the Attorney General's consent . . . to the fullest extent provided by law. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and other equitable remedies a court deems appropriate for breach of any of the conditions and shall be entitled to recover its attorney's fees and costs incurred in remedying each violation."). And the Conditions can be modified based only on a material change in circumstances. Cal. Code Regs., tit. 11, § 999.5(h). The Conditions of Consent here have not been modified nor has the AG or SJHS ever requested any such modification.

[15] While the AG admits that it seeks to prevent the Hospital from applying the ERDs on a case-by-case basis, it is the AG who is required to monitor compliance with the Conditions of Consent. Cal. Code Regs., tit. 11, § 999.5(g)(1). The AG plainly abdicated that role when it filed this lawsuit accusing the Hospital of acting unlawfully when it *complied* with the Conditions of Consent.

("OCD").[16] The listing of the Hospital in the OCD in the section maintained for the Diocese of Santa Rosa identifies the Hospital an official apostolate of the Catholic Church. (Vasa Decl., ¶ 3; Becker Decl., Ex. 5.) *See also Means*, 2015 WL 3970046, at *7 (IRS relies on the Official Catholic Directory to determine whether an entity is part of the Catholic Church).

D. Every Physician on the Hospital's Medical Staff Agrees to Follow the ERDs as a Condition of Appointment.

The application for a physician to become a member of the Hospital's medical staff requires each physician, as a condition for obtaining privileges at the Hospital, to acknowledge and agree to be bound by the "governance documents," which are posted on the "governance" page of the Hospital's website. (Declaration of Traci Ober ("Ober Decl."), ¶¶ 4-5, Exs. 2-3.) Thus, the physicians on the medical staff of the Hospital voluntarily agree to abide by the ERDs. Accordingly, any suggestion by the AG that the ERDs constrained physician autonomy is false.

E. The Stipulation.

On September 30, 2024, the AG filed a motion for preliminary injunction ("PI Motion"). On October 29, 2024, counsel for the parties entered into a Stipulation, which became an order of the Court. According to the AG, the Stipulation "resolved" the PI Motion, which was then withdrawn. (MTE at 7:14-16.) However, there is no indication that the Stipulation was intended as a permanent injunction or constitutes a final judgment. The Stipulation recites that SJHNC expressly *denies* the AG's allegations and does not admit liability, states that the parties are discussing settlement, and provides for the PI Motion to be taken off-calendar. (RJN, Ex. 3.) Thus, the Stipulation was a means of temporarily addressing the issues raised in the PI Motion.

In addition, the Stipulation expressly states that SJHNC "commits to fully comply with its own existing policies which are consistent with the ESL." *Id*. at 3:8-10. Such policies necessarily include the ERDs, which Catholic hospitals must adopt as policy (ERD No. 5), a fact well understood by the AG, who expressly agreed and consented to the application of the ERDs

[16] *See Means v. U.S. Conference of Catholic Bishops,* 2015 WL 3970046, at *7 (W.D. Mich. June 30, 2015) (IRS relies on the OCD to determine whether an entity is part of the Catholic Church), *aff'd*, 836 F.3d 643 (6th Cir. 2016); *Overall v Ascension*, 23 F.Supp. 3d 816, 831 (E.D. Mich. 2014) ("the Official Catholic Directory listing [of the defendant Catholic hospitals is] a public declaration by the Roman Catholic Church that an organization is associated with the Church").

on a case-by-case basis in the 2016 Conditions of Consent.

F. The Bishop of Santa Rosa Determined that the Stipulation Conflicts with the ERDs and Must Be Modified.

After the Stipulation was entered by the Court, Bishop Vasa, the diocesan bishop for the Diocese of Santa Rosa, reviewed the Stipulation and determined that it violated the ERDs and must be amended or terminated. (Vasa Decl., ¶¶ 5, 6.) Bishop Vasa described the defects in the Stipulation in a letter to Providence Health's Executive Vice President and Chief Mission and Sponsorship Officer, Dougal Hewitt. (Hewitt Decl., ¶ 4: Ex. A.) Notably, Bishop Vasa focused on the provisions of the Stipulation that *exceed* the dictates of the ESL—the physician discretion regarding the types of procedures that may be performed at the Hospital and the specific call-out of abortion procedures to be performed—as particularly problematic under the ERDs. (*Id*.)

The Hospital cannot ignore the Bishop's determination. As part of the Catholic Church, the Hospital must obtain a modification or termination of the Stipulation to bring it into conformity with the ERDs, or else it risks the loss of its Catholic status. Moreover, the Stipulation functions like a mandatory injunction, as it compels the Hospital to do things it does not and cannot do. Mandatory injunctions, when sought via motion, are rarely granted. *See Teachers Ins. & Annuity Ass'n v. Furlotti*, 70 Cal. App. 4th 1487, 1493 (1999) ("The granting of a mandatory injunction pending trial is not permitted except in extreme cases where the right thereto is clearly established." (citation and internal quotation marks omitted)).

IV. THE COURT SHOULD DENY THE AG'S MOTION TO ENFORCE THE STIPULATION.

A. The MTE Ignores the Conditions of Consent.

On June 5, 2025, the AG filed the MTE. The MTE ignores the Conditions of Consent, the AG's own agreement and regulatory command. According to the AG, the Stipulation and the ERDs cannot coexist and any attempt to harmonize them is "fundamentally inconsistent with the unambiguous and unqualified terms of the Stipulation." (MTE at 10:14-16.) In other words, the AG effectively concedes that the Stipulation imposes requirements that are inconsistent with the Hospital's application of the ERDs, even while the AG agreed to the Conditions of Consent acknowledging that the Hospital would comply with the ERDs. (MTE at 4:14-17 (arguing the

Stipulation offered "clarity" to Hospital doctors whose autonomy had been restricted by a policy [the ERDs].) The AG's assertion that the ERDs must give way to the Stipulation is overly simplistic and fundamentally unconstitutional, as both this Court and the AG have an obligation to interpret laws in a manner that is consistent with the constitutional conscience rights of the Hospital. See *Santa Clara Local Transp. Auth. v. Guardino*, 11 Cal. 4th 220, 230 (1995) (the doctrine of constitutional avoidance is the "well-established principle that th[e] Court will not decide constitutional questions where other grounds are available and dispositive of the issues of the case").

B. The Authorities Cited By the AG Are Inapposite.

In the MTE, the AG cites four cases in support of its position. None is even remotely instructive and none involves a party's constitutional rights. For example, in each of the AG's cited cases, the parties clearly anticipated that the stipulations at issue were final. That is plainly not the case here, where the AG has admitted that the Stipulation took the place of a *preliminary* injunction, which itself would have been subject to modification based on a change in the material facts or law or in the interests of justice. (*See* Section V.A, *infra*.) Nor do the cases cited by the AG concern circumstances where, as here, a stipulation was without legal support, including because it was based upon an erroneous description of the applicable law, turned basic legal rules regarding the governance of hospitals on their heads, and was contrary to Conditions of Consent, which represent the law and the expressed public policy of California.

Each of the AG's authorities is factually and legally distinguishable and irrelevant to the AG's argument that the Court may not consider anything outside the four corners of the Stipulation.

- In *Dowling v. Farmers Ins. Exchange,* 208 Cal. App. 4th 685 (2012), the court considered a stipulation between the parties regarding tolling of the 5-year period to bring a case to trial. The stipulation had nothing to do with preliminary relief and was intended to be final. The court determined that the stipulation was unambiguous and enforceable. However, the court also suggested other reasons to toll the 5-year rule, which minimized the importance of its analysis of the stipulation. *Id*. at 697.

- In *In re Marriage of Gilbert-Valencia & McEachen*, 98 Cal. App. 5th 510 (2023), the appellate court reversed a trial court's award to one spouse based on the parties' stipulation, holding that the stipulation did not govern division of community property. Unlike *Gilbert-Valencia*, in which the trial court improperly expanded the scope of the stipulation to address unrelated community property issues, the Hospital seeks to modify provisions in the Stipulation that exceed the statutory authority for the Stipulation. In addition, the stipulation in *Gilbert-Valencia* was intended to be final and did not involve preliminary relief.
- In *Tanner v. Title Insurance & Trust Co.*, 20 Cal. 2d 814 (1942), the Supreme Court addressed whether landowners who had agreed to surrender their interest under an oil lease had also forfeited their contractual right to ongoing royalties. The Court held they had not, emphasizing that the agreement contained no express forfeiture clause, and that courts are not permitted to insert such significant terms absent clear language. *Tanner* does not support the proposition that a stipulation, which purports to merely confirm compliance with a law the hospital has followed since the 1970s, should now be read to compel the Hospital to abandon deeply held religious principles.
- The final case cited by the Attorney General, *Carr Business Enterprises, Inc. v. City of Chowchilla*, 166 Cal. App. 4th 25 (2008) is plainly irrelevant. In *Carr*, the court simply enforced a stipulation under which the parties agreed to submit the case to a referee, when one party tried to back out of paying their share of the referee's fees.

As noted above, none of these cases involved a stipulation for a provisional preliminary injunction, which is by definition temporary relief subject to modification or dissolution based upon the inherent or statutory authority of the Court, including due to changed circumstances or in the interests of justice. (*See* Section V.A, *infra*.) The AG claims that its lawsuit is merely about complying with the ESL but, as discussed below, that characterization does not stand up to minimal analysis because the terms of the Stipulation far exceed the ESL's requirements for screening and stabilization of patients presenting to the emergency department. In fact, the MTE makes clear that the AG's complaint is that the Hospital is applying the ERDs on a case-by-case

basis—as it is lawfully authorized to do by the Conditions of Consent and the First Amendment. (MTE at 7:1-11.)

C. The Argument that the Stipulation Must Be Enforced Because the Parties Agreed to It Is Wrong

The AG is desperately trying to save the Stipulation, relying on completely irrelevant cases not involving issues of statutory interpretation, mandatory injunctions, or the infringement of constitutional rights. *West Pioneer Ins. Co. v. Est. of Taira,* 136 Cal. App. 3d 174 (1982), reaffirms a fundamental principle of statutory interpretation: courts, not parties, determine the meaning and application of statutes. In that case, the parties stipulated that the State of California, as a self-insurer, was subject to the same obligations as a traditional insurer under Insurance Code § 11580.9(g), but the stipulation was based on a misreading of that statute. The trial court adopted this stipulation as dispositive, ultimately concluding that the State was obligated to defend and indemnify. However, the appellate court reversed, emphasizing that: "The interpretation of statutes or law is normally not a proper subject for stipulation of the parties, but is a matter for the courts" and that "it is doubtful that the parties could stipulate that a statute applied that did not." *Id.* at 183.

The AG's interpretation of the Stipulation here is similarly based on a misreading of the law. The AG asserts that the Hospital must comply with certain requirements allegedly imposed by the ESL—requirements that in fact are *not* imposed by the ESL and do not exist within the statutory or regulatory framework. In effect, the AG's position reads obligations into the ESL that are neither stated nor implied by its text. Just as the court in *West Pioneer* rejected a stipulation that extended a statute beyond its intended scope, this Court should likewise reject any attempt—whether by stipulation, assertion, or implication—to rewrite the ESL through interpretive overreach. The AG's construction of the statute does not stem from its actual provisions but rather from a mistaken assumption about what the law requires.

That type of assumption, even when agreed to by parties, cannot be the basis for judicial enforcement. Rather, "courts may interpret stipulations to determine their effect" and must refuse to enforce a stipulation that rests on an incorrect legal conclusion and would have the effect of

misapplying a statute. *Id.*; *see also* 1 Witkin, Cal. Proc., Attorneys, § 139, p. 148. In short, the AG is attempting to attach legal consequences to provisions that do not exist in the statute, much like the trial court did in *West Pioneer* when it erroneously imported non-existent insurer duties into the Insurance Code. In addition, as discussed below, the Court has inherent and statutory authority to modify or dissolve the Stipulation due to changed circumstances and in the interests of justice.

V. THE COURT SHOULD MODIFY OR DISSOLVE THE STIPULATION.

A. The Court Has Inherent and Statutory Authority to Modify or Dissolve the Stipulation Based on Changed Circumstances and In the Interests of Justice.

Given that the Stipulation was intended to resolve the PI Motion, the Stipulation should be governed by the same rules as a preliminary injunction.[17] "[T]he power to modify or dissolve does not depend on statute or a reservation of jurisdiction. It is an inherent power, exercisable with a permanent injunction, and therefore necessarily exercisable with a preliminary injunction." 6 Witkin, Cal. Proc. § 380 (2025); *see also San Marcos v. Coast Waste Management*, 47 Cal. App. 4th 320, 328 (1996) (court has inherent power to modify its preliminary injunction, "which is of a continuing or executory nature"). This inherent authority is supplemented by statutory authority providing that a court may modify or dissolve an injunction when any of the following is shown: (a) a material change in the facts; (b) the law on which the injunction is based has changed; or (c) modification or dissolution would serve the ends of justice. Code Civ. Proc. § 533 (injunction or TRO); Civ. Code § 3424(a) (final injunction).

The record clearly shows a material change in the facts in that Bishop Vasa, the diocesan bishop with the specific authority in the Catholic faith to determine compliance with the ERDs in the Diocese of Santa Rosa, reviewed the Stipulation after it was entered and determined that the Stipulation violates the ERDs and must be modified.

B. The Stipulation Must Be Modified or Dissolved.

Contrary to the AG's numerous incorrect statements, the Stipulation does not simply

[17] Arguably, the Stipulation should be entitled to less significance than a PI given that the Court did not review or make a ruling on any of the evidence submitted in support of that motion.

require the Hospital to comply with the ESL. As interpreted by the AG, the Stipulation's requirements go far beyond (and are not supported by) the requirements of the ESL, violate the Conditions of Consent, violate basic principles of law regarding hospital governance and interfere with the constitutional rights of the Hospital. The AG's MTE is an improper attempt to turn a basic emergency services law into an abortion rights law that it is not and has never been. Given that the Stipulation and the Order thereon vastly exceed their statutory authority, and create a host of problems, the Stipulation must be modified or dissolved.

1. The Stipulation Must Be Modified or Dissolved Because it is Not Supported by the ESL.

The Stipulation and the Order thereon incorporate the AG's incorrect contention that the Stipulation simply requires compliance with the ESL, because it requires the Hospital to "specifically" "comply with California's Emergency Services Law" in ways that are in fact *not* required by the ESL. (RJN, Ex. 3, at 3:20, 6:8-9).) These requirements go far beyond the ESL.

For example, subsection a) of paragraph 2 of the Order provides that the Hospital must "specifically":

> Allow its physicians to terminate a patient's pregnancy (via induced labor, a Dilation and Evacuation procedure, or any other procedure that the relevant personnel are licensed and qualified to perform and for which Providence Hospital has the physical facilities to accommodate) whenever the treating physicians determine in their professional judgment that failing to immediately terminate the pregnancy would be reasonably expected to:
>
> i. Place the patient's health in serious jeopardy;
>
> ii. Result in serious impairment to the patient's bodily functions; or
>
> iii. Result in serious dysfunction of any bodily organ or part of the patient.

This provision far exceeds the requirements of the ESL in several ways.

First, the ESL nowhere specifies that a hospital must provide any specific procedures at all, much less specific pregnancy termination procedures such as induced labor or Dilation and

Evacuation. The ESL provides that a hospital with a licensed emergency department must provide "emergency services and care" to "any person requesting the services or care . . . for any condition in which the person is in danger of loss of life, or serious injury or illness . . .." Health & Safety Code § 1317.1(a)(1). The ESL defines "emergency services and care" to include a screening exam to determine whether the patient has an "emergency medical condition" and, if so, "the care, treatment and surgery, if within the scope of that person's license, necessary to relieve or eliminate the emergency medical condition, within the capacity of the facility." *Id.* Again, the ESL says nothing at all about abortion, abortion-related procedures, pregnancy termination—or any specific services at all.

Second, while the ESL provides that the Hospital must provide emergency services, the ESL nowhere provides that physicians who have privileges at private hospitals get to determine what procedures are provided in the hospital and under what circumstances the procedures may be provided. As discussed below, this is contrary to basic principles of California law.

Third, the language in romanettes (i) – (iii) in the Order on the Stipulation (quoted above) exists in the ESL, but it is part of the definition of an "emergency medical condition" and thus describes when the hospital must provide "emergency services and care" to relieve or eliminate the condition, *not* when the hospital must provide an abortion. Health & Safety Code § 1317.1(b).[18]

Given that the Stipulation and Order thereon are not supported by the language of the ESL, the Stipulation should be modified or dissolved.

2. **The Stipulation Must Be Modified or Dissolved Because it Violates the Conditions of Consent.**

As discussed in Section III.C.5, above, the Conditions of Consent expressly agreed to by

[18] According to the American College of Obstetricians and Gynecologists ("ACOG"), Preterm Premature Rupture of Membranes ("PPROM"), the condition that Anna Nusslock and Jane Roe presented with at the Hospital, occurs in less than 1% of pregnancies. ACOG Practice Bulletin, No. 217 (March 2020). Depending on gestational age, there are a range of treatment options including expectant management, antibiotics, corticosteroids, and magnesium sulfate in addition to termination of a pregnancy through induction (medically inducing delivery) or dilation and evacuation. *Id*. at e84. Administration of broad-spectrum antibiotics prolongs pregnancy, reduces maternal and neonatal infections, and reduces gestational age-dependent morbidity. *Id*. at e87. Indeed, "patients with preterm PROM before 34 0/7 weeks of gestation should be managed expectantly if no material or fetal contraindications exist." *Id*. at e89.

the AG and imposed upon the Hospital provide that "*application of the Ethical and Religious Directives [by the Hospital] shall continue to be conducted on a case-by-case basis taking into account the clinical and ethical factors presented in each case* by the multi-disciplinary local ministry ethics teams." (RJN., Ex. 2 at p. 7 (Art. XIV) (emphasis added)). The Conditions of Consent have the force of law, are set by the AG after notice and public hearing that includes interested stakeholders, and can only be amended through a specified process which has not occurred. The Conditions of Consent clearly provide that the Hospital will apply the ERDs on a case-by-case basis. Private agreements and stipulations cannot override statutory protections or public policy. Civil Code § 3513 makes clear: "A law established for a public reason cannot be contravened by a private agreement." *See also Armendariz v. Foundation Health Psychcare Servs., Inc.,* 24 Cal. 4th 83, 100 (2000) ("Anyone may waive the advantage of a law intended solely for his benefit. But a law established for a public reason cannot be contravened by a private agreement."). Similarly, Civil Code § 1667 provides that a contract is unlawful if it is contrary to the express provisions of law or the policy of express law.

3. **The Stipulation Must be Modified or Dissolved Because it is Contrary to California Law which Requires the Hospital Board to Determine the Services Provided at the Hospital**.

As a matter of law, physicians who are not employees or agents of the hospital have no right to determine what procedures are performed at a hospital. The governing board of the hospital (with input from the medical staff) is required to set policy and determine the scope of services to be provided. *See El-Attar v. Hollywood Presbyterian Med. Ctr.*, 56 Cal. 4th 976, 993 (2013) ("[T]he governing board's role reflects the fact that the hospital itself is ultimately responsible for the health and safety of the patients it serves."); *Alexander v. Sup. Ct.*, 5 Cal. 4th 1218, 1224 (1993) (same); Cal. Code Regs., tit. 22, § 70035 (governing body of hospital has "final authority and responsibility" for the hospital); 42 C.F.R. § 482.12 (requiring as a condition for participation in Medicare "an effective governing body that is legally responsible for the conduct of the hospital"); *id*, subd. (e) ("The governing body must be responsible for services furnished in the hospital whether or not they are furnished under contracts."); Joint Commission Leadership Standard LD.01.03.01, EP 3 ("The governing body approves the hospital's written

scope of services.").[19]

Physicians practicing at a private hospital in California are part of the hospital's independent self-governing medical staff and are credentialed by the hospital's governing body with privileges to practice at the hospital. Bus. & Prof. Code § 2282.5 (medical staff right of self-governance). These physicians are not employed by the hospital and do not represent the hospital as its agents. As such, they cannot set hospital policy. By giving physicians the right to determine in their discretion when a pregnancy termination/abortion procedure may be permitted at the Hospital, the Stipulation violates California law and must be modified or dissolved.

4. **The Stipulation Violates the Church Autonomy Doctrine by Interfering With the Internal Management Decisions Essential to the Hospital's Mission**.

The MTE makes clear that the AG wants to interfere with the Hospital's internal religious decisions and the conduct implementing those decisions, which is prohibited by the First Amendment. The AG's invitation to the Court to delve into the workings of how the ERDs are applied by the Hospital and its lament that the AG would not have agreed in the Conditions of Consent to the Hospital's application of the ERDs if it knew how they would be applied completely miss the point. The Conditions of Consent recognize a Catholic hospital's autonomy, that Catholic hospitals must be allowed to apply the ERDs and that the Constitution demands deference to that autonomy, including by the AG.

a. **The Church Autonomy Doctrine.**

The constitutional church autonomy doctrine recognizes that religious institutions enjoy "autonomy with respect to [their] internal management decisions that are essential to the institution's central mission." *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2060 (2020); *Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos*, 483 U.S. 327, 342 (1987) (conc. opn. of Brennan, J.) ("Determining that certain activities are in furtherance of an organization's religious mission . . . is [] a means by which a religious community defines itself."). Governments rarely if ever encroach upon religious health

[19] *Available at* https://www.jcrinc.com/-/media/jcr/jcr-documents/our-priorities/board-education/joint-commission-requirements-for-the-board-071123-final-version.pdf.

care, which would trigger a church autonomy analysis, because such efforts are so plainly unconstitutional. *Guadalupe*, 140 S. Ct. at 2060 ("any attempt by government to dictate or even to influence [internal religious matters] would constitute one of the central attributes of an establishment of religion"). More commonly, the government expressly recognizes First Amendment rights as the AG has in the Conditions of Consent, as well as in legislation such as the Church Amendment, the Coates Snowe Amendment, the Weldon Amendment, and the Religious Freedom Restoration Act, which expressly protect the conscience rights of faith-based providers from legislation that might even be perceived to be coercive. *See, e.g.,* 42 U.S.C. § 300a-7 et seq.; 42 U.S.C. § 238n; 42 U.S.C. §20000bb et seq.

Church autonomy applies to claims that involve issues of faith at Catholic-controlled hospitals governed by the ERDs. For instance, it bars claims that a Catholic hospital "did not provide the standard of medical care because it is a Catholic hospital that adheres to Defendant USCCB's Ethical and Religious Directives . . . ." *Means*, 2015 WL 3970046, at *2, *13 ("the Court cannot determine whether the establishment of the ERDs constitute negligence because it necessarily involves inquiry into the ERDs themselves, and thus into Church doctrine").

The AG's complaints about the ERDs are facially irrelevant and well outside the scope of permissible judicial review. It is irrelevant whether any plaintiff, but particularly the AG, understands "or know[s] the details of . . . how [the Hospital] interprets the relevant [ERDs]."[20] (MTE, 9:14-18.) "[I]t is well established, in numerous other contexts, that courts should refrain from trolling through a person's religious beliefs." *Mitchell v. Helms*, 530 U.S. 793, 828 (2000) (plurality opinion); *University of Great Falls v. N.L.R.B.*, 278 F.3d 1335, 1344 (D.C. Cir. 2002) ("Religious beliefs need not be acceptable, logical, consistent, or comprehensible to others to merit First Amendment protection"). Nor can the AG ask the Court to engage in this inquiry. *Guadalupe*, 140 S. Ct. at 2063 ("In considering the circumstances of any given case, courts must take care to avoid resolving underlying controversies over religious doctrine.'"); *Means*, 2015

[20] Moreover, in 2025, Catholic hospitals' faith-based opposition to abortion is so well known as to be judicially noticeable, there is no cognizable ambiguity, and the possible permutations of medical complications are too numerous and varied to lend themselves to more than case-by-case review.

WL 3970046, at *12.

b. **The Hospital is a Catholic Religious Institution.**

Likewise, there is no question that the Hospital is a Catholic religious institution. As discussed in Section III.C.2, *supra*, the governing documents for the Hospital and the St. Joseph Health Ministry and their affiliate overwhelmingly establish the Catholic religious mission of the Hospital and that compliance with the ERDs is at the core of that mission. (Vasa Decl., ¶¶ 2-4; Becker Decl., ¶¶ 4-10; Exs. 1-5); *see Penn v. New York Methodist Hosp.*, 884 F.3d 416, 424–25 (2d Cir. 2018); *Hollins v. Methodist Healthcare, Inc.*, 474 F.3d, 223, 225 (6th Circ. 2007) (church autonomy ministerial "exception has been applied to claims against religiously affiliated schools, corporations, and hospitals by courts ruling that they come within the meaning of a 'religious institution'"), *abrogated on other grounds by Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.,* 565 U.S. 171 (2012); *Shaliehsabou v. Hebrew Home of Greater Wash., Inc.*, 363 F.3d 299, 310–11 (4th Cir. 2004) (Jewish retirement home is religious institution); *Scharon v. St. Luke's Episcopal Presbyterian Hosps.*, 929 F.2d 360, 362 (8th Cir. 1991) ("It cannot seriously be claimed that a church-affiliated hospital providing this sort of ministry to its patients is not an institution with substantial religious character.") (citations omitted); *Conlon v. InterVarsity Christian Fellowship*, 777 F.3d 829, 834 (6th Cir. 2015) (religious character of institution established by "not only its Christian name, but its mission of Christian ministry and teaching").

c. **Application of the ERDs on Case-by-Case Basis is an Internal Management Decision Essential to the Hospital's Mission.**

The AG admits that the application of the ERDs on a case-by-case basis is part of the Hospital's internal management by complaining that physicians had their "autonomy restricted" by this process. (MTE at 4:15.) The governing organizational documents of Providence, SJHS, SJHM, and SJHNC (which owns the Hospital) make this explicit: compliance with the ERDs is a core requirement of the Hospital's faith-based health care ministry. See Section III.C.2, *supra*; Becker Decl., ¶ 4, Ex. 1, § 3.3, ¶ 6, Ex. 2, § 1.1 a, ¶ 7; Ex. 3 (Art. II). There is simply no doubt that compliance with the ERDs is part of the internal management of the Hospital as a religious institution. As such, the Hospital has the right (consistent with the Conditions of Consent) to

continue to apply the ERDs on a case-by-case basis. Interference with its ability to do so (as the Stipulation clearly does) impermissibly invades the Hospital's constitutional right to autonomy as a religious institution while at the same time upending basic tenets of California law and the Conditions of Consent. Therefore, the Stipulation must be modified to allow case-by-case application of the ERDs and to remove the provisions that exceed the statutory authority for the Stipulation or dissolved.

C. Strict Scrutiny Applies to the AG's Weaponization of the ESL to Force a Catholic Hospital to Violate the ERDs.

Forcing the Hospital to allow abortions in its hospital facility and with its resources would clearly be an enormous burden not only on the Hospital's free exercise of its Catholic faith and but also its freedom of expression. "The First Amendment ensures that religious organizations and persons are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths." *Obergefell v. Hodges*, 135 S.Ct. 2584, 2607 (2015). A Catholic hospital is not merely a medical facility—it is a religious ministry whose mission is inherently expressive. The ERDs themselves declare that "Catholic health care expresses the healing ministry of Christ," and that this ministry is expressed "in concrete action at all levels of Catholic health care." (RJN, Ex. 1, at p. 8.) ERD 5, requiring Catholic health care facilities to adopt the ERDs as policy along with ERDs 45 and 47 which describe the limits on pregnancy termination tell Catholic hospitals how they must express the healing ministry of Jesus. That expression includes the Hospital's express mission, the crucifix adorning the Hospital, the Mass and the religious sacraments offered at the Hospital as well as the limitations on procedures that may not be provided at the Hospital. *See NIFLA v. Becerra*, 585 U.S. 755 (2018) (compelling pro-life clinics to advertise abortions violated their First Amendment right to free expression).

Nonetheless, the AG has argued that its application of the ESL to subject the Hospital to this burden is not even subject to strict scrutiny because according to the AG the ESL is a neutral law of general application. However, given recent U.S. Supreme Court decisions, there can be little doubt that a majority of the Justices would not tolerate the government forcing a Catholic hospital to act in such a manner that it could no longer be a Catholic hospital. Thus, this case is

more like *Yoder v. Wisconsin* and *Mahmoud v. Taylor* in which the Supreme Court (relying on *Yoder*) most recently found that there was no need to determine whether the law at issue was neutral and generally applicable before applying strict scrutiny because the government's action violated both the constitutional right to free exercise of religion and the right to free expression. *See Employment Div., Dept. of Human Resources of Oregon v. Smith*, 494 U.S. 872 (1990) ("The only decisions in which we have held that the First Amendment bars application of a neutral, generally applicable law to religiously motivated action have involved not the Free Exercise Clause alone, but the Free Exercise Clause in conjunction with other constitutional protections, such as freedom of speech and of the press."); *Yoder v. Wisconsin*, 406 U.S. 205 (1972) (invalidating laws that compelled Amish children to attend school contrary to religious beliefs); *Mahmoud v. Taylor*, 2025 WL 1773627, at *22 (U.S. June 27, 2025) (government action interfered with free exercise of religion and forced children to take part in expression contrary to their religion). Where, as here, government action not only violates the Hospital's free exercise rights, it compels the Hospital to express itself contrary to its religious faith, the court must strictly scrutinize that action.

In addition, strict scrutiny applies because the AG's actions show that the government is not acting in a neutral manner but is intolerant of religion. The Supreme Court has made clear that a law or government action "burdening religious practice that is not neutral or of general application must undergo the most rigorous of scrutiny." *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993) (the Free Exercise Clause "forbids subtle departures from neutrality"). This principle does not just apply to the text of the law divorced from its application. The "[g]overnment fails to act neutrally when it proceeds in a manner intolerant of religious beliefs or restricts practices because of their religious nature." *Fulton v. City of Philadelphia*, 593 U.S. 522, 533 (2021); *see also Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm'n*, 584 U.S. 617, 634 (2018) ("official expressions of hostility to religion . . . are inconsistent with what the Free Exercise Clause requires"); *Fellowship of Christian Athletes v. San Jose Unified School District*, 82 F.4th 664, 685 (9th Cir. 2023) (expressions of antireligious animus establish lack of neutrality). Nor may the government treat comparable secular activity

more favorably than religious exercise. *Tandon v. Newsom*, 593 U.S. 61, 62 (2021). [21]

Here, it is clear that the AG has acted in a manner intolerant of religion in contravention of the Hospital's constitutional rights. When the AG launched this case against the Hospital, which has faithfully provided medical care to the residents of Humboldt Country for over 100 years, rather than considering that the Hospital is part of the Catholic Church or that the Conditions of Consent specifically call for application of the ERDs, the AG told the press and the public that it is "*damning* that here in California . . . we have a hospital implementing a policy that's reminiscent of heartbeat laws in *extremist* red states," and also described the policy as "discriminatory." (RJN, Ex. 4 (emph. added).)[22] According to the Cambridge Dictionary, "damning" means something that "someone is wrong, guilty or had behaved very badly". In addition, at the press conference and throughout this litigation, the AG has sought to place the burden and cost of the decision by an unrelated hospital, Mad River Hospital, to close its labor and delivery service on the Hospital rather than on the government. The Hospital obviously has no responsibility for Mad River's decision and cannot be forced to allow abortions in contravention of the ERDs simply because another (non-Catholic) hospital decided to save money by closing its labor and delivery service and the State of California took no action to prevent that. To so much as suggest that this access issue lies at the feet of Eureka's Catholic Hospital it is to show utter disdain for religion. Moreover, at no point during the AG's press conference launching this case or subsequently has the AG shown the slightest concern that the Hospital is a

[21] As the Hospital has previously argued, the ESL is in fact not generally applicable as it includes exceptions that allow secular hospitals to be excused from providing emergency services if they simply do not happen to have the personnel or equipment needed to provide such care. (SJH Reply Brief in Support of Demurrers (filed Feb. 7, 2025), at 8:10-9:12.) The AG has argued that this exception is acceptable because it is in service of the general purpose of the statute to promote public health. (AG Opposition to Demurrer (filed Jan. 27, 2025), at 18:3-19:3.) However, the purpose of the statute is not simply to promote public health, it is to ensure that patients with an emergency medical condition can be screened and treated at hospitals with an emergency room. Nothing about the secular exception supports that specific purpose. To the contrary, refusing to allow secular hospitals to avoid their obligations under the ESL would simply require those hospitals to have the necessary personnel and equipment, which would make it more likely a patient with an emergency condition would be treated at a secular hospital. Because the ESL provides exceptions to hospitals for secular reasons but does not provide exemptions for faith-based reasons, such as that the Hospital does not allow its personnel or equipment to be used for procedures that are prohibited by its faith, the ESL is not generally applicable and strict scrutiny must also be applied for that reason. (See SJH Reply Brief in Support of Demurrers, at 9:13-10:3.)

[22] Also available at https://oag.ca.gov/news/press-releases/attorney-general-bonta-draconian-hospital-policies-deny-emergency-abortion-care.

religious institution following binding faith-based rules. Instead, as described above, the AG has attempted to improperly weaponize the ESL, far beyond required screening and stabilization, as an abortion rights law that can be used as a club against faith-based hospitals. "Official action that targets religious conduct for distinctive treatment cannot be shielded by mere compliance with the requirement of facial neutrality. The Free Exercise Clause protects against government hostility which is masked as well as overt." *Lukumi*, 508 U.S. at 534. These are clear violations of neutrality and general applicability that must subject the government's claims in this litigation to strict scrutiny.

As such, the burden is on the government to demonstrate that the challenged actions satisfy strict scrutiny. *Tandon*, 593 U.S. at 62. It cannot do so, for multiple reasons. To begin with, while the government has a legitimate interest in seeking to ensure that pregnant women can obtain emergency care, it cannot do so by enforcing laws beyond their limited confines. Here, the AG's attempt to enforce the Stipulation far beyond the confines of the ESL cannot survive strict scrutiny. Nor can the AG show that forcing the Hospital to provide care in contravention of the ERDs is the least restrictive means to ensure such care. To the contrary, the State of California could have ensured such care was available in Humboldt County by simply providing Mad River with the funding necessary to keep its labor and delivery service open. Simply put, the government cannot place its monetary interests over the right of a Catholic religious institution to practice its religion.

VI. CONCLUSION

Accordingly, for the reasons stated above, the Stipulation should be modified or, in the alternative, dissolved.

Dated: July 22, 2025

MANATT, PHELPS & PHILLIPS, LLP

By: _____
HARVEY L. ROCHMAN