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8 Counsel for Plaintiffs,
9 SUMMER MEDFORD, TENE CARR-MEDFORD, and
10 JOHN MEDFORD

11 **IN THE UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 SUMMER MEDFORD, TENE CARR-
14 MEDFORD, and JOHN MEDFORD,

15 Plaintiff,

16 vs.

17 THE REGENTS OF THE
18 UNIVERSITY OF CALIFORNIA;
19 and Does 1-10,

20 Defendants.

Case No.

21 **COMPLAINT FOR DECLARATORY**
22 **AND INJUNCTIVE RELIEF**

- 23 1) VIOLATION OF THE FREE EXERCISE
24 CLAUSE OF FIRST AMENDMENT OF THE
25 UNITED STATES CONSTITUTION
- 26 2) VIOLATION OF THE RIGHT TO PRIVACY
27 GUARANTEED UNDER THE FOURTH
28 AMENDMENT OF THE UNITED STATES
CONSTITUTION
- 3) VIOLATION OF THE RIGHT TO PRIVACY
GUARANTEED UNDER THE FOURTEENTH
AMENDMENT OF THE UNITED STATES
CONSTITUTION
- 4) VIOLATION OF SECTION 504 OF THE
REHABILITATION ACT OF 1973 (29 U.S.C. §
794)
- 5) VIOLATION OF THE AMERICAN'S WITH
DISABILITIES ACT 42 U.S.C. §12101 ET
SEQ.

**REQUEST FOR EMERGENCY
TEMPORARY RESTRAINING
ORDER INJUNCTIVE RELIEF -
RCFC 65**

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Plaintiffs, and each of them, allege the following:

JURISDICTION

1. Counts in this Action arise out of the First, Fourth and Fourteenth Amendments to the United States Constitution, The Rehabilitation Act of 1973 (29 U.S.C. § 794) and The American's With Disabilities Act 42 U.S.C. §12101 et seq.

VENUE

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

PARTIES

3. Summer Medford is a minor child and a resident of the State of California. She is currently a patient at Ronald Reagan UCLA Medical Center.

4. Tene Carr-Medford is an adult and a resident of the State of California. She is the mother of Summer Medford. Pursuant to the California Family Code § 6910 she is the healthcare decision maker for Summer Medford, a minor.

5. John Medford is an adult and a resident of the State of California. He is the father of Summer Medford. Pursuant to the California Family Code § 6910 he is the healthcare decision maker for Summer Medford, a minor.

6. Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (“UC Regents”) are entities of the State of California. Defendant UC Regents operates the UCLA Healthcare system, including the Ronald Reagan UCLA Medical Center, where Summer Medford is currently located. Plaintiff is informed and believes, and on the basis of said information and belief, alleged that UC Regents receive funding from the state and federal government which is used to

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1 directly and indirectly provide healthcare services to individuals including but not
2 limited to Summer Medford.

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

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

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

19 **FACTS**

20 10. On June 11, 2020, Summer Medford went into cardiac arrest and was
21 admitted Ronald Reagan UCLA Medical Center. Currently, Summer Medford is on a
22 Extra Corporeal membrane Oxygenation (ECMO) which supports lung and heart and
23 supports breathing.

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

3 12. California Health and Safety Code § 7181 provides that an individual
4 can be pronounced dead by a determination of "irreversible cessation of all functions
5 of the entire brain, including brain stem." It requires "independent" confirmation by
6 another physician.

7 13. Summer is currently receiving stem cell and exosome treatment under
8 the direction of AMA Regeneration and Dr. Alice Hoffman, Summer's pediatric
9 rheumatologist. AMA Regeneration physician Dr. Pien believes the continued
10 treatment and additional monitoring will stabilize Summer's medical condition and
11 brain function, eliminating the need for life support and ECMO function. She also
12 believes more time is needed to adequately assess Summer's brain and motor
13 functioning to determine further medical interventions.

14 14. Dr. Alice Pien believes additional time is needed to fully evaluate the
15 results of certain treatment to determine further medical interventions are, specifically
16 to see if Summer's body has responded to positive regeneration of certain cellular
17 function before.

18 15. Defendant UC Regents, by and through its agent Anil Sapru, Division
19 Chief Pediatric Medicine, has informed Plaintiffs Tene Carr-Medford and John
20 Medford that Summer is "dead" utilizing the definition of "brain death" derived from
21 California Health & Safety Code § 7180.

22 16. Plaintiffs are Christians with firm religious beliefs that as long as the
23 heart is beating, Summer is alive. Plaintiffs have personal knowledge of others who
24 had been diagnosed as brain dead, where the decision makers were encouraged to
25 "pull the plug" yet they didn't and their loved one emerged from legal brain death to
26 where they had cognitive ability and some even fully recovering. These religious
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1 beliefs involve providing all treatment, care, and nutrition to a body that is living,
2 treating it with respect and seeking to encourage its healing.

3 17. Dr. Sapru has advised of his plan to disconnect the ECMO that Summer
4 Medford is relying upon to breathe on June 16, 2020 to preform an apnea test,
5 claiming that she is brain dead pursuant to California Health and Safety Code§ 7180.
6 Defendants claim that, since they have pronounced Summer dead that Plaintiffs have
7 no right to exercise any decision-making authority vis-à-vis maintaining her daughter
8 on the ECMO device.

9 18. To stop Defendants from terminating Summer’s ECMO dependence,
10 Plaintiffs, Tene Carr-Medford and John Medford have filed this Complaint, along
11 with an Ex Parte Application for a Temporary Restraining Order seeking an order (1)
12 authorizing the petitioners (Summer’s parents) to make medical care decisions for
13 Sumner and for an injunction under to prohibit Defendant UC Regents withholding
14 life support from Summer.

15 19. Plaintiffs, Tene Carr-Medford and John Medford vehemently oppose the
16 efforts of the Defendants to exclude them from the decision making regarding their
17 daughter and their insistence that they have no right vis-à-vis the decision to
18 disconnect the ECMO. Plaintiffs have expressly forbidden the defendants from
19 removing all life support systems and devices, and defendants have refused their
20 requests. Defendants likewise dismiss the medical opinion of Dr. Alice Pien, who has
21 advised Summer required further monitoring and additional stem and exosome cell
22 treatment to regenerate her brain function.

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

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

21. The injuries threatened of the conduct is not enjoined will be irrevocable and irreparable, Summer Medford will be taken off the ECMO, her heart will stop beating and she will cease to show any signs associated with a living body. If they are prohibited from making healthcare decisions re nutrition, medications, etc., their daughter will starve and her electrolytes will get out of balance and other complications will arise that will hasten, and ultimately lead to, Summer's death.

22. The threatened injury is death to Summer and loss of a daughter to Tene and John. Defendants have stated no reason they would suffer a loss other than its demoralizing to treat a dead person.

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

TERMS OF THE PROPOSED RESTRAINING ORDER

24. Plaintiffs seek to have defendants be restrained from removing the ECMO.

25. Plaintiffs seek to have defendants initiate the provision of nutrition to Summer.

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1 denying them the right to have control over the health care decisions affecting
2 Summer, which are recognized under the Fourth Amendment of the U.S. Constitution.

3 38. The conduct of the Defendants, and each of them, has deprived Plaintiffs
4 of the rights of privacy that they have over their medical decisions.

5 39. As a direct and proximate result of the Defendants' conduct, as alleged
6 herein, Plaintiffs are in great risk of the death of Summer Medford occurring. She has
7 been suffering, as has Tene Carr Medford and John Medford by being prohibited from
8 obtaining proper care for Summer and by being deprived of the right of knowing that
9 Summer was being cared for and, instead, fearing that she was becoming weaker and
10 dying because of the refusal of the defendants to provide treatment.

11 40. As a direct and proximate result of the Defendants' conduct, the Plaintiffs
12 have suffered past and future general damages in amounts to be determined by proof
13 at trial.

14 41. As a proximate cause of the Defendants' conduct, Plaintiffs, and each of
15 them, are incurring attorney fees and litigation costs, including the costs of retaining
16 experts.

17 42. Plaintiffs pray for relief in the form of a declaration of their rights of
18 privacy relating to their rights to control over their medical decisions and choices.
19 Plaintiff further request declaratory relief that the application of the determination of
20 the healthcare to be provided to and be received by Summer Medford and a
21 declaration that the application of California Health and Safety Code§ 7181, in the
22 manner in which Defendants seek to do so, so as to deprive Plaintiffs of their ability
23 to choose to remain on ECMO support is an unconstitutional interference with
24 Plaintiffs exercise of rights to privacy.

25 43. Plaintiff prays for an injunction prohibiting Defendants from removing
26 ECMO support and an order that they institute nutritional support and other medical
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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

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1 treatments to as to provide her with proper care and treatment designed to promote
2 her maximum level of medical improvement and to provide Plaintiff a reasonable time
3 to continue the series of stem cell and exosome treatment under the direction of AMA
4 Regeneration and Dr. Alice Hoffman.

5 **THIRD COUNT**

6 **(Violation of Fourteenth Amendment Rights to Privacy)**

7 44. Plaintiffs incorporates by reference each of the preceding paragraphs as
8 if fully set forth herein.

9 45. This action arises under the United States Constitution, particularly
10 under the provisions of the Fourteenth amendment and its right to privacy.

11 46. Each of the acts complained of herein was committed by the Defendants,
12 and each of them, and by seeking to deny Tene Carr Medford, John Medford and
13 Summer Medford of the rights to privacy including but not limited to their rights to
14 have control over their health care, by refusing to provide health care to them, and by
15 denying them the right to have control over the health care decisions affecting
16 Summer, which are recognized under the Fourteenth Amendment of the U.S.
17 Constitution.

18 47. As a proximate cause of the Defendants' conduct, Plaintiffs, and each of
19 them, are incurring attorney fees and litigation costs, including the costs of retaining
20 experts.

21 48. Plaintiffs pray for relief in the form of a declaration of their rights
22 Privacy over the healthcare decisions concerning Summer's rights to exercise control
23 over her medical decisions and that the efforts to/ decision of UC Regents to
24 unilaterally remove Summer from the ECMO under California Health and Safety
25 Code§ 7181, are an unconstitutional interference with Plaintiffs Privacy rights.

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1 62. A "disability" is "a physical or mental impairment that substantially
2 limits one or more of the major life activities" of an individual. 42 U.S.C. § 12102(2).
3 This includes any physiological disorder or condition affecting the neurological
4 system, musculoskeletal system, or sense organs, among others. 28 C.F.R. § 36.104
5 (definition of "physical or mental impairment").

6 63. Brain damage from lack of oxygen is a disability, because it affects
7 Summer's neurological functioning, ability to walk, and ability to see or talk.

8 64. "Public accommodation" is defined to include a "professional office of a
9 health care provider, hospital, or other service establishment." 42 U.S.C. § 12181(7).
10 The Hospital is a public accommodation under the ADA. 28 C.F.R. § 36.104.

11 65. Section 302(a) of the ADA states a general rule of nondiscrimination
12 against the disabled: General rule. No individual shall be discriminated against on the
13 basis of disability in the full and equal enjoyment of the goods, services, facilities,
14 privileges, advantages, or accommodation of any place of public accommodations by
15 any person who owns, leases (or leases to), or operates a place of public
16 accommodation. 42 U.S.C. § 12182(a).

17 66. In contrast to the Rehabilitation Act, the ADA does not require that a
18 handicapped individual be "otherwise qualified" to receive the benefits of
19 participation. Further, section 302(b)(1)(A) of the ADA states that "[i]t shall be
20 discriminatory to subject an individual or class of individuals on the basis of a
21 disability ... to a denial of the opportunity of the individual or class to participate in
22 or benefit from the goods, services, facilities, privileges, advantages, or
23 accommodations of an entity." 42 U.S.C. § 12182(b)(1)(A)(i).

24 67. The Hospital seeks to deny Summer Medford the benefits of ECMO
25 services, nutrition and other medical treatment to Summer Medford by reason of her
26 disability. The Hospital's claim is that it is "futile" to keep alive a "brain dead" baby,
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1 even though the mother has requested such treatment. But the plain language of the
2 ADA does not permit the denial of ECMO services, and other medical services such
3 as the provision of nutrition and medical treatment that would keep alive a brain
4 injured child when those life-saving services would otherwise be provided to a baby
5 without disabilities at the parent's request. The Hospital's reasoning would lead to the
6 denial of medical services to brain injured individuals as a class of disabled
7 individuals. Such discrimination against a vulnerable population class is exactly what
8 the American with Disabilities Act was enacted to prohibit. The Hospital would
9 therefore violate the ADA if it were to withhold ECMO treatment, nutrition and other
10 medical treatment to Summer Medford.

11 68. As a proximate cause of the Defendants' conduct, Plaintiffs, and each of
12 them, are incurring attorney fees and litigation costs, including the costs of retaining
13 experts.

14 69. Plaintiffs pray for relief in the form of a declaration that the efforts of
15 Defendants, and each of them, to remove Summer from her ECMO under California
16 Health and Safety Code § 7181, and their refusal to provide her with medical care and
17 nutritional support violates the ADA and, therefore, Defendants should be ordered to
18 continue said support and to provide nutritional support and other medical support
19 designed to allow Summer to continue existing and to have a best chance of regaining
20 brain function.

21 70. Plaintiff prays for an injunction prohibiting Defendants from removing
22 ECMO support and an order that they institute nutritional support and other medical
23 treatments so as to provide her with proper care and treatment designed to promote
24 her maximum level of medical improvement, to insert a tracheostomy tube and a
25 gastric tube, and to provide Plaintiff a reasonable time to continue the series of stem
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1 cell and exosome treatment under the direction of AMA Regeneration and Dr. Alice
2 Hoffman in accordance with her religious beliefs.

3 **PRAYER**

4 WHEREFORE, Plaintiffs pray judgment against Defendants and each of
5 them, as follows:

6 **Counts One through Five:**

- 7 1. Declaratory Relief;
- 8 2. Attorney fees;
- 9 3. Injunctive relief including, but not limited, to injunctions precluding
10 removal of ECMO support and mandating introduction of nutritional support,
11 insertion of a tracheostomy tube, gastric tube, and to provide other medical
12 treatments and protocols designed to promote her maximum level of medical
13 improvement and provision of sufficient time for Plaintiff to locate an
14 alternate facility to care for her child in accordance with her religious beliefs.
- 15 4. Plaintiffs also request that the Court issue whatever additional
16 injunctive relief the Court deems appropriate; and
- 17 5. For such other and further relief as the court may deem proper.

18
19 Dated: June 17, 2020

Respectfully Submitted,
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22 By: 

23 Justin A. Palmer
24 Attorneys for Plaintiffs,
25 TENE CARR-MEDFORD, and JOHN
26 MEDFORD
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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

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9 TENE MEDFORD-CARR and
10 JOHN MEDFORD

11 **IN THE UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 SUMMER MEDFORD, TENE CARR-
14 MEDFORD and JOHN MEDFORD,

15 Plaintiff,
16 vs.

17 THE REGENTS OF THE
18 UNIVERSITY OF CALIFORNIA;
19 and Does 1-10, inclusive,

20 Defendants.

Case No.

**EX PARTE APPLICATION FOR A
TEMPORARY RESTRAINING
ORDER TO ENJOIN DEFENDANTS
FROM ENDING LIFE SUPPORT,
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF, DECLARATION OF
JUSTIN A. PALMER RE NOTICE
AND PROPOSED ORDER**

**Filed concurrently with Plaintiff's
Complaint**

21 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD IN THIS**
22 **ACTION:**

23 YOU ARE HEREBY NOTIFIED that on _____ at _____, or as soon
24 thereafter as this matter may be heard in Courtroom ___ of the United States District
25 Court, located at 350 West 1st Street, Los Angeles, CA 90012, Plaintiffs TENE
26 MEDFORD-CARR and JOHN MEDFORD will hereby move this Court ex parte for
27 a temporary restraining order restraining order restraining Defendant THE REGENTS

**EX PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER TO
ENJOIN DEFENDANTS FROM ENDING LIFE SUPPORT, MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT THEREOF, DECLARATION OF
JUSTIN A. PALMER RE NOTICE AND PROPOSED ORDER**

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1 OF THE UNIVERSITY OF CALIFORNIA from ending Life Support for the minor
2 child Summer Medford and request for provision of nutrition and other medical
3 treatment to provide optimize her physical condition while the Court makes its ruling.
4 Plaintiff also seeks an order compelling Defendants to continue the series of stem cell
5 and exosome treatment under the direction Dr. Alice Hoffman, pediatric
6 rheumatologist.

7 This application is made pursuant to Federal Rules of Civil Procedure Rule
8 65(b) and U.S. Dis. Court, Central District of California, Local Rule 65-1. **The ex**
9 **parte relief requested is appropriate because, absent an injunction prohibiting**
10 **Defendants from proceeding with ending life support measures, Defendants are**
11 **going to terminate Summer Medford’s Extra Corporeal membrane Oxygenation**
12 **(ECMO) support at 2 p.m. on Wednesday, June 17, 2020, thereby leading to the**
13 **inevitable, and immediate, cessation of the beating of her heart.** Plaintiffs will
14 likely suffer irreparable harm in that their daughter will die, whereas the only harm to
15 Defendants will be the resulting continuation of the status quo of allowing the minor
16 to remain on life support.

17 Further, Plaintiffs have a likelihood of succeeding on the merits of their case
18 because, inter alia, Defendants proposed action, i.e., removal of cardiopulmonary
19 support, over the objection Tene Medford-Carr and John Medford, the health care
20 decision maker for her minor child Summer based upon the classification of Summer
21 as brain dead pursuant to California Health and Safety Code §§7180 and 7821 is
22 unconstitutional in so far as it interferes with Plaintiff's exercise of her rights to
23 freedom of religion under the first amendment and interference with her privacy rights
24 under the Fourth and Fourteenth Amendments recognized rights to privacy in health
25 care decisions and determination over ones medical treatment. Plaintiffs are actively
26 seeking alternate arrangements for their daughter and failure to institute a TRO and

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1 Injunction will make the matter moot as Summer Medford will cease to have a heart
2 beat and will have expired. Also, the public interest will be search as granting this
3 temporary restraining order will allow public to have a clear understanding as to the
4 rights of a parent to continue mechanical support of the life of a loved one as defined
5 by their religious beliefs.

6 Counsel for Plaintiff properly provided Defendant THE REGENTS OF THE
7 STATE OF CALIFORNIA with ex parte notice pursuant to FRCP 65(b)(1). (See, The
8 Declaration of Justin A. Palmer (hereinafter “Palmer Decl.”)¶2.)

9 This ex parte application is made pursuant to Federal Rules of Civil Procedure
10 Rule 65(b) and U.S. Dist. Court, Central District of California, Local Rule 65-1, and
11 is based upon this notice, the attached memorandum of points and authorities, the
12 attached Declaration of Justin A. Palmer, the complete records, pleadings, documents
13 and papers on file, and upon such other matters which. may properly come before this
14 Court at the hearing of this application.

15 Dated: June 16, 2020

16 Respectfully Submitted,

17 **FILER | PALMER, LLP**

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19
20 By: 

21 Justin A. Palmer
22 Counsel for Plaintiff,
23 TENE MEDFORD-CARR and
24 JOHN MEDFORD

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On June 11, 2020, Summer went into cardiac arrest and was admitted to Ronald Reagan UCLA Medical Center. Currently, Summer Medford remains on life-support at Defendant’s Hospital – Ronald Reagan UCLA Medical Center.

Summer has received a portion of a novel Regenerative Medicine treatment beginning on June 14, 2020 and Dr. Alice Pien has advised that stem cell and exosome treatment could regenerate Summer’s brain function with additional monitoring and eliminate the need for life support and ECMO function. (Palmer Decl. at 4). Studies show Mesenhyml Stem Cells go through three consecutive cycles of healing and regeneration – 48 hours, 5 days and 90 days. (Palmer Decl. at 5) Dr. Pien has advised that Summer is not to be removed from life support until she can be given the full treatment and necessary time to see results. She is requesting at least 30 days to monitor her response to these treatments and observe her results. (Palmer Decl. at 5, Ex. A)

Physicians at UCLA Ronald Reagan UCLA Medical have refused Plaintiff’s request and communicated an intent to withdraw said support on June 17, 2020. (Palmer Decl. at 6). Dr. Anil Sapru has communicated his intent to perform an apnea test on June 16, 2020, and remove life support on June 17, 2020. (Palmer Decl. at 6). Plaintiffs do not consent to this treatment because it would cause irreparable damage to Summer. (Palmer Decl. at 6). Plaintiffs are informed that removal of life support for any amount of time would interfere the treatment as prescribed by Dr. Hoffman and Summer’s long term prognosis. (Palmer Decl. at 6).

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II. LEGAL DISCUSSION

A. Federal Law Authorizes the Relief Requested.

"The purpose of a temporary restraining order is to preserve an existing situation in status quo until the court has an opportunity to pass upon the merits of the demand for a preliminary injunction." (Pan American World Airways, Inc. v. Flight Engineers' Int'l Assoc., (2nd Cir.1962) 306 F.2d 840, 842.) Federal Rules of Civil Procedure Rule 65(b)(1) permits a temporary restraining order to be granted ex parte if:

- (A) Specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and
- (B) The movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

A temporary restraining order is appropriate if there is proof of: (1) a likelihood of success on the merits; (2) a substantial threat that plaintiff will suffer irreparable injury if the injunction is denied; (3) the threat of injury outweighs any damage the injunction might cause defendant, and (4) the injunction will not disserve the public interest. (See Sugar Busters. LLC v. Brennan (5th Cir.1999) 177 F.3d. 258,265; CityFed Fin'l Corp. v Office of Thrift Supervision (DC Cir. 1995) 58 F.3d. 738, 746.)

B. Plaintiff Will Suffer a Great Or Irreparable Injury Before This Matter Can Be Heard On Notice Motion

Absent an injunction in this case, 14 year old Summer Medford will be taken off life-support immediately by the Defendants. There can be no greater irreparable harm than death. (See, Palmer Decl. at 7.) This is even more troublesome when

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1 Plaintiff is exploring viable options to continue life support outside of the facility that
2 Plaintiffs have alleged injured their daughter.

3 **C. Plaintiffs Will Succeed on the Merits of Their Case**

4 The Ninth Circuit Court of Appeals provides that only a reasonable probability
5 of success is required to support a preliminary injunction. (Gilder v. PGA Tour, Inc.,
6 936 F.2d 417, 422 (9th Cir. 1991).) In fact, a "fair chance on the merits" is sufficient
7 for preliminary injunction purposes. (See Johnson v. Cal State Fort o{Accounting, 72
8 F.3d 1427, 1429 (9th Cir. 1995).) The trial court may give even inadmissible evidence
9 some weight, when doing so serves the purpose of preventing irreparable harm before
10 trial. (See Flynt Distributing Co., Inc. v. Harvey, 734 F.2d 1389, 1394 (9th Cir.
11 1984).)

12 AMA Regeneration physician Dr. Alice Pien has requested additional time to
13 administer the remaining elements of the Regeneration Medical treatment observe
14 Summer’s condition and monitor her progress. Summer has received a portion of a
15 novel Regenerative Medicine treatment beginning on June 14, 2020 and Dr. Alice
16 Pien has advised that stem cell and exosome treatment could regenerate Summer’s
17 brain function with additional monitoring and eliminate the need for life support and
18 ECMO function. (Palmer Decl. at 4). Studies show Mesenchymal Stem Cells go
19 through three consecutive cycles of healing and regeneration – 48 hours, 5 days and
20 90 days. (Palmer Decl. at 5) Dr. Pien has advised that Summer is not to be removed
21 from life support until she can be given the full treatment and necessary time to see
22 results. She is requesting at least 30 days to monitor her response to these treatments
23 and observe her results. (Palmer Decl. at 5, Ex. A)

24 Plaintiffs enjoy a “fair chance” of success on the merits if not a reasonable
25 possibility of prevailing.

26

27

28

1 Further, "Though it is not apparent from the face of 28 U.S.C. § 2284(b)(3),
2 some courts have emphasized that a temporary restraining order will issue only when
3 the party seeking it is likely to succeed on the merits.... This court thinks that the
4 better-reasoned view, however, is that the likelihood of success on the merits should
5 be a minor factor, especially where the potential injury great." (Palmigiano v.
6 Travisono, 317 F. Supp. 776, 787 (D.R.I. 1970). Here, the same hospital that is alleged
7 to have cause harm to this little girl seeks to proceed unilaterally with ending her life
8 without an opportunity for this Court to determine whether or not the Constitution has
9 been violated; and taking a careful look at legislation who's purpose was never to limit
10 damages in a situation where a hospital is alleged to have rendered a little girl gravely
11 injured.

12 **D. The Threatened Injury Outweighs any Damage That the Injunction**
13 **Might Cause to Defendants.**

14 A balancing of the relative hardships on the parties favors granting the
15 requested temporary restraining order. There is absolutely no damage that the
16 Defendants can claim that would override improperly ending life-support measures
17 on 14 year old Summer. (See, Palmer Decl. at 5.) Further, because Plaintiffs seek to
18 complete Summer's Regenerative Medicine treatment there is absolutely no
19 legitimate argument Defendants can make regarding damages they will suffer.

20 **E. The Public Interest is Served by Allowing Plaintiff's Claims to be**
21 **Fully Heard.**

22 The issues raised in Plaintiffs Complaint and in this restraining order are
23 matters of great public concern. In 2013, the United States District Court, Northern
24 District of California granted a temporary restraining order under very similar
25 circumstances, and the Court determined a parent's rights to manage the care of their
26 children does not end once a child is determined to brain dead, even though her heart

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1 beats and is assisted by an ECMO. The refusal of defendants to honor the wishes of
2 Plaintiffs will provide the Court to explain to the public the right of parents in similar
3 circumstances, and would likely curb further abuse of constitutional rights for families
4 who find themselves in this awful predicament.

5 **F. Plaintiffs Should Not Be Required to Post a Security Bond as**
6 **Defendant Would Suffer No or Little Injury as a Result of the**
7 **Institution of the Temporary Restraining Order.**

8 Though Federal Rules of Civil Procedure Rule 65(c) asks courts to require a
9 security bond in conjunction with a temporary restraining order, courts are given wide
10 discretion in the form the bond may take. (Continental Oil Co. v. Frontier Refining
11 Co., (10th Cir. 1964) 338 F.2d 780, 783.) In fact, in situations where the likelihood of
12 harm to defendant is small, courts are not obliged to require a bond to be issued at all.
13 (Id.) Presently, the only harm that would come to Defendants should the temporary
14 restraining order be granted would be the minimal cost continuing life-support (See,
15 Palmer Decl. at ¶(6).

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III. CONCLCUSION

Based on the foregoing, Plaintiff respectfully requests that this Court issue a temporary restraining order and an order to show cause why a preliminary injunction should not be issue against Defendants as detailed herein.

Dated: June 16, 2020

Respectfully Submitted,

FILER | PALMER, LLP

By: 

Justin A. Palmer
Counsel for Plaintiffs,
TENE MEDFORD-CARR and
JOHN MEDFORD

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1 Justin A. Palmer (SBN. 270857)
2 **FILER | PALMER, LLP**
3 249 E. Ocean Blvd., Suite 501
4 Long Beach, CA 90802
5 Telephone: (562) 304-5200
6 Facsimile: (562) 394-0504
7 Email: justin@filerpalmer.com

8 Counsel for Plaintiffs,
9 SUMMER MEDFORD, TENE CARR-MEDFORD, and
10 JOHN MEDFORD

11 **IN THE UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 SUMMER MEDFORD, TENE CARR-
14 MEDFORD, and JOHN MEDFORD,

Case No.

15 Plaintiff,
16 vs.

**DECLARATION OF JUSTIN A.
PALMER IN SUPPORT OF EX
PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND INJUNCTIVE RELIEF**

17 THE REGENTS OF THE
18 UNIVERSITY OF CALIFORNIA;
19 and Does 1-10, inclusive and Does 1-
20 10, inclusive,

Defendants.

21 1. I am counsel of record for the Plaintiff, and a member in good standing
22 with the State of California Bar and United States District Court, Central District of
23 California. I make this declaration in support of Plaintiffs Ex Parte Application For A
24 Temporary Restraining Order And Order To Show Cause Re: Preliminary Injunction.
25 The facts stated herein are known to me personally and, if called as a witness, I could
26 and would testify competently thereto.

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1 2. I provided actual notice of my intent and served this Ex Parte Application
2 and the Compliant on counsel for the Defendants earlier today. A true and correct
3 copy of my letter is attached hereto as **Exhibit “A.”** I presume they will oppose this
4 Ex Parte and will be attending the hearing. Accordingly, proper notice was provided
5 under the Federal Rules of Civil Procedure.

6 3. Plaintiffs are requesting additional time to adequately assess Summer’s
7 brain and motor functioning to determine further medical interventions.

8 4. Summer has received a portion of a novel Regenerative Medicine
9 treatment beginning on June 14, 2020 and Dr. Alice Pien has advised that stem cell
10 and exosome treatment could regenerate Summer’s brain function with additional
11 monitoring and eliminate the need for life support and Extra Corporeal membrane
12 Oxygenation (ECMO) function.

13 5. Studies show Mesenchymal Stem Cells go through three consecutive
14 cycles of healing and regeneration – 48 hours, 5 days and 90 days. Dr. Pien has
15 advised that Summer is not to be removed from life support until she can be given the
16 full treatment and necessary time to see results. She is requesting at least 30 days to
17 monitor her response to these treatments and observe her results. A true and correct
18 copy of Dr. Pien’s evaluation is attached hereto as **Exhibit “B.”**

19 6. Defendant has refused to honor the wishes of the Plaintiffs. UCLA
20 physician Dr. Anil Sapru has communicated his intent to perform an apnea test on
21 June 16, 2020, and remove life support on June 17, 2020. Plaintiffs do not consent to
22 this treatment because it would cause irreparable damage to Summer. Plaintiffs are
23 informed that removal of life support for any amount of time would interfere the
24 treatment as prescribed by Dr. Hoffman and Summer’s long term prognosis.

25 7. Absent an injunction, this 14 year old girl will be taken off life-support
26 immediately by the Defendants. There can be no greater irreparable harm than death.

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1 8. A balancing of the relative hardships on the parties favors granting the
2 requested temporary restraining order. There is absolutely no damage that the
3 Defendants can claim that would override improperly ending life-support measures
4 on child.

5 9. I have informed the Defendants that the family refuses to consent to the
6 apnea test as outlined by Dr. Sapru. As of this Declaration, I have not received a
7 formal response to my request to cancel the apnea procedure.

8 10. On behalf of the family, as their designated legal representative, I have
9 requested that measures be taken to allow ventilation support to continue and to
10 support the physical health of Summer Medford by installing a feeding tube, provide
11 nutrition and place a more permanent measure to allow oxygen to be delivered.

12
13 I declare that the foregoing is true and correct under the penalty of perjury
14 under the laws of the State of California. Executed on June 16, 2020 in Long Beach,
15 California.



Justin A. Palmer

Exhibit "A"



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A LIMITED LIABILITY PARTNERSHIP

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June 16, 2020

SENT VIA FACSIMILE ONLY
RONALD REAGAN UCLA MEDICAL CENTER
757 Westwood Plaza
Los Angeles, CA 90095

Re: Summer Medford – Notice of Temporary Restraining Order
USDC Case No.: To Be Filed

To Whom It May Concern:

This office represents the interests of Summer Medford, and her parents Tene Carr-Medford and John Medford. We understand Summer Medford is a patient at UCLA Ronald Reagan Medical Center in Pediatric ICU (Room #5434). Please direct all further correspondence to my attention at the address listed above.

Summer is currently receiving Regenerative Medicine treatment in the form of umbilical cord stem cells and exosomes. Summer has not completed her treatment and Dr. Alice Pien advises additional time is needed to continue treatment, observe Summer and evaluate her long term prognosis.

I understand Dr. Anil Sapru intends to perform an apnea test on Summer Medford today at 2 p.m., over the objection of Summer's parents. Studies show apnea tests may be potentially harmful, and may cause serious complications including pneumothorax, severe hypoxemia, hemodynamic instability and even cardiac arrest.

My office will file a Temporary Restraining Order in the United States District Court – Central District of California, located at 350 West 1st Street, Los Angeles, CA 90012 later this afternoon. The Restraining Order will seek to enjoin UCLA Ronald Reagan Medical Center (E.g. The Regents of the University of California) from ending Life Support for the minor child Summer Medford and request for provision of nutrition and other medical treatment to provide optimize her physical condition while the Court makes its ruling.

To Whom It May Concern:

In Re: Summer Medford – Notice of Temporary Restraining Order

June 16, 2020

Page 2 of 2

I will make arrangements to serve the order on you once it is filed later today.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "J. Palmer", with a long horizontal line extending to the right.

Justin A. Palmer
For FILER | PALMER, LLP



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FACSIMILE TRANSMISSION COVER PAGE

To:	To Whom it May Concern	Fax:	(310) 267-3785
From:	Justin A. Palmer	Date:	June 16, 2020
Re:		Pages:	3* Including Cover Sheet
CC:			

Urgent For Review Please Comment Please Reply Please Recycle

Please see enclosed.

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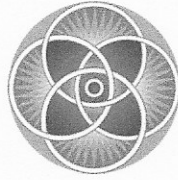
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JUN/16/2020/TUE 02:33 PM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
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Exhibit “B”



AMA
American Medical Aesthetics
Regenerative Medicine
Skincare

June 16, 2020

Re: Summer Medford

Dear Attorney Palmer,

Our entire medical philosophy at American Medical Aesthetics Regenerative Medicine and Skincare (AMA) begins with an astonished appreciation for the sheer genius and wonder of human physiology within the even greater miracle and mystery of life itself. For us as scientists and physicians, the more we understand about the intricacies of how biological life functions, the more we are awed by the realization that (as Einstein said) we are touching the mind of God. We at AMA Regenerative are holistic in our approach, focused on getting to the root cause of a condition in order to treat it at the source, rather than treating surface or symptomatic conditions, which usually offer only temporary solutions.

We are aware of the dire nature of 14 year old Summer Medford's condition. Summer has received a portion of a novel Regenerative Medicine treatment, in the form of umbilical cord Mesenchymal stem cells and exosomes. Many clinical studies have and continue to be performed regarding the administration of these treatments to a variety of degenerative brain diseases and conditions.

To that effect, at the request of Summer's parents, UCLA has authorized AMA to provide Mesenchymal Exosomes derived from umbilical exosomes on June 14, 2020, administered by UCLA Staff Dr. Alice Hoftman. Unfortunately, Summer only received a portion of the treatment that was prepared for her.

According to Philipp Vitti, Chief Scientist of Vitti labs, who has been at the forefront of research regarding these treatments on brain injuries and diseases, Mesenchymal Stem Cells go through three consecutive cycles of healing and regeneration. 48hrs, 5 days, and 90 days. Accordingly, we believe that 30-days will suffice to determine if observable improvements are occurring for Summer. Therefore, we are asking for the opportunity to administer the remaining elements of the Regenerative Medical treatment that was begun on June 14, 2020 by UCLA, and 30 days to observe the results.

To maximize the efficiency of the treatment, Summer will need to receive the Mesenchymal Exosomes and Stem Cells prepared for her over a period of 5 days with vitamin and enzyme supplements (Glutathione, Nicotinamide Adenine Dinucleotide, Alpha Lipoic Acid, and peptides).

It is imperative that Summer NOT be removed from life support until she can be given the full treatment and given the necessary time to see results.

Though conventional understanding might insist that the possibility that these treatments might work for Summer are infinitesimally remote, we, as physicians and scientists must always remain humble in the face of unfathomable things that we do not understand, and steadfastly advocate for life.

Please contact us at your earliest convenience once you obtain consent from UCLA to provide Summer with the full treatment described above. We appreciate the opportunity to serve Summer and her parents in this dire situation.

In gratitude and faith


Alice Pien MD


Asher Milgrom PhD

Justin A. Palmer (SBN. 270857)
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 Long Beach, CA 90802
 Telephone: (562) 304-5200
 Facsimile: (562) 394-0504
 Email: justin@filerpalmer.com

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

S. M., TENE CARR-MEDFORD, JOHN MEDFORD

Plaintiff(s),

v.

THE REGENTS OF THE UNIVERSITY OF
 CALIFORNIA, ET. AL

Defendant(s).

CASE NUMBER

2:20-cv-05353-ODW(AS)

**NOTICE OF DISMISSAL PURSUANT
 TO FEDERAL RULES OF CIVIL
 PROCEDURE 41(a) or (c)**

PLEASE TAKE NOTICE: (*Check one*)

- This action is dismissed by the Plaintiff(s) in its entirety.
- The Counterclaim brought by Claimant(s) _____ is dismissed by Claimant(s) in its entirety.
- The Cross-Claim brought by Claimants(s) _____ is dismissed by the Claimant(s) in its entirety.
- The Third-party Claim brought by Claimant(s) _____ is dismissed by the Claimant(s) in its entirety.
- ONLY** Defendant(s) _____

is/are dismissed from (*check one*) Complaint, Counterclaim, Cross-claim, Third-Party Claim brought by _____

The dismissal is made pursuant to F.R.Civ.P. 41(a) or (c).

June 23, 2020

Date



Signature of Attorney/Party

NOTE: F.R.Civ.P. 41(a): This notice may be filed at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs.

F.R.Civ.P. 41(c): Counterclaims, cross-claims & third-party claims may be dismissed before service of a responsive pleading or prior to the beginning of trial.