

COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

**F I L E D**  
Stephen M. Kelly, Clerk

**JAN 27 2005**

NORTH COAST WOMEN'S CARE  
MEDICAL GROUP, INC. et al.,

Petitioners,

v.

THE SUPERIOR COURT OF SAN  
DIEGO COUNTY,

Respondent;

GUADALUPE T. BENITEZ,

Real Party in Interest.

D045438

Court of Appeal Fourth District

(San Diego County  
Super. Ct. No. GIC 770165)

THE COURT:

For good cause shown, the Superior Court of the County of San Diego is ordered to show cause why the relief requested should not be granted as to Petitioners Brody and Fenton only. Real parties in interest are directed to file a return to the order to show cause on or before February 25, 2004. Petitioner may file a reply on or before March 18, 2005. Petitioner is ordered to personally serve a copy of the petition, informal response, and this order to show cause on the Attorney General on or before February 4, 2005. The Attorney General may file a return to the order to show cause on or before March 4, 2005. Absent a request in writing on or before March 25, 2005 oral argument will be deemed waived.

In addition to the issues addressed in the petition and the informal response, the court requests the parties include supplemental briefing on the following issues in the return and the reply:

1. Whether a doctor has a right under the federal and/or state constitution to refuse to perform a medical procedure for religious reasons?

2. Whether a doctor can accommodate his or her religious beliefs and satisfy his or her nondiscrimination obligations by referring a patient to another qualified physician and paying any additional costs incurred by the patient as a result of the referral?

The parties may also include in the return and the reply further discussion of the application of *Catholic Charities of Sacramento, Inc. v. Superior Court* (2004) 32 Cal.4th 527 and *Smith v. Fair Employment and Housing Comm'n* (1996) 12 Cal.4th 1143 to these issues.

The court invites comments from the parties on or before March 18, 2005, as to whether a stay of the trial court proceedings should be issued and, if so, the appropriate scope of the stay.



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NARES, Acting P. J.

Copies to: All parties