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1311 Stratton Court
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1 THE COURT: Let's go on the record in the case of
2 CJ-2008-9119, the case styled Nova Health Systems, et al,
3 versus Drew Edmondson, et al.

4 First of all, state appearances on the record on
5 behalf of the Plaintiff.

6 MS. TOTI: Stephanie Toti for the Plaintiff from
7 the Center for Reproductive Rights.

8 MS. HARDWICK: Martha Hardwick, Hardwick Law
9 Office, Tulsa, for the Plaintiff.

10 MS. ZACHRITZ: Anne Zachritz, Andrews Davis Law
11 Firm, for the Plaintiff.

12 THE COURT: And for the Defendant.

13 MS. COLLETT: Teresa Collett, Special Assistant
14 Attorney General for the State of Oklahoma.

15 MR. METCALFE: And Assistant Attorney General, Greg
16 Metcalfe. Thank you.

17 THE COURT: Thank you.

18 As indicated, we are back here today for the Court
19 to make its decision based upon motions that have been filed
20 and argument that has been heard in this case.

21 Specifically in front of the Court today are three
22 separate sets of motions: The Plaintiff's Motion for Partial
23 Summary Judgment; the Defendants' Motion for Summary
24 Judgment; and the Plaintiff's Motion to Strike various
25 exhibits and witnesses.

1 The Court has taken a great deal of time and
2 reviewed all of these motions, the voluminous briefs and
3 exhibits attached thereto. I additionally have read a great
4 deal of the law applicable to this case, including statutes
5 and the Oklahoma Constitution. On August 11th of this year,
6 we had a two-hour oral argument on these issues, and the
7 Court reviewed my notes on that as well and conducted some
8 additional research on my own.

9 That being said, let me provide for the record a
10 brief background of Senate Bill 1878. This Bill was enacted
11 on April 17 of 2008. It is a compilation of five separate
12 Bills. The first Bill, which encompasses Sections 1 through
13 6, is known as the Freedom of Conscience Provision involving
14 employment discrimination. The second Bill, which
15 encompasses Section 7, is the Mifepristone Provision. The
16 third Bill, which encompasses Sections 8 through 11, refers
17 to various signs that must be posted and certain rules that
18 are applicable with respect to minors. The fourth Bill,
19 which encompasses Sections 12 through 13, is commonly called
20 the Ultrasound Provision. And finally, the fifth Bill, which
21 is Section 14, involves the denial of causes of action for
22 two torts of wrongful birth or wrongful life.

23 The first issue presented in the Plaintiff's Motion
24 for Partial Summary Judgment goes to the issue of what is
25 commonly called the "single-subject rule," specifically under

1 Article V, Section 57 of the Oklahoma Constitution.

2 Therein, the Constitution provides that "Every act
3 of the Legislature shall express but one subject, which shall
4 be clearly expressed in its title."

5 Now, of course, the lawyers are quite clear, but
6 everyone else should be quite clear, what applies to the
7 Court here today is what's called the "principle of stare
8 decisis"; that is, this Court is compelled to follow previous
9 decisions specifically of the Supreme Court of the State of
10 Oklahoma. This is what's commonly known as "precedent."

11 Interestingly enough, on March 24th of this year, a
12 decision came down on this exact portion of the Constitution.
13 That case is Fent vs. Oklahoma Capitol Improvement Authority.
14 The present cite on that is 2009 Oklahoma 15. There is of
15 yet no West cite on that.

16 Therein, the Supreme Court sets out what this
17 language means under the Oklahoma Constitution with respect
18 to this one-subject rule, stating, and I quote, "This court
19 interprets the single-subject rule using a 'germaneness'
20 test. If the provisions are germane, relative, and cognate
21 to a readily apparent common theme and purpose, the
22 provisions are related to a single subject."

23 Having reviewed that case, in conjunction with the
24 Statute and in conjunction with the Oklahoma Constitution,
25 the Court finds as follows: That Senate Bill 1878 violates

1 the single-subject rule. Thus, the Court finds that with
2 respect to Plaintiff's Motion for Partial Summary Judgment
3 with respect to the declaratory judgment action issue, and
4 only with respect to the single-subject rule, that portion
5 will be sustained.

6 Accordingly, the Court finds that Senate Bill 1878
7 violates Article V, Section 57 of the Oklahoma Constitution
8 and is, therefore, unconstitutional. Thus, this Bill is void
9 and of no effect.

10 Moreover, the Court finds that Plaintiff's request
11 in its Motion for Partial Summary Judgment with respect to
12 the permanent injunction will be sustained; that is, the
13 Court hereby issues a permanent injunction without bond
14 restraining enforcement of Senate Bill 1878.

15 Because the Court finds that Senate Bill 1878
16 violates Article V, Section 57 of the Oklahoma Constitution,
17 the Court need not address other arguments and issues
18 presented by both the Plaintiff and the Defendant in their
19 other briefs.

20 The Court hereby requests that the Plaintiff submit
21 an order for this Court's signature, signed off, of course,
22 by the Defendant within 14 days. The Court will accept fax
23 signatures.

24 That is the decision of the Court here today. I
25 will not entertain any additional argument.

1 Plaintiff, anything else on the record? You
2 understand the Court's decision?

3 MS. TOTI: Yes, I understand, Your Honor. I have
4 nothing further.

5 THE COURT: Defendant, you understand as well?

6 MS. COLLETT: Yes, Your Honor.

7 THE COURT: Okay. Very good.

8 The Court will hereby be adjourned. We are off the
9 record.

10 (Court Adjourned.)

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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

NOVA HEALTH SYSTEMS, D/B/A)
REPRODUCTIVE SERVICES, on behalf of)
itself, its staff, and its patients,)
Plaintiff,)

vs.) Case No. CJ-2008-9119

W.A. DREW EDMONDSON, in his official)
capacity as Attorney General of)
Oklahoma; TIM HARRIS, in his official)
capacity as Tulsa County District)
Attorney; ROCKY D. MCELVANY, in)
his official capacity as Oklahoma)
Commissioner of Health; LYLE KELSEY,)
in his official capacity as Executive)
Director of the Oklahoma State Board)
of Medical Licensure and Supervision;)
CHERYL A. VAUGHT, in her official)
capacity as President of the Oklahoma)
State Board of Osteopathic Examiners,)
Defendants.)

CERTIFICATE OF COURT REPORTER

I, Deborah J. Torbert, Certified Shorthand Reporter and
Official Court Reporter for the State of Oklahoma, do hereby
certify that the foregoing transcript in the above-styled
case is a true, correct and complete transcript of my
shorthand notes of the hearing in said cause.

IN WITNESS WHEREOF, I hereunto set my hand and official
seal this 21st day of August, 2009.

DEBORAH J. TORBERT
(Oklahoma Certified Shorthand Reporter
Certificate No. 383
Exp. Date: December 31, 2010

Deborah J. Torbert
Deborah J. Torbert, CSR, RPR
Official Court Reporter