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12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

14 Jonee Fonseca, an individual parent) Case No.: 2:16-cv-00889-KJM-EFB
15 and guardian of Israel Stinson, a minor,)
16 Plaintiff,)
17) **Amended Complaint for Declaratory**
18) **Relief and Request for Temporary**
19) **Restraining Order and Injunctive**
20) **Relief**
21)
22)
23)
24)
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26)
27)
28)
Kaiser Permanente Medical Center)
Roseville, Dr. Michael Myette M.D.)
Karen Smith, M.D. in her official)
capacity as Director of the California)
Department of Public Health; and Does 2)
through 10, inclusive,)
Defendants.)

1 **INTRODUCTION**

2 This action seeks emergency relief to save the life of a two-year-old child,
3 Israel Stinson. (FRCP 65)

4 **JURISDICTION**

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6 1. This Court has federal question jurisdiction over Plaintiffs’ claims
7 arising under the First, Fourth and Fourteenth Amendment of the United States
8 Constitution and 42 U.S.C. 1983. Jurisdiction is therefore proper under 28 U.S.C.
9 1331. This Court has supplemental jurisdiction over Plaintiffs’ claims arising under
10 the Constitution of the State of California pursuant to 28 U.S.C. 1337.

11 **VENUE**

12 2. Venue is proper in the United States District Court for the Eastern
13 District of California, pursuant to 28 U.S.C. sections 84 and 1391. The events that
14 gave rise to this complaint are occurring in Roseville, Placer County, in the State of
15 California, and one or more of the defendants has its Principal Place of Business in
16 Roseville, Placer County, California.

17 **PARTIES**

18 3. JONEE FONSECA is an adult and a resident of the State of California.
19 She is the mother of Israel Stinson. Pursuant to the California Family Code §6910
20 she is the healthcare decision maker for Israel Stinson, a minor. Jonee Fonseca is a
21 devout Christian and believes in the healing power of God. She also believes that
22 life does not end until the cessation of cardiopulmonary function. She has repeatedly
23 requested that Israel not be removed from life support. She believes that removing
24 Israel from the ventilator is tantamount to ending his life.

25 4. Defendant KAISER PERMANENTE ROSEVILLE MEDICAL
26 CENTER—WOMEN AND CHILDREN’S CENTER (KPRMC) is a non-profit
27 hospital corporation with its principal place of business in Roseville, California.

1 Plaintiff is informed and believes, and on the basis of said information and belief,
2 alleges that KPRMC receives funding from the state and federal government which
3 is used to directly and indirectly provide healthcare services to individuals including
4 but not limited to Israel Stinson. This includes, but is not limited to, Medical and
5 Medicaid monies.

6 5. Plaintiff is informed and believes that Defendant DR. MICHAEL
7 MYETTE is a resident of Placer County in California. He is a Pediatric Intensivist at
8 Kaiser Permanente Medical Center Roseville.

9 6. Defendant KAREN SMITH, M.D., serves as the Director of the
10 California Department of Public Health. The Department which she heads has
11 supervisory, regulatory and enforcement roles over public hospitals, including
12 KPRMC. Further, the Department issues death certificates, requires compliance by
13 hospitals and physicians in the manner that the certificates are filled out and
14 recorded. Defendant Smith's Department enforces the requirement that hospitals,
15 including KPRMC, use California's definition of death and that determination of
16 death be performed in a manner consistent with the State's statutory protocol. The
17 Department that Dr. Smith runs works jointly with hospitals, coroners, and other
18 physicians to ensure that determinations relative to death are made in a manner
19 consistent with the State definition of death and pursuant to government protocol.
20 The definitions and protocol are part of the State's Uniform Determination of Death
21 Act. Dr. Smith is sued in her official capacity.

22 7. Plaintiffs are ignorant of the true names and capacities of defendants
23 sued herein as Does 2 through 10, inclusive, and therefore sue these defendants by
24 such fictitious names and capacities. Plaintiffs are informed and believe and based
25 thereon allege that each of the fictitiously named defendants is responsible in some
26 manner for the occurrences herein alleged, and that plaintiffs' injuries as herein
27 alleged were proximately caused by the actions and/or in-actions of said Doe
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1 defendants. Plaintiffs will amend this complaint to include the true identities of said
2 doe defendants when they are ascertained.

3 8. At all times mentioned, each of the defendants was acting as the agent,
4 principal, employee, and/or employer of one or more of the remaining defendants
5 and was, at all times herein alleged, acting within the purpose, course, and scope of
6 such agency and/or employment for purposes of respondent superior and/or
7 vicarious liability as to all other defendants.

8 9. At all times mentioned herein, the defendants, and each of them,
9 employed, hired, trained, retained, and/or controlled the actions of all other
10 defendants, and each of them.

11 **FACTS**

12 10. On April 1, 2016 Plaintiff Fonseca took Israel to Mercy General
13 Hospital (“Mercy”) with symptoms of an asthma attack. The Emergency room
14 examined him, placed him on a breathing machine, and he underwent x-rays.
15 Shortly thereafter he began shivering, his lips turned purple, eyes rolled back and he
16 lost consciousness. He had an intubation performed on him. Doctors then told Ms.
17 Fonseca they had to transfer Israel to the University of California Davis Medical
18 Center in Sacramento (“UC Davis”) because Mercy did not have a pediatric unit.
19 He was then taken to UC Davis via ambulance and admitted to the pediatric
20 intensive care unit.

21 11. The next day, the tube was removed from Israel at UC Davis. The
22 respiratory therapist said that Israel was stable and that they could possibly
23 discharge him the following day, Sunday April 3. The doctors at UC Davis put
24 Israel on albuterol for one hour, and then wanted to take him off albuterol for an
25 hour. About 30 minutes later while off the albuterol, Israel’s mother noticed that he
26 began to wheeze and have trouble breathing. The nurse came back in and put Israel
27 on the albuterol machine. Within a few minutes the monitor started beeping. The

1 nurse came in and repositioned the mask on Israel, then left the room. Within
2 minutes of the nurse leaving the room, Israel started to shiver and went limp in his
3 mother's arms. She pressed the nurses' button, and screamed for help, but no one
4 came to the room. A different nurse came in, and Ms. Fonseca asked to see a doctor.

5 12. The doctor, Dr. Meteev, came to the room and said she did not want to
6 intubate Israel to see if he could breathe on his own without the tube. Israel was not
7 breathing on his own. Ms. Fonseca had to leave the room to compose herself. When
8 Ms. Fonseca came back into the room five minutes later, the doctors were
9 performing CPR on Israel. The doctors dismissed Israel's mother from the room
10 again while they continued to perform CPR. The doctors were able to resuscitate
11 Israel. Dr. Meteev told Ms. Fonseca that Israel was "going to make it" and that he
12 would be put on Extracorporeal Membrane Oxygenation ("ECMO") to support his
13 heart and lungs.

14 13. Dr. Meteev then indicated that there was a possibility Israel will have
15 brain damage. He was sedated twice due to his blood pressure being high, and was
16 placed on an ECMO machine and ventilator machine.

17 14. On Sunday April 3, 2016, a brain test was conducted on Israel to
18 determine the possibility of brain damage while he was hooked up to the ECMO
19 machine.

20 15. On April 4, 2016, the same tests were performed when he was taken off
21 the ECMO machine. According to Israel's medical records, Israel was not in a coma
22 at the time these tests were performed. The American Academy of Neurology
23 guidelines require that patients be in a coma prior to performing a brain death exam.
24 Prior to the first brain death examination, a UC Davis nurse contacted an organ
25 donor company.

26 16. California Health and Safety Code §7180, which was in force and
27 effect, at all times material to this action, provides that "An individual who has
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1 sustained either (1) irreversible cessation of circulatory and respiratory functions, or
2 (2) irreversible cessation of all functions of the entire brain, including the brain
3 stem, is dead. A determination of death must be made in accordance with accepted
4 medical standards.”

5 17. California Health and Safety Code §7181 provides that an individual
6 can be pronounced dead by a determination of “irreversible cessation of all
7 functions of the entire brain, including brain stem.” It requires “independent”
8 confirmation by another physician. Sections 7180 and 7181 are part of the Uniform
9 Determination of Death Act.

10 18. On April 6, 2016, Israel was taken off the ECMO machine because his
11 heart and lungs were functioning on their own. The next day, a radioactive test was
12 performed to determine blood flow to the brain.

13 19. A UC Davis physician performed a second brain death exam on April
14 8, 2016, using the State’s mandated definition and protocol relative to death. The
15 doctor also did an apnea test, during which the ventilator was removed and Israel’s
16 CO2 levels were allowed to rise to dangerous levels in order to provoke a
17 respiratory response. However, Israel was not comatose. The apnea test should
18 never be done on patients who are not comatose, as the exam itself can lead to brain
19 damage.

20 20. UC Davis officials informed Israel’s parents that physicians would
21 perform another brain death examination and apnea test to confirm the results of the
22 exam conducted on April 8.

23 21. On April 11, 2016, Israel was transferred via ambulance from UC
24 Davis to Defendant Kaiser Permanente Roseville Medical Center -- Women and
25 Children’s Center for additional treatment. Upon his arrival at KPRMC, another
26 reflex test was done, in addition to an apnea test. On April 14, 2016, an additional
27 reflex test was done for determination of brain death in conjunction with protocol

1 directed by the State of California and enforced by Defendant Smith's Department.
2 That same day a certificate of death was issued.

3 22. The family was notified by KPRMC as per the State's directive found
4 in Health and Safety Code §1254.4. The State of California requires KPRMC to
5 adopt a policy for providing family or next of kin with a reasonably brief period of
6 accommodation to gather family at the bedside of the patient after declaration of
7 death pursuant to the standards mandated by the State. On information and belief,
8 Plaintiffs allege that KPRMC has adopted such a policy as directed by the State of
9 California.

10 23. With pulmonary support provided by the ventilator, Israel's heart and
11 other organs are functioning well. Israel has also begun moving his upper body in
12 response to his mother's voice and touch.

13 24. Israel has undergone certain tests which have demonstrated brain
14 damage from the lack of oxygen. He is totally disabled at this time and is severely
15 limited in all major life activities. Other than the movements in response to his
16 mother's voice and touch, he is unable to feed himself or do anything of his own
17 volition.

18 25. Defendants KPRMC, by and through its pediatric intensivist,
19 Defendant Myette, has informed Plaintiff Jonee Fonseca that Israel is brain dead,
20 utilizing the definition of "brain death" derived from Cal. Health & Safety Code
21 §7180.

22 26. Plaintiffs are Christians with firm religious beliefs that as long as the
23 heart is beating, Israel is alive. Plaintiff Fonseca has knowledge of other patients
24 who had been diagnosed as brain dead, using the same criteria as in her son's case.
25 In some of those cases, where the decision makers were encouraged to "pull the
26 plug" yet they didn't, their loved one emerged from legal brain death to where they
27 had cognitive ability and some even fully recovering. These religious beliefs involve
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1 providing all treatment, care, and nutrition to a body that is living, treating it with
2 respect and seeking to encourage its healing.

3 27. KPRMC has informed Jonee Fonseca that it intends to disconnect the
4 ventilator that Israel Stinson is relying upon to breath claiming that he is brain dead
5 pursuant to California Health and Safety Code §7180.

6 28. KPRMC claims that, since its medical doctors have pronounced Israel
7 brain dead Jonee Fonseca has no right to exercise any decision making authority vis-
8 a-vis maintaining her son on a ventilator.

9 29. Defendants have indicated that they wish to imminently remove life
10 support from Israel.

11 30. Since April 15, Plaintiff Fonseca has made numerous efforts to secure
12 an independent neurologist or other physician to examine Israel, pursuant to
13 California Health and Safety Code §7181. Dr. Michel Accad, a cardiologist with the
14 California Pacific Medical Center in San Francisco agreed to examine Israel on
15 April 23 or 24, 2016. However, on April 23, he notified Ms. Fonseca that he would
16 not be able to conduct the exam. Plaintiff Fonseca had contacted Dr. Paul Byrne, a
17 board certified neonatologist, pediatrician, and Clinical Professor of Pediatrics at
18 University of Toledo, College of Medicine. However, KPRMC would not allow Dr.
19 Byrne to examine Israel or even be present during an examination, as he is not a
20 California licensed physician.

21 31. Arrangements were made to transfer Israel to Sacred Heart Hospital in
22 Spokane, WA, and a life flight via AirCare¹ was reserved to transport Israel to
23 Spokane. For reasons unknown to his parents, Sacred Heart Hospital later decided
24 not to receive Israel.

25 32. Plaintiff Jonee Fonseca has repeatedly asked that her child be given
26 nutrition, including protein and fats. She has also asked that he be provided
27 nutritional feeding through a nasal-gastric tube or gastric tube to provide him with
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1 nutrients as soon as possible. She has also asked for care to be administered to her
2 son to maintain his heart, tissues, organs, etc. KPRMC has refused to provide such
3 treatment stating that they do not treat or feed brain dead patients. They have denied
4 her ability to make decisions over the health care of her son. Plaintiff Fonseca has
5 sought alternate placement of her son, outside the KPRMC's facility. She has
6 secured transportation and is seeking alternative placement but requires time for that
7 to occur. If KPRMC proceeds with its plans, Israel will expire.

8 33. Plaintiff Jonee Fonseca vehemently opposes the efforts of the
9 Defendants to exclude her from the decision making regarding her son and their
10 insistence that she has no right vis-a-vis the decision to disconnect the ventilator that
11 provides oxygen necessary for her son's heart to beat and the organs to be kept
12 perfused with blood. Plaintiff Jonee Fonseca has expressly forbidden the hospital
13 from removing life support. KPRMC has refused her requests for nutritional support
14 and the placement of a tracheostomy tube and a gastric tube stating that she has no
15 rights to request medical care for her son as he is brain dead. She has video evidence
16 demonstrating Israel moving his upper body in response to her voice and touch. She
17 also has a declaration from Dr. Paul Byrne that Israel is alive and not dead.

18 34. The State definition which Defendants are relying upon is in stark and
19 material difference to the religious beliefs of Jonee Fonseca. Jonee believes that
20 disconnection of the ventilator is tantamount to killing Israel.

21 35. Kaiser and UC Davis physician's were not exercising autonomous
22 professional judgment. Instead, they were acting jointly, and/or on behalf of the
23 State by carrying out the function of determining death in a manner that the State
24 prescribes under the Uniform Determination of Death Act.

25 36. The State of California, acting by and through the Department of Public
26 Health, has not authorized physicians to exercise independent professional judgment
27 regarding determination of death. The State has specifically defined death and
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1 KPRMC has jointly acted with the State to implement the determination that a
2 patient – in this case Israel – is dead.

3 37. Plaintiffs are informed and believe and thereon allege that KPRMC and
4 Dr. Myette have engaged in joint action with government officials to issue a death
5 certificate for Israel on or about April 14, 2016.

6 38. Since the issuance of the death certificate, Israel has shown movement
7 in direct response to the voice and touch of his mother.

8 39. Since the issuance of the death certificate, two physicians, independent
9 of KPRMC and UC Davis have raised concerns that Israel may in fact be alive and
10 would improve with treatment.

11 40. In that there is a dispute of fact between medical doctors, Israel's
12 mother believes that she has a moral and spiritual obligation to give him the benefit
13 of the medical doubt.

14 41. Officials with the State have jointly participated with KPRMC in
15 implementing the policies and procedures surrounding the determination and
16 processing of Israel's death.

17 42. Moreover, there is a significant nexus between the actions of KPRMC,
18 Dr. Myette and the Department of Public Health.

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20 **FACTS WARRANTING EMERGENCY TEMPORARY RESTRAINING**
21 **ORDER AND INJUNCTIVE RELIEF**

22 43. There is a substantial likelihood of success on the merits given the
23 wealth of decisional authority, both in the Court of Appeal, and the U.S. Supreme
24 Court demonstrating the constitutional rights people have over their decision making
25 role in their healthcare and for parents over the healthcare decisions concerning their
26 children

27 44. The injuries threatened of the conduct is not enjoined will be
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1 irrevocable and irreparable, Israel Stinson will be taken off a ventilator, his heart
2 will stop beating and he will cease to show any signs associated with a living body.
3 If Ms. Fonseca is prohibited from making healthcare decisions re nutrition,
4 medications, etc., her son will starve and the electrolytes will get out of balance and
5 other complications will arise that will hasten, and ultimately lead to, Israel's death.

6 45. The threatened injury is death to Israel and loss of a son to Jonee.
7 Defendants have stated no reason they would suffer a loss.

8 46. This case is one of national interest and the issue of the right to
9 participate in healthcare decisions is one of great public concern. Therefore,
10 granting of preliminary injunction is in the public interest.

11 **TERMS OF THE PROPOSED RESTRAINING ORDER**

12 47. Plaintiffs seek to have KPRMC restrained from removing the
13 ventilator.

14 48. Plaintiffs seek to have KPRMC initiate the provision of nutrition to
15 Israel.

16 49. Plaintiffs seek to have to take all medically available steps/measures to
17 seek to improve Israel's health and prolong his life, including nutrition and
18 including the insertion of a tracheostomy tube and a gastric tube.

19 50. Plaintiff seeks to be provided ample time and support (including the
20 placement of the tracheostomy tube and the gastric tube) to try and locate a facility
21 that will accept Israel as a patient to treat him and provide him vent support

22 **FIRST COUNT**

23 **Deprivation of Life in Violation of Due Process of Law under the Fifth and**
24 **Fourteenth First Amendments (42 U.S.C. 1983)**

25 **Against All Defendants**

26 51. The Plaintiffs incorporate by reference as if fully set forth herein the
27 foregoing paragraphs.

1 52. The aforementioned conduct was done under color of state law and by
2 state actors.

3 53. Defendant Smith is an official serving the State of California. The
4 Department that she heads has created and dispatched to physicians and hospitals,
5 including Defendants KRPMC and Dr. Myette, a mandatory form known as a
6 Certificate of Death – State of California. Acting pursuant to the Uniform
7 Determination of Death Act, she requires that medical doctors and hospitals,
8 including co-defendants, use the operational definition of death found in Health &
9 Safety Code §7180 and that procedures be followed under Health & Safety Code
10 §7181 and that recordation be provided on the Certificate of Death. Pursuant to
11 Health & Safety Code §7183 she requires that KPMRC maintain records, in
12 accordance to regulations that her Department adopts, regarding individuals who
13 have been pronounced dead at the KPMRC facility under the definition of death
14 found Uniform Determination of Death Act. Further, her Department also requires
15 that KPRMC fill out the Certificate of Death within 15 hours after death under
16 (Health & Safety Code §102800) and that KPRMC register the death with local
17 officials (Health & Safety Code §102775). All of the conduct is done jointly and
18 cooperatively with KPRMC and its physicians and under color of law and, as to Dr.
19 Smith and those under her supervision, by state actors.

20 54. Defendant KPRMC hires medical doctors. When there is a medical
21 crisis and there is a belief that death has or may have occurred, KPRMC's doctors
22 use the operational definition of death provided by the State of California. They
23 perform examinations to test for death under the State's protocol. KPRMC
24 physicians do not exercise independent medical judgments as private actors. They
25 act as the arm of the State by performing these tasks under the mandated State
26 definition and protocol regarding death. These activities related to determination of
27 death are so joined and intertwined with the State that the conduct cannot be
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1 reasonably deemed a mere private decision not fairly attributable to the State.

2 55. In the tragic events described in this Amended Complaint, KPRMC and
3 Dr. Myette used the power, possessed by virtue of state law, to perform tests to
4 determine that Israel is deceased using the definition of death mandated by
5 California. They have acted in conjunction with government officials because they
6 have been clothed with the authority of state law. Hence, for purposes of
7 determining death, their actions are done under color of state law.

8 56. Under the Fourth and Fourteenth Amendments, Israel cannot be
9 deprived of life without due process of law. Historically, death has been defined as
10 the cessation of breath and the beating of the heart. Such understanding was true at
11 the ratification of said Amendments. The State of California has defined death in a
12 matter that is broader than the historical definition. The State's statutory scheme
13 related to the definition of death and how it is determined have provided no
14 procedures or process by which a patient or their advocate can independently
15 challenge the findings of death. Further, the statutory scheme removes the
16 independent judgment of medical professionals as to whether a patient is dead.

17 57. Such is the case in the facts described in this Amended Complaint.
18 Israel has been determined to be dead, but the State of California provides no means
19 to challenge that finding. Under the facts described herein, there is a medical
20 dispute of fact as to whether Israel is dead or alive. On this Earth, there can be few
21 rights more precious than the liberty interest in life.

22 58. Defendants, and each of them, acting jointly and in concert, are seeking
23 to deprive Israel of his right to life without due process of law.

24 59. In addition to the injunctive relief described herein, Plaintiffs seek
25 declaratory relief from the Court that the Uniform Determination of Death Act is
26 unconstitutional on its face for failing to provide due process.

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SECOND COUNT

Deprivation of Parental Rights in Violation of Due Process of Law under the Fifth and Fourteenth First Amendments Rights (42 U.S.C. 1983)

Against All Defendants

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5 60. Plaintiffs incorporate by reference as if fully set forth herein the
6 foregoing paragraphs.

7 61. As the fit parent of Israel, Plaintiff Jonee Fonseca has plenary authority
8 over medical decision relative to her 2-year-old child.

9 62. In addition to the natural profound bounds of affection between parent
10 and child, Israel's mother believes that she has a moral and spiritual obligation to
11 give her child every benefit of the medical doubt before disconnecting life support.

12 63. Because there is a dispute of facts between medical professionals as to
13 whether Israel is dead or alive, Jonee Fonseca seeks to have her child remain on life
14 support, have appropriate medical treatment so that his condition does not further
15 deteriorate, and have him transported to a medical facility that shares her view that
16 he is not dead.

17 64. The Uniform Determination of Death Act provides no due process for a
18 parent to contest the medical findings by bringing in her own physician for a second
19 opinion. Because as a fit parent she is completely cut off under the State's protocol,
20 she is being deprived of her parental rights which could result in the imminent death
21 of her son.

22 65. Defendants, and each of them, are acting jointly and in concert and
23 under color of state law.

24 66. In addition and in the alternative, there is a close nexus between the
25 conduct of KPRMC, Dr. Myette and the State of California.

26 67. In addition to the injunctive relief described herein, Plaintiffs seek
27 declaratory relief from the Court that the Uniform Determination of Death Act is
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1 unconstitutional on its face for failing to provide due process.

2 **THIRD COUNT**

3 **Emergency Medical Treatment and Active Labor Act (42 U.S.C. Section**
4 **1395dd et seq.) – Against KPRMC**

5 68. Plaintiffs reincorporate and re-allege the preceding paragraphs as
6 though fully set forth herein.

7 69. Defendant KPRMC is a hospital subject to the Emergency Medical
8 Treatment and Active Labor Act, 42 U.S.C. Section 1395dd et seq. (“EMTALA”).

9 70. On April 11, 2016, Israel was transported via ambulance and presented
10 to KPRMC with an emergency medical condition.

11 71. At the time Israel was presented to KPRMC, KPRMC obtained actual
12 knowledge that he was experiencing an acute medical condition that required
13 immediate medical attention and that, if left untreated or inadequately treated, would
14 have led to material deterioration of his condition.

15 72. Within a few days of receiving Israel in his emergency medical
16 condition, KPRMC violated its duty under the EMTALA by taking steps to de-
17 stabilize his condition.

18 73. Specifically, KPRMC has sought, and continues to seek, to remove
19 Israel from life-sustaining treatment, including the ventilator.

20 74. KPRMC’s active and ongoing efforts to de-stabilize Israel’s condition
21 prompted Plaintiff to first seek judicial relief on April 14, 2016, just three days after
22 Israel was transported to KPRMC.

23 75. In violation of its transfer obligations under the EMTALA, KPRMC
24 further seeks to transfer Israel not to another hospital or qualifying institution, but to
25 the custody of the coroner who will not provide stabilizing or life-sustaining
26 treatment.

27 76. Israel has suffered, and will continue to suffer, grave personal harm

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1 unless the Defendants are enjoined from materially de-stabilizing Israel's condition.

2 77. Plaintiffs pray for a declaration that Defendant KPRMC has violated
3 EMTAALA.

4 78. Plaintiffs further pray for relief in the form of monetary damages, in an
5 amount according to proof, for the harm suffered as a direct and proximate cause of
6 KPRMC's violation of the EMTAALA.

7 79. Plaintiffs pray for an injunction prohibiting Defendants from removing
8 ventilator support and an order that they institute nutritional support and other
9 medical treatments so as to provide him with proper care and treatment designed to
10 promote his maximum level of medical improvement, to insert a tracheostomy tube
11 and a gastric tube, and to provide Plaintiff a reasonable time to locate an alternate
12 facility to care for her child in accordance with her religious beliefs.

13 **FOURTH COUNT**

14 **Violation of Fifth Amendment Rights - Privacy Rights**

15 **(42 U.S.C. 1983)**

16 **Against KPRMC and Myette**

17 80. Plaintiffs incorporate, herein by reference, the foregoing paragraphs.

18 81. This action arises under the United States Constitution, particularly
19 under the provisions of the Privacy Rights established and recognized as existing
20 within and flowing from Fourth Amendment to the Constitution of the United
21 States.

22 82. Each of the acts complained of herein was committed by the
23 Defendants, and each of them, and by seeking to deny Jonee Fonseca and Israel
24 Stinson of the rights to privacy including but not limited to their rights to have
25 control over their health care, by refusing to provide health care to them, and by
26 denying them the right to have control over the health care decisions affecting Israel,
27 which are recognized under the Fourth Amendment of the U.S. Constitution.

1 2. A preliminary and permanent injunction including, but not limited, to
2 injunctions precluding removal of ventilator support and mandating introduction of
3 nutritional support, insertion of a tracheostomy tube, gastric tube, and to provide
4 other medical treatments and protocols designed to promote his maximum level of
5 medical improvement and provision of sufficient time for Israel Stinson to locate an
6 alternate facility to care for her child in accordance with her religious beliefs;

7 3. A declaration that the Uniform Determination of Death Act is
8 unconstitutional on its face for failing to provide due process of law;

9 4. Plaintiffs also request that the Court issue whatever additional injunctive
10 relief the Court deems appropriate;

11 5. Damages against KPRMC;

12 6. Any and all other appropriate relief to which the Plaintiffs may be entitled
13 including all “appropriate relief” within the scope of F.R.C.P. 54(c); and,

14 7. Costs and attorney fees

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16 Dated: May 3, 2016

17 /S/ Kevin Snider
18 Kevin T. Snider
19 Attorney for Plaintiffs
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