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5

6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

8 MARY SCOTT DOE, a human embryo “born” in the United  
States (and subsequently frozen in which state of cryo-preser-  
9 vation her life is presently suspended), individually and on  
behalf of all other frozen human embryos similarly situated;  
10 and the NATIONAL ASSOCIATION FOR THE ADVANCE-  
MENT OF PREBORN CHILDREN (NAAPC), PETER  
MURRAY and SUZANNE MURRAY, COURTNEY ATNIP  
11 and TIM ATNIP, STEVEN B. JOHNSON and KATE ELIZA-  
BETH JOHNSON, and CARA VEST and GREGORY VEST,  
12

13 Plaintiffs,

14 v.

Case No.:  
ED CV 05 - 00438

15 ROBERT KLEIN, II, Chairman; EDWARD PENHOET,  
Ph.D., Vice Chairman; DAVID BALTIMORE, Ph.D.;  
16 ROBERT BIRGENEAU, Ph.D.; KEITH L. BLACK, M.D.;  
SUSAN V. BRYANT, Ph.D.; MICHAEL A. FRIEDMAN,  
M.D.; MICHAEL GOLDBERG; BRIAN E. HENDERSON,  
17 M.D.; EDWARD W. HOLMES, M.D.; DAVID A. KESSLER,  
M.D.; SHERRY LANSING; GERALD S. LEVEY, M.D.;  
18 TED W. LOVE, M.D.; RICHARD A. MURPHY, Ph.D.;  
TINA S. NOVA, Ph.D.; PHILLIP A. PIZZO, M.D.; CLAIRE  
19 POMEROY, M.D.; PHYLLIS PRECIADO, M.D.; FRANCIS-  
CO J. PRIETO, M.D.; JOHN C. REED, M.D.; JOAN  
20 SAMUELSON; DAVID SERRANO SEWELL; JEFF SHEE-  
HY; JONATHAN SHESTACK; OSWALD STEWARD,  
21 Ph.D.; LEON J. THAL, M.D.; GAYLE WILSON; JANET S.  
WRIGHT, M.D., in their official capacities as members of the  
22 INDEPENDENT CITIZEN’S OVERSIGHT COMMITTEE,  
the governing body for the CALIFORNIA INSTITUTE FOR  
23 REGENERATIVE MEDICINE, an agency of the California  
state government; and ZACH W. HALL, in his official capac-  
24 ity as the interim president of the CALIFORNIA INSTITUTE  
FOR REGENERATIVE MEDICINE; and PHILLIP  
25 ANGELIDES, State Treasurer, STEVE WESTLY, State  
Controller, TOM CAMPBELL, Director of Finance, ROBERT  
26 KLEIN II, MICHAEL A. FRIEDMAN, M.D., and TED W.  
LOVE, M.D., in their official capacities as members of the  
27 CALIFORNIA STEM CELL RESEARCH AND CURES  
FINANCE COMMITTEE,  
28

Defendants,

AMENDED  
COMPLAINT

1 Plaintiffs, by way of complaint against the Defendants, allege the following:

2 NATURE OF ACTION

3 1. This is an action for declaratory, injunctive and other necessary and  
4 appropriate relief, brought under the Declaratory Judgment Act, 28 U.S.C. § 2201  
5 et seq., seeking (a) the entry of a declaratory judgment that (i) Plaintiff Mary Scott  
6 Doe, a human embryo and a developing human life, is a person “born” in, and a  
7 citizen of, the United States of America within the meaning of the Fourteenth  
8 Amendment and a “party” within the meaning of the Thirteenth Amendment, (ii)  
9 is entitled to due process and the equal protection of the laws and to be free from  
10 slavery and involuntary servitude, as guaranteed by the Fourteenth and Thirteenth  
11 Amendments, and (iii) that the Defendants’ proposed and imminent actions of  
12 funding and otherwise facilitating, assisting or encouraging human embryo stem  
13 cell experimentation or somatic cell nuclear transfer (the methodology of cloning),  
14 which will result in her and other human embryos’ certain and sudden death and  
15 destruction, will violate the due process and equal protection guarantees of the  
16 Fourteenth Amendment, and further will violate the Thirteenth Amendment’s pro-  
17 hibition against slavery and involuntary servitude; (b) the entry of an injunction  
18 directing and ordering the Defendants to cease and desist any and all plans to fund  
19 or otherwise facilitate, assist or encourage the undertaking of any human embryo  
20 stem cell experimentation or any somatic cell nuclear transfer in violation of the  
21 Plaintiff Mary Scott Doe’s and the other human embryos’ federal constitutional  
22 rights; (c) the entry of a declaratory judgment that the Defendants’ proposed and  
23 imminent actions of funding human embryo stem cell experimentation are pre-  
24 empted by federal law, specifically by Section 510 of Public Law 108-199, 118  
25 Stat. 3, 277 (January 23, 2004); (d) the entry of a declaratory judgment that (i)  
26 Mary Scott Doe, a human embryo and a developing human life, is a member of  
27 the “people” having “by nature . . . inalienable rights” for purposes of Cal.Const.  
28 Art. I, Section 1, (ii) is a “person” entitled to due process and the equal protection

1 of the laws as guaranteed by Cal.Const. Art. I, Section 7(a), (iii) is a party entitled  
2 to be free from slavery and involuntary servitude as guaranteed by Cal.Const. Art.  
3 I, Section 6, and (iv) that the Defendants’ proposed and imminent actions of fund-  
4 ing and otherwise facilitating, assisting or encouraging human embryo stem cell  
5 experimentation or somatic cell nuclear transfer, which will result in her and other  
6 human embryos’ certain and sudden death and destruction, will deny Mary Scott  
7 Doe’s and other human embryos’ inalienable rights in violation of Cal.Const. Art.  
8 I, Sections 1, will deprive Mary Scott Doe and other human embryos’ rights to  
9 due process and the equal protection of the laws in violation of Cal. Const. Art. I,  
10 §7(a), and will subject Mary Scott Doe and other human embryos to involuntary  
11 servitude and slavery in violation of Cal. Const. Art. I, § 6; and (e) the entry of an  
12 injunction directing and ordering the Defendants to cease and desist any and all  
13 plans to fund, to finance through the issuance of bonds or to otherwise facilitate,  
14 assist or encourage the undertaking of any human embryo stem cell experimenta-  
15 tion or any somatic cell nuclear transfer in violation of the Plaintiff Mary Scott  
16 Doe’s and the other human embryos’ state constitutional rights.

17  
18 JURISDICTION AND VENUE

19 2. Jurisdiction over this action is conferred by the federal question jurisdic-  
20 tion statute, 28 U.S.C. § 1331, and by the supplemental jurisdiction statute, 28  
21 U.S.C. § 1367.

22 3. Venue is properly laid in this Court by virtue of 28 U.S.C. § 1391(b).  
23

24 PARTIES

25 4. Plaintiff Mary Scott Doe is a human embryo “born,” i.e., produced or  
26 brought into life, in one of the states of the United States, including the state of  
27 California, by the new science of *in vitro* (Latin for “in glass”) fertilization,  
28 whereby the process of fertilization, which produces or brings her into life, takes

1 place not in a tube of flesh (the fallopian tube) but in a tube of glass (the test  
2 tube), after which life for her has been presently suspended by the freezing of  
3 Mary Doe in liquid nitrogen (cryo-preservation) and from which she may be  
4 thawed and gently returned to the warmth of life and placed for human embryo  
5 adoption so that she may fulfill her destiny as a fully developed human life or, in  
6 the alternative, she may be coveted and enslaved for human embryo vivisection  
7 and experimentation, resulting in her certain death and destruction. She is “born”  
8 in the United States, as that term is used in the Fourteenth Amendment to the  
9 United States Constitution, specifically as the word “born” is defined in Webster’s  
10 Dictionary, Complete and Unabridged, of 1857, the definition contemporaneous  
11 with the passage of the Fourteenth Amendment in 1868, a copy of which diction-  
12 ary definition is attached hereto as Exhibit “A”.

13           5. Plaintiff National Association for the Advancement of Preborn Children  
14 is an unincorporated association and organization dedicated to advocacy for the  
15 equal humanity and personhood of preborn children, including “children in vitro”,  
16 with offices located at 21 Summit Avenue, Hagerstown, Maryland, [www.naapc.org](http://www.naapc.org)

17           6. Plaintiffs Peter Murray and Suzanne Murray, husband and wife, are resi-  
18 dents of Riverside, California, who have a baby daughter, Mary, adopted as a  
19 human embryo, and who are actively considering adopting another human  
20 embryo.

21           7. Plaintiffs Tim Atnip and Courtney Atnip, husband and wife, are resi-  
22 dents of Riverside, California, who have a baby son, Carter, adopted as a human  
23 embryo, and who are actively considering adopting another human embryo.

24           8. Plaintiffs Steven B. Johnson and Kate Elizabeth Johnson, husband and  
25 wife, are residents of 243 Pennsylvania Avenue, Reading, Pennsylvania 19606,  
26 who have a baby daughter, Zara Elizabeth, adopted as a human embryo, and who  
27 are actively considering adopting another human embryo.

28

1           9. Plaintiffs Gregory and Cara Best, husband and wife, are residents of  
2 16644 Mosswood Drive, Hamilton, Virginia 20158, who have a son, Jonah David,  
3 and a daughter, Gabrielle Annmarie, genetics siblings who were adopted as human  
4 embryos, and who are actively considering adopting another human embryo.

5           10. Defendant Robert Klein, II, on information and belief, is a resident of  
6 the state of California and is being sued in his official capacity as a duly appointed  
7 and/or elected member and the Chairman of the 29-member, Independent  
8 Citizens' Oversight Committee (hereinafter the "Committee" or the "ICOC"),  
9 which is the governing body for the California Institute for Regenerative Medicine  
10 (hereinafter "CIRM"). CIRM and its governing body, the ICOC, were created by  
11 the California Stem Cell Research and Cures Act, Cal. Health and Safety Code §§  
12 125290.10 et seq., which state statute was enacted on November 2, 2004, through  
13 the passage by the California electorate of the initiative measure known as  
14 Proposition 71. Mr. Klein is also being sued in his official capacity as duly  
15 appointed and/or elected member of California Cell Research and Cures Finance  
16 Committee (hereinafter the "Finance Committee"). The Finance Committee was  
17 created by the California Stem Cell Research and Cures Bond Act of 2004, Cal.  
18 Health and Safety Code §§ 125291.10 et seq., which statute was also enacted on  
19 November 2, 2004, through the passage by the California electorate of the initia-  
20 tive measure known as Proposition 71.

21           11. Defendant Edward Penhoet, Ph.D., on information and belief, is a resi-  
22 dent of the state of California and is being sued in his official capacity as a duly  
23 appointed and/or elected member of the ICOC.

24           12. Defendant David Baltimore, Ph.D., on information and belief, is a resi-  
25 dent of the state of California and is being sued in his official capacity as a duly  
26 appointed and/or elected member of the ICOC.

27           13. Defendant Robert Birgeneau, Ph.D., on information and belief, is a resi-  
28 dent of the state of California and is being sued in his official capacity as a duly

1 appointed and/or elected member of the ICOC.

2 14. Defendant Keith L. Black, M.D., on information and belief, is a resi-  
3 dent of the state of California and is being sued in his official capacity as a duly  
4 appointed and/or elected member of the ICOC.

5 15. Defendant Susan V. Bryant, Ph.D., on information and belief, is a resi-  
6 dent of the state of California and is being sued in her official capacity as a duly  
7 appointed and/or elected member of the ICOC.

8 16. Defendant Michael A. Friedman, M.D., on information and belief, is a  
9 resident of the .state of California and is being sued in his official capacity as a  
10 duly appointed and/or elected member of the ICOC.

11 17. Defendant Michael Goldberg, on information and belief, is a resident of  
12 the state of California and is being sued in his official capacity as a duly appointed  
13 and/or elected member of the ICOC.

14 18. Defendant Brian E. Henderson, M.D., on information and belief, is a  
15 resident of the state of California and is being sued in his official capacity as a  
16 duly appointed and/or elected member of the ICOC.

17 19. Defendant Edward W. Holmes, M.D., on information and belief, is a  
18 resident of the state of California and is being sued in his official capacity as a  
19 duly appointed and/or elected member of the ICOC.

20 20. Defendant David A. Kessler, M.D., on information and belief, is a resi-  
21 dent of the state of California and is being sued in his official capacity as a duly  
22 appointed and/or elected member of the ICOC.

23 21. Defendant Sherry Lansing, on information and belief, is a resident of  
24 the state of California and is being sued in her official capacity as a duly appoint-  
25 ed and/or elected member of the ICOC.

26 22. Defendant Gerald S. Levey, M.D., on information and belief, is a resi-  
27 dent of the state of California and is being sued in his official capacity as a duly  
28 appointed and/or elected member of the ICOC.

1           23. Defendant Ted W. Love, M.D., on information and belief, is a resident  
2 of the state of California and is being sued in his official capacity as a duly  
3 appointed and/or elected member of the ICOC.

4           24. Defendant Richard A. Murphy, Ph.D., on information and belief, is a  
5 resident of the state of California and is being sued in his official capacity as a  
6 duly appointed and/or elected member of the ICOC.

7           25. Defendant Tina S. Nova, Ph.D., on information and belief, is a resident  
8 of the state of California and is being sued in her official capacity as a duly  
9 appointed and/or elected member of the ICOC.

10           26. Defendant Phillip A. Pizzo, M.D., on information and belief, is a resi-  
11 dent of the state of California and is being sued in his official capacity as a duly  
12 appointed and/or elected member of the ICOC.

13           27. Defendant Claire Pomeroy, M.D., on information and belief, is a resi-  
14 dent of the state of California and is being sued in her official capacity as a duly  
15 appointed and/or elected member of the ICOC.

16           28. Defendant Phyllis Preciado, M.D., on information and belief, is a resi-  
17 dent of the state of California and is being sued in her official capacity as a duly  
18 appointed and/or elected member of the ICOC.

19           29. Defendant Francisco J. Prieto, M.D., on information and belief, is a res-  
20 ident of the state of California and is being sued in his official capacity as a duly  
21 appointed and/or elected member of the ICOC.

22           30. Defendant John C. Reed, M.D., on information and belief, is a resident  
23 of the state of California and is being sued in his official capacity as a duly  
24 appointed and/or elected member of the ICOC.

25           31. Defendant Joan Samuelson, on information and belief, is a resident of  
26 the state of California and is being sued in her official capacity as a duly appoint-  
27 ed and/or elected member of the ICOC.

28           32. Defendant David Serrano Sewell, on information and belief, is a resi-

1 dent of the state of California and is being sued in his official capacity as a duly  
2 appointed and/or elected member of the ICOC.

3 33. Defendant Jeff Sheehy, on information and belief, is a resident of the  
4 state of California and is being sued in his official capacity as a duly appointed  
5 and/or elected member of the ICOC.

6 34. Defendant Jonathan Shestack, on information and belief, is a resident  
7 of the state of California and is being sued in his official capacity as a duly  
8 appointed and/or elected member of the ICOC.

9 35. Defendant Oswald Steward, Ph.D., on information and belief, is a resi-  
10 dent of the state of California and is being sued in his official capacity as a duly  
11 appointed and/or elected member of the ICOC.

12 36. Defendant Leon J. Thal, M.D., on information and belief, is a resident  
13 of the state of California and is being sued in his official capacity as a duly  
14 appointed and/or elected member of the ICOC.

15 37. Defendant Gayle Wilson, on information and belief, is a resident of the  
16 state of California and is being sued in her official capacity as a duly appointed  
17 and/or elected member of the ICOC.

18 38. Janet S. Wright, M.D., on information and belief, is a resident of the  
19 state of California and is being sued in his official capacity as a duly appointed  
20 and/or elected member of the ICOC.

21 39. Defendant Zach W. Hall, on information and belief, is a resident of the  
22 state of California and is being sued in his official capacity as the duly appointed  
23 interim president of the California Institute of Regenerative Medicine (“CIRM”),  
24 an institution and agency of the government of the State of California created by  
25 Article XXXV of the California Constitution, which Article was added to the  
26 California Constitution by an amendment adopted on November 2, 2004, through  
27 the passage by the California electorate of the initiative measure known as  
28 Proposition 71.

1           40. Defendant Phillip Angelides, on information and belief, is a resident of  
2 the state of California, is the Treasurer of the State of California, and is being sued  
3 in his official capacity as a duly appointed and/or elected member of the Finance  
4 Committee.

5           41. Defendant Steve Westly, on information and belief, is a resident of the  
6 state of California, is the State Controller for the State of California, and is being  
7 sued in his official capacity as a duly appointed and/or elected member of the  
8 Finance Committee.

9           42. Defendant Tom Campbell, on information and belief, is a resident of  
10 the state of California, is the Director of Finance for the State of California, and is  
11 being sued in his official capacity as a duly appointed and/or elected member of  
12 the Finance Committee.

13  
14  
15                           FACTUAL INFORMATION REGARDING THE EQUAL  
16                           HUMANITY AND PERSONHOOD OF MARY SCOTT DOE  
17

18           43. Mary Scott Doe is a fertilized oocyte or human embryo “produced or  
19 brought into life” by the new science of *in vitro* (Latin for “in glass”) fertilization,  
20 i.e., the combining of the egg of the mother and the sperm of the father, whereby  
21 the process of fertilization, which produces or brings her into life, takes place not  
22 in a tube of flesh (the fallopian tube) but in a tube of glass (the test tube); after  
23 which, life for her has been suspended by the freezing of Mary Scott Doe in liquid  
24 nitrogen (cryo-preservation).

25           44. Based on a 2003 report issued by the American Society of  
26 Reproductive Medicine (ASRM), in association with The Society for Assisted  
27 Reproductive Technology (SART) and the Rand Corporation, it has been estimat-  
28 ed that there are more than 400,000 human embryos currently being held in cryo-

1 banks, much like frozen orphanages.

2 45. The advance of technology and modern science has enabled fertiliza-  
3 tion of human beings to be accomplished *in vitro*.

4 46. The advance of technology and modern science has further enabled  
5 time for the human embryo to be suspended by freezing in liquid nitrogen for  
6 extended periods of time—including years.

7 47. Subsequently, the continuum of development of the embryo may be  
8 resumed and continued by gently returning the human embryo to the warmth of  
9 life, upon which life for her resumes and she is allowed to fulfill her destiny.

10 48. These procedures, when properly done, do not violate the integrity and  
11 continuity of the story of life, as evidenced by the successful births of many who  
12 have been preserved (frozen) as embryos, and they allow Mary Scott Doe and  
13 other human embryos *in vitro* to be returned to the warmth of life, after storage for  
14 months or even years in a frozen state, and to be implanted in the womb of an  
15 adopting mother as a “child *in vitro*” (See sworn testimony of World Dean of  
16 Geneticists and ruling of Judge Willliam Dale Young in “Tennessee Frozen  
17 Human Embryo Case,” Exhibit B).

18 49. Although not every embryo that is thawed in preparation for implanta-  
19 tion will survive the thawing process, many have and will.

20 50. The modern science of *in vitro* fertilization has given rise to the adop-  
21 tion of “children *in vitro*” as human embryos, and Mary Scott Doe, on behalf of  
22 herself as a frozen human embryo and all others similarly situated, prays for an  
23 injunction against her use for California state-funded, human embryo stem cell  
24 experimentation, or for California state-funded, somatic cell nuclear transfer,  
25 which would result in her and other human embryos’ certain death and destruc-  
26 tion, so that she and the other human embryos she seeks to represent might, in  
27 place of death, be given the opportunity of adoption as a “child *in vitro*” so that  
28 she and they might fulfill their destiny as human beings (B-29).

1           51. One such human embryo adoption program is the Snowflakes human  
2 embryo program of Nightlight Christian Adoptions of Fullerton, California.

3           52. The Snowflakes program, which began in 1997, has resulted in the  
4 labor and delivery of seventy-four (74) children, and another fifteen (15) babies  
5 are due through September 2005. *See* Affidavit of Ronald L. Stoddart, ¶ 9 at p. 3,  
6 attached hereto as Exhibit “C.” (81 children as of meeting of President Bush with  
7 Snowflakes embryo babies May 24, 2005, East Room of the White House.)

8           53. Although frozen embryo adoption programs are still in their infancy, the  
9 public response to these programs has validated several important assumptions:

- 10           a. Genetic parents with frozen human embryos (“children  
11 *in vitro*”)(B-43), given the choice of having their  
12 embryos destroyed, donated for experimentation, or  
13 placed for adoption, will overwhelmingly choose adop-  
14 tion or leaving the embryos in cryo-banks. It is very rare  
15 for families to choose destruction or experimentation.  
16 (Those seeking to perform human embryo experimenta-  
17 tion use the euphemistic term “research”) (“human  
18 embryo research”).
- 19
- 20           b. There is a growing number of potential adopting parents  
21 who will adopt and carry human embryos (children *in*  
22 *vitro*) to term.
- 23
- 24           c. The potential for finding families to adopt every human  
25 embryo (child *in vitro*) available for adoption is more  
26 than great; it borders on a certainty. The cost of such  
27 adoptions is typically less than more traditional adop-  
28 tions, and it carries far fewer risks of losing a child asso-



1 or trigger, needed from the male in order to continue and  
2 complete development to birth. Human development is  
3 a *continuum* in which so-called stages overlap and blend  
4 one into another. Indeed, all of life is contained within a  
5 time *continuum*. Thus, the beginning of a new life is  
6 exacted by the beginning of fertilization, the reproduc-  
7 tive event which is the *essence* of life.

8 Exhibit “E” at page 3 (italics and emphasis in original.)

9 56. Everything necessary to build Mary Scott Doe and the other human  
10 embryos *in vitro* that she seeks to represent, is present, sufficient and complete,  
11 from the very beginning, i.e., at the moment of fertilization. Nothing is added.  
12 Everything necessary to build the human brain, capable of going to the moon and  
13 putting foot on the moon, is locked in at the moment of fertilization, the reproduc-  
14 tive event which is the beginning of a new human life (B-17).

15 57. Such a realization that everything necessary and complete to build and  
16 become the new human being we will later call “Mary” or “David” who would fit  
17 on the tip of a needle is too wonderful for man. It is high; he cannot attain it.

18 58. Science now proves to man that he is fearfully and wonderfully made;  
19 the creation of God (the same God in Whom America places her trust on the back  
20 of her money—our national motto), and this same God is referenced in the  
21 California Constitution, which provides in pertinent part:

22 “We, the People of the State of California, grateful to *Almighty God*  
23 for our freedom, in order to secure and perpetuate its blessings, do  
24 establish this Constitution.”

25 Cal.Const., Preamble (emphasis added).

26 59. Mary Scott Doe’s forefathers truly stated in the Declaration of  
27 Independence, the charter of her nation, that “. . . all men are *created* [by God]  
28 equal and endowed *by their creator* with certain inalienable rights, that among

1 these are life, liberty, and the pursuit of happiness.” (Emphasis added.)

2         60. Mary Scott Doe and the other human embryos she seeks to represent,  
3 by virtue of their equal creation, claim their right to equal life, liberty, and the pur-  
4 suit of happiness as part of our Nation’s “Posterity,” as referenced in the Preamble  
5 of the United States Constitution (“We the People of the United States, in Order to  
6 form a more perfect Union, establish Justice...and secure the Blessings of Liberty  
7 to ourselves and our POSTERITY, do ordain and establish this Constitution for the  
8 United States of America”).

9         61. Included within Mary Scott Doe’s (and every human embryo’s) right to  
10 life, liberty, and the pursuit of happiness—which rights are vouchsafed by the due  
11 process and equal protection guarantees of both the Fourteenth Amendment and  
12 Cal. Const. Art. I, § 7(a), by the freedom from slavery and involuntary servitude  
13 guaranteed by the Thirteenth Amendment and Cal. Const. Art. I, § 6, and by the  
14 inalienable rights acknowledged and/or guaranteed by Cal.Const. Art. I, § 1 and  
15 the Declaration of Independence—is her right to the opportunity to be adopted by a  
16 married couple wishing to adopt a frozen human embryo (a “child *in vitro*”)(E-43)  
17 and thus to be removed from the deep freeze of cryo-preservation and returned to  
18 the warmth of life and implanted in an adopting mother’s womb (E-43).

19         62. That upon adoption and implantation in an adopting mother’s womb,  
20 Mary Scott Doe may fulfill her destiny by beginning a nine month journey as a  
21 “child *in utero*” within the “innerspace” of the vaulted temple of the womb with  
22 its filtered reddish light (curiously much like the filtered light of a stained glass  
23 cathedral that man later builds as a house of worship to his Creator, reminding  
24 him, as it were, of the original “temple of the womb” in which his life began and  
25 in which he danced and turned somersaults full of gaiety and grace).

26         63. Mary Scott Doe’s entire substance is seen and known to her Creator  
27 when she is yet unformed, and, in her Creator’s book, all her members are written,  
28 which in continuance are fashioned, when as yet there are none of them.

1           64. The Court may take judicial notice that, at the beginning of the twenty-  
2 first century, mothers carry to term their own daughter's child, such that the grand-  
3 mother's temple of the womb offers temporary shelter to her granddaughter con-  
4 ceived by that grandmother's daughter.

5           65. The Court may likewise take judicial notice of the fact that there is no  
6 medical, scientific or legal requirement that a frozen human embryo be returned to  
7 the womb of her genetic mother in order to continue to grow into a fully devel-  
8 oped human life, but rather such a human embryo may be implanted and brought  
9 to term in the womb of an adopting mother.

10           66. The Court may also take judicial notice that the adoption of frozen  
11 human embryos is by now a common occurrence, and that entire organizations  
12 have come into being and now exist to bring together frozen human embryos and  
13 prospective adoptive parents, including the Snowflakes human embryo program  
14 located in Fullerton, California.

15           67. It is neither fair nor truthful to regard Mary Scott Doe, or any other  
16 human embryo *in vitro*, as a human being only if she is adopted and implanted in  
17 the womb of an adopting mother and otherwise to label her just a "mass of cells",  
18 "biological material", or a "surplus product" if she is made the object of human  
19 embryo stem cell experimentation.

20           68. Complete and sufficient within Mary Scott Doe is the ability, upon  
21 adoption and implantation in an adopting mother's womb, to build herself like a lit-  
22 tle astronaut in the "innerspace" of the temple of the womb. Mary Scott Doe hooks  
23 onto the wall of the adopting mother's womb in order to receive nutrients and oxy-  
24 gen and builds and extends her own little astronaut lifeline (the placenta) through  
25 which she will continue to receive nutrients and oxygen with which to build her  
26 body, which will be ready for "labor and delivery" in approximately nine months.

27           69. For the purpose of building her body, Mary Scott Doe also builds a lit-  
28 tle bubble spacesuit around herself for her journey in "innerspace" until she passes

1 a chemical message over her placenta back to the body of the “motherhood” (the  
2 adopting mother) signaling and initiating in her adopting mother’s body the con-  
3 tractions of labor which will “deliver” Mary Scott Doe from the “innerspace” of  
4 the temple of the womb to the “outerspace” of the sunshine of the smiling faces of  
5 her fellow humanity.

6 70. Mary Scott Doe is a “being”, and being human, she is a human being.  
7 She is “person” and not “property” because she is the only ‘property’ which has  
8 the ‘property’ of building herself, even the human brain capable of going to the  
9 moon and putting foot on the moon. She is a “person” for purposes of both the  
10 Fourteenth Amendment and Cal.Const. Art. I, § 7(a), and a member of “the peo-  
11 ple” for purposes of Cal.Const. Art. I, § 1 (E-29 & E-43).

12 71. As a developing human being, Mary Scott Doe is entitled to the equal  
13 respect of the high Constitutional ideals and protection of both the Constitution of  
14 the State of California and the Constitution of the United States of America, of  
15 which California is a part.

16 72. To deny such equal protection to Mary Scott Doe and to the other  
17 human embryos she seeks to represent is to deny the protection of the California  
18 Constitution and of the United States Constitution to all of the “people” of  
19 California and to all “persons” in the United States.

20 73. If one acknowledges that the builder of Mary Scott Doe’s body is, in  
21 fact, God, the Creator, referenced and reverentially acknowledged in both the  
22 Preamble to the Constitution of the State of California and the Declaration of  
23 Independence, Mary Scott Doe is entitled to reverential respect as a developing  
24 human life and as a creation of God.

25 74. The decision of the United States Supreme Court in *Roe v. Wade*, 410  
26 U.S. 113 (1973), is wholly inapplicable and inapposite to this matter because,  
27 unlike in the case of a preborn child *in utero*, there is no countervailing person-  
28 hood of the “mother” whose “right to choose” allegedly overshadows the person-

1 hood and constitutional rights of Mary Scott Doe, a human embryo *in vitro*. This  
2 is not an abortion case. Mary Scott Doe is separate and apart from her genetic  
3 mother and is seeking to have her own rights protected by enjoining the actions,  
4 not of her genetic mother, but of state government officials and entities who seek  
5 to fund experimentation that inevitably will cause her death and destruction.

#### 6 FACTUAL BACKGROUND OF THE CASE

7 75. On November 2, 2004, the California electorate passed an initiative  
8 measure known as Proposition 71.

9 76. As a result of the passage of Proposition 71, Article XXXV was added  
10 to the California Constitution, establishing, as an agency of the California state  
11 government, the California Institute of Regenerative Medicine (hereinafter  
12 “CIRM”), and providing that CIRM “shall have” the purpose, among others, “[t]o  
13 make grants and loans for stem cell research.” *See* Cal.Const. Art. XXXV, §§  
14 2(a), 6 (those wishing to experiment upon human embryos without their consent  
15 present it as “research”—a more acceptable term).

16 77. Section 5 of Article XXXV further establishes “a right to conduct stem  
17 cell research,” (human embryo stem cell—the words “human embryo” are pur-  
18 posely deleted so as to make the connection with “adult” stem cells; adult stem  
19 cell experimentation does not involve the death of the human being from which  
20 they are taken), which state constitutional right is specifically defined as including  
21 “research involving adult stem cells, cord blood stem cells, *pluripotent stem cells*,  
22 and/or progenitor cells.” Cal.Const. Art. XXXV, § 5 (emphasis added).

23 78. Section 5 of Article XXXV defines “pluripotent [embryonic] stem  
24 cells” as “cells that are capable of self-renewal, and have broad potential to differ-  
25 entiate into multiple adult cell types” and further states that such embryonic stem  
26 cells “may be derived from somatic cell nuclear transfer *or from surplus products*  
27 (human embryo/”children *in vitro*” are labeled “surplus products”) *of in vitro fer-*  
28 *tilization treatments when such products are donated* (by whose authority do we

1 donate small human beings into slavery and human experimentation?) *under*  
2 *appropriate informed consent procedures.*(by whose authority may a mother and  
3 father consent to donate their child or children into slavery?)” Cal.Const. Art.  
4 XXXV, § 5 (emphasis added).

5 79. Article XXXV further provides that CIRM “*may utilize state issued*  
6 *tax-exempt and taxable bonds to fund its operations, medical and scientific*  
7 *research, including therapy development through clinical trials, and facilities.*”  
8 Cal.Const. Art. XXXV, § 6 (emphasis added). (By what authority are state bonds  
9 issued to begin that which is in derogation of the Constitution of the State of  
10 California and the United States Constitution prohibiting slavery?)

11 80. As a further result of the passage of Proposition 71 by the California  
12 electorate, the California Stem Cell Research and Cures Act, Cal. Health & Safety  
13 Code § 125290.10 et seq., [hereinafter the “Stem Cell Act”] was enacted, creating  
14 the ICOC as the 29-member governing body of CIRM and vesting the ICOC  
15 “with full power, authority, and jurisdiction over the institute.” Cal. Health &  
16 Safety Code § 125290.15.

17 81. The ICOC is charged by the Stem Cell Act with establishing a variety  
18 of “standards,” including standards for the following:

19 (a) Informed Consent, i.e., standards “for obtaining the informed con-  
20 sent of research donors [, who are defined by the Stem Cell Act as  
21 humans who donate “biological materials” for research purposes after  
22 full disclosure and consent, Cal. Health & Safety Code §  
23 125292.10(t),], patients, or participants, which initially shall be gener-  
24 ally based on the standards in place on January 1, 2003, for all  
25 research funded by the National Institutes of Health, with modifica-  
26 tions to adapt to the mission and objectives of the institute,” Cal.  
27 Health & Safety Code § 125290.35(b)(1); (but informed consent of  
28 the very tiny human embryo without a voice, SAVE THIS HONOR-

1 ABLE COURT, is conveniently omitted although it is an unques-  
2 tioned principle of medical ethics not to experiment upon a human  
3 being without that exact human being's consent);  
4 (b) Controls on Research Involving Humans, i.e., standards "for the  
5 review of research involving human subjects which initially shall be  
6 generally based on the Institutional Review Board standards promul-  
7 gated by the National Institutes of Health and in effect on January 1,  
8 2003, with modifications to adapt to the mission and objectives of the  
9 institute," Cal. Health & Safety Code § 125290.35(b)(2); (NIH first  
10 began to press for human embryo experimentation under the Carter  
11 Administration and have established their own "standards" allowing  
12 same, which human embryo experimentation has been rejected by the  
13 administrations of President Carter, President Reagan (indeed, he  
14 signed the Emancipation Proclamation of Preborn Children protecting  
15 human beings from conception/fertilization), President Bush the Elder  
16 and President George W. Bush. Only the Clinton Administration  
17 endorsed human embryo experimentation and attempted to begin it)  
18 and  
19 (c) Time Limits for Obtaining Cells, i.e., standards "setting a limit on  
20 the time during which cells may be extracted from blastocysts (another  
21 term used to depersonalize a stage of the new human being about  
22 to be subjected to experimentation), which shall initially be 8 to 12  
23 days after cell division begins, not counting any time during which  
24 the blastocysts and/or cells have been stored frozen," Cal. Health &  
25 Safety Code § 125290.35(b)(6).

26 82. The ICOC is also empowered by the Stem Cell Act to "[m]ake final  
27 decisions on research standards and grant awards in California." Cal. Health &  
28 Safety Code § 125290.40(c).

1           83. In addition, the Stem Cell Act provides that the ICOC, “[n]otwithstand-  
2 ing the [California] Administrative Procedure Act (APA), and in order to facilitate  
3 the immediate commencement of research covered by [the Stem Cell Act], . . .  
4 may adopt interim regulations without compliance with the procedures set forth in  
5 the APA,” such interim regulations to remain in effect for 270 days “unless earlier  
6 superseded by regulations adopted pursuant to the APA.” Cal. Health & Safety  
7 Code § 125290.40(k).

8           84. CIRM is directed by the Stem Cell Act to create a 23-member,  
9 “Scientific and Medical Research Funding Working Group” within 30 days after  
10 the election and appointment of the initial ICOC members, which working group  
11 is empowered and directed to, among other things,

12           (a) “[r]ecommend to the ICOC interim and final criteria, standards,  
13 and requirements for considering funding applications and for award-  
14 ing research grants and loans,” Cal. Health & Safety Code §  
15 125290.60(b)(1); and

16           (b) “[r]ecommend its first grant awards within 60 days of the  
17 issuance of the interim standards,” Cal. Health & Safety Code §  
18 125290.60(b)(7).

19           85. The term “interim standards” as that term is used in the Stem Cell Act  
20 is defined as meaning “temporary standards that perform the same function as  
21 ‘emergency regulations’ under the [California] Administrative Procedure Act  
22 ([California] Government Code, Title 2, Division 3, Part 1, Chapter 4.5, Sections  
23 11371 et seq.) except that in order to provide greater opportunity for public com-  
24 ment on the permanent regulations, remain in force for 270 days rather than 180  
25 days.” Cal. Health & Safety Code § 125292.10(n).

26           86. On information and belief, CIRM, acting through its governing body  
27 the ICOC, has begun the process of obtaining a loan from the California state  
28 treasury in order to hire staff and to begin operating, and the agency expects to

1 award its first grants for stem cell experimentation by as early as May 2005,  
2 which California state-funded, stem cell research and experimentation will  
3 inevitably result in the destruction of Mary Scott Doe and of many of the other  
4 human embryos she represents.

5         87. Contrary to the Stem Cell Act’s assertion that “[t]hese excess cells from  
6 *in vitro* fertilization treatments would otherwise be intended to be discarded if not  
7 utilized for medical research,” Cal. Health & Safety Code § 125292.10(q), the adop-  
8 tion of frozen human embryos is by now a common occurrence, and entire organiza-  
9 tions have come into being and now exist to bring together frozen human embryos  
10 and prospective adoptive parents, including the Snowflakes program in Fullerton,  
11 California, part of the Christian Adoption and Family Services of California.

12         88. Mary Scott Doe, as a human embryo, has been produced or brought  
13 into life from the moment of her conception or fertilization. She is not merely  
14 “excess cells,” or a “surplus product,” or some “biological material,” but a human  
15 being, that is both living and genetically unique, as well as capable of developing  
16 into an adult.

17         89. Derivation of stem cells from human embryos terminates and destroys  
18 them, and, thus, the experimenters, whose experiments the Defendants propose to  
19 fund through grants of state monies, must inevitably kill and destroy human  
20 embryos.

21         90. Mary Scott Doe, and the other human embryos *in vitro* that she seeks to  
22 represent, are the smallest and most immature and most utterly incapacitated of  
23 human beings, and they are incapable of giving an informed consent to their use in  
24 research and experimental procedures.

25         91. Neither is the genetic mother nor the genetic father of a human embryo  
26 capable of giving a valid informed consent to the use of such a developing human  
27 life in experimental procedures that will result in the human embryo’s certain  
28 destruction, anymore than the genetic mother or father of a child could give a

1 valid, informed consent to the child being subjected to human slavery and  
2 experimentation.

3 92. The utilitarian thinking underlying Defendants' proposed government  
4 funding of human embryo stem cell experimentation is what led to the Nazi exper-  
5 imentation on concentration camp prisoners during World War II (and, of all the  
6 experiments performed upon human beings by the Nazi government, not a single  
7 advance for medical science resulted). The same utilitarian thinking led the  
8 United States Government to conduct radiation experiments on unwitting human  
9 subjects during the Cold War.

10 93. Despite this recent history, Defendants stand poised to approve and  
11 release research grants of state monies to experimenters who will use such govern-  
12 ment grants to begin human embryo stem cell experimentation. This is the same  
13 forced experimentation on human subjects that occurred over sixty (60) years ago,  
14 cleaned up, sanitized, and miniaturized. Human embryo experimentation is worse  
15 than what happened sixty years ago because it is against all humanity.

16 94. All human beings, even as human embryos, have an inalienable right to  
17 life received immediately from God and not from their parents or some society or  
18 human authority. *Thus, there is no man, no science, no human authority, no med-  
19 ical, social, eugenic, economic, moral indication that could produce or give a  
20 valid statutory, constitutional, legal, or judicial title to dispose directly or delib-  
21 erately of an innocent human life.*

22 COUNT ONE

23 DECLARATORY JUDGMENT AND INJUNCTION: VIOLATION OF DUE  
24 PROCESS

25 95. Plaintiffs hereby incorporate the allegations of Paragraphs 1 through 91  
26 of the Complaint, as if fully set forth herein at length.

27 96. Mary Scott Doe, a human being and "child *in vitro*", and the other  
28 human embryos she seeks to represent, are

1 (a) each a human embryo *in vitro*, a living entity, a developing human  
2 life, a human being, a human individual, and a person; and are  
3 (b) each a member of the “people” of California under Cal.Const. Art.  
4 I, § 1 entitled to the inalienable rights guaranteed thereunder, and, thus,  
5 a “human being” and a “person” as recognized under California law,  
6 and, thus, for either or both of these reasons, they are each a “person” entitled to  
7 the protection of the Due Process Clause of the Fourteenth Amendment to the  
8 United States Constitution.

9 96. The personhood of Mary Scott Doe and the other human embryos she  
10 represents is supported by the fact that, on January 18, 1988, President Ronald  
11 Reagan, who was also a two-term governor of the State of California, issued a  
12 Presidential Proclamation that has become known as the “Emancipation  
13 Proclamation of Preborn Children” (and simultaneously therewith proclaimed  
14 January 17, 1988 as a national Sanctity of Human Life Day), which Presidential  
15 Proclamation provides as follows:

16 “NOW THEREFORE, I, RONALD REAGAN, President of the  
17 United States, by virtue of the authority vested in me by the  
18 Constitution and laws of the United States, do hereby proclaim and  
19 declare *the unalienable personhood of every American, from the*  
20 *moment of conception until natural death*, and I do proclaim, ordain,  
21 and declare that I will take care that the Constitution and laws of the  
22 United States are faithfully executed for the protection of America’s  
23 unborn children. Upon this act, sincerely believed to be an act of jus-  
24 tice, warranted by the Constitution, I invoke the considerate judgment  
25 of mankind and the gracious favor of Almighty God. I also proclaim  
26 Sunday, January 17, 1988, as a national Sanctity of Human Life Day.  
27 I call upon the citizens of this blessed land to gather on that day in  
28 their homes and places of worship to give thanks for the gift of life

1           they enjoy and to reaffirm their commitment to the dignity of every  
2           human being and sanctity of every human life.” (Emphasis added.)

3           97. Mary Scott Doe, a human embryo, from the time of her fertilization  
4 and conception, therefore possessed and possesses “unalienable personhood”, as  
5 well as inalienable rights.

6           98. As all human lives began and continue to begin as a human embryo, to  
7 treat Mary Scott Doe and the other human embryos that she represents as “biolog-  
8 ical material” or “excess cells” or “surplus products” to be experimented upon,  
9 and not as “persons” and “human beings” with unalienable personhood and  
10 inalienable rights, is to begin a denatured biology and a very dim future for  
11 mankind.

12           99. By proposing to fund human embryo stem cell experimentation, which  
13 experimentation necessarily requires the destruction of human embryos in order to  
14 obtain the stem cell lines required for the conduct of such experimentation,  
15 Defendants are imminently threatening to deprive Mary Scott Doe and the other  
16 human embryos she represents of their lives and liberty, including the opportunity  
17 to be adopted and brought to term by an adoptive mother, without substantive or  
18 procedural due process in violation of the Fourteenth Amendment.

19           100. To the extent that the California Stem Cell Act, Cal. Health & Safety  
20 Code § 125290.10 et seq., authorizes Defendants to adopt interim and final  
21 research standards for, and to approve and issue grants of state monies to fund,  
22 human embryo stem cell experimentation, such Act threatens to deprive Mary  
23 Scott Doe and the other human embryos she represents of their lives and liberty,  
24 including the opportunity to be adopted and brought to term by an adoptive moth-  
25 er, without substantive or procedural due process in violation of the Fourteenth  
26 Amendment.

27           101. To the extent that Article XXXV, Section 5 of the California  
28 Constitution establishes a state constitutional “right” to conduct state-funded,

1 human embryo stem cell research, which “right” expressly authorizes stem cells to  
2 be “derived . . . from surplus products of *in vitro* fertilization treatments,” i.e.,  
3 from human embryos, thereby resulting in their immediate destruction, Article  
4 XXXV, Section 5 threatens to deprive Mary Scott Doe and the other human  
5 embryos she represents of their lives and liberty, including the opportunity to be  
6 adopted and brought to term by an adoptive mother, without substantive or proce-  
7 dural due process in violation of the Fourteenth Amendment.

8         102. To the extent that the Article XXXV and the Stem Cell Act authorize  
9 genetic parents, guardians or other “research donors” to donate human embryos in  
10 vitro for state-funded research projects, after full disclosure to and consent of the  
11 research donor, but NOT OF THE HUMAN EMBRYOS THEMSELVES who are  
12 incapable of giving an informed consent to their use in stem cell experimentation,  
13 Article XXXV and the Stem Cell Act threaten to deprive Mary Scott Doe and the  
14 other human embryos she represents of their lives and liberty, including the oppor-  
15 tunity to be adopted and brought to term by an adoptive mother, without substan-  
16 tive or procedural due process in violation of the Fourteenth Amendment.

17         103. The Declaratory Judgment Act authorizes this Court, “[i]n a case of  
18 actual controversy within its jurisdiction, . . . [to] declare the rights and other legal  
19 relations of any interested party seeking such declaration” and to grant “[f]urther  
20 necessary or proper relief” based on such declaratory judgment, *see* 28 U.S.C. §§  
21 2201, 2202.

22         104. Mary Scott Doe is an “interested party” entitled to declaratory and  
23 other necessary and proper relief under the Declaratory Judgment Act.

24         105. Plaintiffs Peter and Suzanne Murray, Tim and Courtney Atnip, Steven  
25 and Kate Johnson, and Cara and Gregory Vest are also “interested parties” entitled  
26 to declaratory and other necessary and proper relief under the Declaratory  
27 Judgment Act, in that, (a) as parents who are seeking to adopt *in vitro* human  
28 embryos, they will be injured by Defendants’ threatened actions as authorized and

1 mandated by the California Stem Cell Research and Cures Act, Cal. Health &  
2 Safety Code § 125290.10 et seq., and Article XXXV of the California  
3 Constitution, in that such actions will reduce the number of *in vitro* human  
4 embryos available for adoption, and (b) as parents who are seeking to adopt *in*  
5 *vitro* human embryos, such as Mary Scott Doe, they have standing to raise and  
6 assert the constitutional rights of these human embryos and prospective “children  
7 *in vitro*.”

8 WHEREFORE, Plaintiffs pray for the entry of a judgment against the  
9 Defendants:

10 (a) Declaring that Mary Scott Doe and the other human embryos *in vitro*  
11 that she represents are “persons” who are entitled to the protection of the Due  
12 Process Clause of the Fourteenth Amendment to the United States Constitution;

13 (b) Declaring that the California Stem Cell Research and Cures Act, Cal.  
14 Health & Safety Code § 125290.10 et seq., insofar as it authorizes Defendants to  
15 adopt interim and final research standards for, and to approve and issue grants of  
16 state monies to fund, human embryo stem experimentation, is null and void as  
17 violative of the Due Process Clause of the Fourteenth Amendment;

18 (c) Declaring that Article XXXV, Section 5 of the California Constitution,  
19 insofar as it establishes a state constitutional “right” to conduct state-funded,  
20 human embryo stem cell research, including the “right” to derive stem cells from  
21 human embryos, resulting in their immediate death and destruction, is null and  
22 void as violative of the Due Process Clause of the Fourteenth Amendment;

23 (d) Declaring that Article XXXV of the California Constitution and the  
24 California Stem Cell Research and Cures Act, Cal. Health & Safety Code §  
25 125290.10 et seq., insofar as they authorize genetic parents or other “research  
26 donors” to donate human embryos *in vitro* for state-funded research projects, after  
27 full disclosure and consent of the research donors, but not of the human embryos  
28 who are incapable of giving an informed consent to their use and destruction in

1 research or experimentation, are null and void as violative of the Due Process  
2 Clause of the Fourteenth Amendment;

3 (e) Temporarily and permanently enjoining Defendants, as well as their  
4 employees, officers, and agents, from (i) issuing or adopting any interim or final  
5 standards governing either the conduct of human embryo stem cell research and/or  
6 experimentation, the donation of human embryos for such research and/or experi-  
7 mentation, and/or the derivation of stem cells from living human embryos, (ii)  
8 approving or issuing any bonds and/or any grant of state funds or monies to  
9 finance or fund human embryo stem cell research and/or experimentation projects,  
10 or (iii) undertaking any other action to encourage, assist or facilitate human  
11 embryo stem cell research and/or experimentation;

12 (f) Awarding Plaintiffs their costs of suit; and

13 (g) Granting such other relief as to this Honorable Court may seem just and  
14 equitable.

15

16 COUNT TWO

17 DECLARATORY JUDGMENT AND INJUNCTION: VIOLATION OF EQUAL  
18 PROTECTION

19

20 106. Plaintiffs hereby incorporate the allegations of Paragraphs 1 through  
21 104 of the Complaint, as if fully set forth herein at length.

22 107. Mary Scott Doe, and the other human embryos she seeks to represent,  
23 are

24 (a) each a human embryo *in vitro*, a living entity, a developing human  
25 life, a human being, a human individual, and a person; and are

26 (b) each a member of the “people” of California under Cal.Const. Art.  
27 I, § 1 entitled to the inalienable rights guaranteed thereunder, and,  
28 thus, a “human being” and a “person” as recognized under California

1 law,  
2 and, thus, for either or both of these reasons, they are each a “person” entitled to  
3 the protection of the Equal Protection Clause of the Fourteenth Amendment to the  
4 United States Constitution.

5 108. Article XXXV, Section 5 of the California Constitution, by treating  
6 Mary Scott Doe and the other human embryos she represents, not as developing  
7 human lives on a par with other human life, but rather as “biological material”,  
8 “excess cells” and “surplus products of in vitro fertilization” that may be summar-  
9 ily destroyed in order to derive stem cells from such embryos for experimentation  
10 purposes, threatens to deprive Mary Scott Doe and the other human embryos *in*  
11 *vitro* she represents of the equal protection of the laws in violation of the  
12 Fourteenth Amendment.

13 109. Article XXXV of the California Constitution and the Stem Cell Act,  
14 by treating Mary Scott Doe and the other human embryos she represents, not as  
15 developing human lives on a par with other human life, but rather as “surplus  
16 products,” “excess cells” or “biological material” that may be donated for use in  
17 state-funded, human embryo stem cell research and/or experimentation projects,  
18 even though such use will inevitably result in the death and destruction of the  
19 donated human embryos, threatens to deprive Mary Scott Doe and the other  
20 human embryos *in vitro* that she represents of the equal protection of the laws in  
21 violation of the Fourteenth Amendment.

22 110. Article XXXV of the California Constitution and the Stem Cell Act,  
23 by authorizing state-funded, human embryo stem cell experimentation, despite the  
24 impossibility of obtaining any kind of valid informed consent from the subjects of  
25 such research, while requiring valid informed consents from other human subjects  
26 of state-funded research, threatens to deprive Mary Scott Doe and the other human  
27 embryos *in vitro* that she represents of the equal protection of the laws in violation  
28 of the Fourteenth Amendment.

1           111. By proposing to fund human embryo stem cell experimentation, which  
2 experimentation necessarily requires the destruction of human embryos in order to  
3 obtain the stem cell lines required for the conduct of such experimentation,  
4 Defendants are imminently threatening to deprive Mary Scott Doe and the other  
5 human embryos she represents of the equal protection of the laws in violation of  
6 the Fourteenth Amendment.

7           WHEREFORE, Plaintiffs pray for the entry of a judgment against the  
8 Defendants:

9           (a) Declaring that Mary Scott Doe and the other human embryos *in vitro*  
10 that she represents are “persons” who are entitled to the protection of the Equal  
11 Protection Clause of the Fourteenth Amendment to the United States Constitution;

12           (b) Declaring Article XXXV, Section 5 of the California Constitution, inso-  
13 far as it treats human embryos *in vitro*, developing human lives, as “biological  
14 material”, “excess cells” and/or “surplus products of in vitro fertilization” that  
15 may be summarily destroyed in order to derive stem cells from such embryos for  
16 research and experimentation purposes, null and void as violative of the Equal  
17 Protection Clause of the Fourteenth Amendment;

18           (c) Declaring Article XXXV of the California Constitution and the  
19 California Stem Cell Research and Cures Act, Cal. Health & Safety Code §  
20 125290.10 et seq., insofar as they treat human embryos as “surplus products,”  
21 “excess cells” and/or “biological material” that may be donated for use in state-  
22 funded, human embryo stem cell research and/or experimentation projects, even  
23 though such use will inevitably result in the destruction of the donated human  
24 embryos, null and void as violating the Equal Protection Clause of the Fourteenth  
25 Amendment;

26           (d) Declaring Article XXXV of the California Constitution and the  
27 California Stem Cell Research and Cures Act, Cal. Health & Safety Code §  
28 125290.10 et seq., insofar as they authorize state-funded, human embryo stem cell

1 research and experimentation, despite the impossibility of obtaining any kind of  
2 valid informed consent from the human subjects of such research, null and void as  
3 violating the Equal Protection Clause of the Fourteenth Amendment;

4 (e) Temporarily and permanently enjoining Defendants, as well as their  
5 employees, officers, and agents, from (i) issuing or adopting any interim or final  
6 standards governing either the conduct of human embryo stem cell research and/or  
7 experimentation, the donation of human embryos for such research and/or experi-  
8 mentation, and/or the derivation of stem cells from living human embryos, (ii)  
9 approving or issuing any bonds and/or grant of state funds or monies to finance or  
10 fund human embryo stem cell research and/or experimentation projects, or (iii)  
11 undertaking any other action to encourage, assist or facilitate human embryo stem  
12 cell research and/or experimentation;

13 (f) Awarding Plaintiffs their costs of suit; and

14 (g) Granting such other relief as to this Honorable Court may seem just and  
15 equitable.

16  
17 COUNT THREE

18 DECLARATORY JUDGMENT AND INJUNCTION: VIOLATION OF  
19 THIRTEENTH AMENDMENT

20  
21 112. Plaintiffs hereby incorporate the allegations of Paragraphs 1 through  
22 110 of the Complaint, as if fully set forth herein at length.

23 113. Mary Scott Doe, a human embryo *in vitro* and a developing human  
24 life, is a “party” and a “human being” entitled to the protection of the Thirteenth  
25 Amendment to the United States Constitution.

26 114. Article XXXV and the Stem Cell Act, insofar as they treat human  
27 embryos as “surplus products,” “excess cells” and/or “biological material” that  
28 may be donated for use and destruction in state-funded, human embryo stem cell

1 research and/or experimentation projects, without the consent of the human  
2 embryos themselves, threatens to subject Mary Scott Doe and the other human  
3 embryos *in vitro* that she represents to a form of slavery or involuntary servitude  
4 in violation of the Thirteenth Amendment to the United States Constitution.

5 115. Human embryo stem cell research necessarily requires a human  
6 embryo, i.e., a human being, to be treated like an experimental animal that is  
7 “property” and that therefore can be donated, devised, bought or sold for research  
8 purposes, and by so treating human embryos, and, thus, human beings as property,  
9 such experimentation violates the Thirteenth Amendment to the United States  
10 Constitution.

11 116. By proposing to fund or otherwise to facilitate, assist or encourage  
12 human embryo stem cell research and experimentation, which research and experi-  
13 mentation necessarily requires the involuntary use and destruction of human  
14 embryos in order to obtain the stem cell lines required for the conduct of such  
15 research and experimentation, Defendants are imminently threatening to deprive  
16 Mary Scott Doe and the other human embryos she represents of their right to be  
17 free from slavery and/or involuntary servitude in violation of the Thirteenth  
18 Amendment.

19 WHEREFORE, Plaintiffs pray for the entry of a judgment against the  
20 Defendants:

21 (a) Declaring that Mary Scott Doe and the other human embryos *in vitro*  
22 that she represents are “parties” who are entitled to the protection of the  
23 Thirteenth Amendment to the United States Constitution;

24 (b) Declaring Article XXXV of the California Constitution and the  
25 California Stem Cell Research and Cures Act, Cal. Health & Safety Code §  
26 125290.10 et seq., insofar as they treat human embryos as “surplus products,”  
27 “excess cells” and/or “biological material” that may be donated for involuntary  
28 use and destruction in state-funded, human embryo stem cell research and/or

1 experimentation projects, without the consent of the human embryos themselves,  
2 violative of the Thirteenth Amendment to the United States Constitution;

3 (c) Temporarily and permanently enjoining Defendants, as well as their  
4 employees, officers, and agents, from (i) issuing or adopting any interim or final  
5 standards governing either the conduct of human embryo stem cell research and/or  
6 experimentation, the donation of human embryos for such research and/or experi-  
7 mentation, and/or the derivation of stem cells from living human embryos, (ii)  
8 approving or issuing any bonds and/or grant of state funds or monies to finance or  
9 fund human embryo stem cell research and/or experimentation projects, or (iii)  
10 undertaking any other action to encourage, assist or facilitate human embryo stem  
11 cell research and/or experimentation;

12 (d) Awarding Plaintiffs their costs of suit; and

13 (e) Granting such other relief as to this Honorable Court may seem just and  
14 equitable.

15  
16 COUNT FOUR

17 DECLARATORY JUDGMENT AND INJUNCTION: FEDERAL PREEMPTION

18  
19 117. Plaintiffs hereby incorporate the allegations of Paragraphs 1 through  
20 116 of the Complaint, as if fully set forth herein at length.

21 118. The United States Congress has proscribed, in Section 510 of the  
22 Consolidated Appropriations Act of 2004, enacted on January 23, 2004, the expen-  
23 diture of any federal money for human embryo stem cell experimentation, as fol-  
24 lows:

25 SEC. 510. (a) *None of the funds made available in this Act may be*  
26 *used for—*

27 (1) the creation of a human embryo or embryos for research purpos-  
28 es; or

1           (2) *research in which a human embryo or embryos are destroyed, dis-*  
2           *carded, or knowingly subjected to risk of injury or death greater than*  
3           *that allowed for research on fetuses in utero under 45 CFR*  
4           *46.208(a)(2) and section 498(b) of the Public Health Service Act (42*  
5           *U.S.C. 289g(b)).*

6           (3) For purposes of this section, the term “human embryo or  
7           embryos” includes an organism, not protected as a human subject  
8           under 45 CFR 46 as of the date of enactment of this Act, that is  
9           derived by fertilization, parthenogenesis, cloning, or any other means  
10          from one or more human gametes or human diploid cells.

11  
12 Section 510 of Public Law 108-199, 118 Stat. 3, 277 (January 23, 2004) (emphasis  
13 added).

14           119. The State of California receives billions of dollars annually in Federal  
15 assistance, making it possible for the State to attempt to devote up to three (3) bil-  
16 lion dollars of the state bond initiatives authorized by Article XXXV and the Stem  
17 Cell Act to a purpose proscribed and prohibited by the Congress of the United  
18 States.

19           120. Under Section 510 of the Consolidated Appropriations Act of 2004,  
20 the use of federal dollars for human embryo stem cell research and experimenta-  
21 tion is directly forbidden.

22           121. By adding Article XXXV to the California Constitution and enacting  
23 the Stem Cell Act, Proposition 71 attempts to do indirectly what cannot be done  
24 directly by using funds raised through the issuance of state bonds to get around  
25 the federal ban.

26           122. Were it not for the federal dollars received by the government of the  
27 State of California each year, the monies raised and to be raised by the sale of  
28 state bonds, that are sought to be expended by the State of California for human

1 embryo research and experimentation, would have to be devoted, in whole or in  
2 part, to state expenditures presently paid for with federal dollars.

3 123. In effect, the federal dollars received by the government of the State  
4 of California, including much of the federal appropriations made under the  
5 Consolidated Appropriations Act of 2004, are subsidizing California's effort to  
6 fund human embryo stem cell experimentation.

7 124. California is therefore using federal dollars to do indirectly that which  
8 it cannot use the federal dollars to do directly.

9 125. Such indirect use of the federal dollars received by the State of  
10 California to subsidize the funding of human embryo stem cell experimentation  
11 violates the congressional ban of the use of federal funds for human embryo stem  
12 cell research and experimentation set forth in Section 510 of the Consolidated  
13 Appropriations Act of 2004 and is accordingly PREEMPTED BY FEDERAL  
14 LAW. *See* U.S. Const., Art. VI.

15 WHEREFORE, Plaintiffs pray for the entry of a judgment against the  
16 Defendants:

17 (a) Declaring that the receipt and indirect use of federal funds by the gov-  
18 ernment of the State of California to subsidize the funding of human embryo stem  
19 cell research and experimentation violates and is preempted by Section 510 of the  
20 Consolidated Appropriations Act of 2004, Public Law 108-199, § 510, 118 Stat. 3,  
21 277 (January 23, 2004);

22 (b) Temporarily and permanently enjoining Defendants, as well as their  
23 employees, officers, and agents, from approving or issuing any bonds and/or grant  
24 of funds or monies to finance or fund human embryo stem cell research and/or  
25 experimentation projects, or somatic cell nuclear transfer research and/or experi-  
26 mentation projects;

27 (d) Awarding Plaintiffs their costs of suit; and

28 (e) Granting such other relief as to this Honorable Court may seem just and

1 equitable.

2  
3 COUNT FIVE

4 DECLARATORY JUDGMENT AND INJUNCTION: INTERPRETATION OF  
5 CALIFORNIA CONSTITUTION RECONCILING ARTICLE XXXV's RIGHT  
6 TO CONDUCT STEM CELL EXPERIMENTATION WITH THE FUNDAMEN-  
7 TAL RIGHTS GRANTED BY ARTICLE I OF SUCH CONSTITUTION  
8

9 126. Plaintiffs hereby incorporates the allegations of Paragraphs 1 through  
10 125 of the Complaint, as if fully set forth herein at length.

11 127. Mary Scott Doe, a human embryo *in vitro* and a developing human  
12 life, is a “person” protected by Article I, Section 1 of the California Constitution,  
13 which provides that “[a]ll people are by nature free and independent and have  
14 inalienable rights” and that “[a]mong these are enjoying and defending life and  
15 liberty . . . and pursuing and obtaining safety, happiness, and privacy.”

16 128. Mary Scott Doe is likewise a “person” protected by Article I, Section  
17 7(a) of the California Constitution, which provides that “[a] person may not be  
18 deprived of life, [or] liberty . . . without due process of law or denied equal pro-  
19 tection of the laws.”

20 129. Mary Scott Doe is likewise a party protected by Article I, Section 6 of  
21 the California Constitution, which prohibits slavery and involuntary servitude.

22 130. In enacting, on November 2, 2004, Article XXXV, Section 5, estab-  
23 lishing “a right to conduct stem cell research,” the California electorate NEITHER  
24 EXPREESSLY NOR BY IMPLICATION repealed any portion of the fundamental  
25 constitutional protections afforded by Article I, Sections 1, 5, or 6 of the  
26 California Constitution.

27 131. When the various provisions of the California Constitution are con-  
28 strued together, the “right to conduct stem cell research” established by newly

1 added Article XXXV, Section 5, cannot be regarded as an absolute, unfettered, or  
2 unlimited right, but rather the exercise of the right to conduct stem cell experimen-  
3 tation is limited and restricted by the fundamental rights accorded to all persons  
4 and parties, including Mary Scott Doe, by the provisions of Article I of the  
5 California Constitution.

6 132. By proposing to fund *human embryo* stem cell research and experi-  
7 mentation, which research and experimentation necessarily requires the involun-  
8 tary use and destruction of human embryos in order to obtain the stem cell lines  
9 required for the conduct of such research and experimentation, Defendants are  
10 imminently threatening to exceed the scope of “the right to conduct stem cell  
11 research” conferred by Article XXXV, Section 5 of the California Constitution and  
12 to deprive Mary Scott Doe and the other human embryos she represents of (a)  
13 their inalienable rights, including the right to enjoy and defend their lives and lib-  
14 erty, in violation of Article I, Section 1 of the California Constitution, (b) their  
15 right to be free from slavery and/or involuntary servitude in violation of Article I,  
16 Section 6 of the California Constitution, and (c) their rights not to be deprived of  
17 life and liberty without due process of law or denied equal protection of the laws  
18 in violation of Article I, Section 7(a) of the California Constitution.

19 WHEREFORE, Plaintiffs pray for the entry of a judgment against the  
20 Defendants:

21 (a) Declaring that Mary Scott Doe and the other human embryos *in vitro*  
22 that she represents are “persons” who are recognized as having inalienable rights,  
23 including the right of enjoying and defending life and liberty, by Article I, Section  
24 1 of the California Constitution;

25 (b) Declaring that Mary Scott Doe and the other human embryos *in vitro*  
26 that she represents are “persons” entitled to the protection of the due process and  
27 equal protection clauses of Article I, Section 7(a) the California Constitution;

28 (c) Declaring that Mary Scott Doe and the other human embryos *in vitro*

1 that she represents are parties entitled to the protection from slavery and involun-  
2 tary servitude granted by Article I, Section 6 of the California Constitution;

3 (d) Declaring that the right to conduct stem cell research conferred by  
4 Article XXXV, Section 5 of the California Constitution is not an absolute right,  
5 but rather must be exercised in such a manner so as not to violate the fundamental  
6 rights granted by Article I, Sections 1, 6 and 7(a) of the California Constitution;

7 (e) Declaring that the funding of human embryo stem cell research and  
8 experimentation exceeds the scope of “the right to conduct stem cell research”  
9 conferred by Article XXXV and violates (i) the inalienable rights of Mary Scott  
10 Doe and of the other human embryos *in vitro* that she represents guaranteed by  
11 Article I, Sections 1 of the California Constitution, (ii) their right to due process  
12 and equal protection as guaranteed by Article I, Section 7(a) of the California  
13 Constitution, and (iii) their right to be free from slavery and involuntary servitude  
14 as guaranteed by Article I, Section 6 of the California Constitution;

15 (f) Temporarily and permanently enjoining Defendants, as well as their  
16 employees, officers, and agents, from (i) issuing or adopting any interim or final  
17 standards governing either the conduct of human embryo stem cell research and/or  
18 experimentation, the donation of human embryos for such research and/or experi-  
19 mentation, and/or the derivation of stem cells from living human embryos, (ii)  
20 approving or issuing any bonds and/or grant of state funds or monies to finance or  
21 fund human embryo stem cell research and/or experimentation projects, or (iii)  
22 undertaking any other action to encourage, assist or facilitate human embryo stem  
23 cell research and/or experimentation, as the duty to pay back those bonds is viola-  
24 tive of the Preamble to the Constitution of the State of California and Article I,  
25 Section 1’s guarantee of INALIENABLE RIGHTS and California Constitution,  
26 Article I, Section 6’s prohibition against slavery.

27 (g) Awarding Plaintiffs their costs of suit; and

28 (h) Granting such other relief as to this Honorable Court may seem just and

1 equitable.

2  
3 COUNT SIX

4 DECLARATORY JUDGMENT AND INJUNCTION: INTERPRETATION OF  
5 THE CALIFORNIA CONSTITUTION RESOLVING THE IRRECONCILABLE  
6 CONFLICT BETWEEN ARTICLE XXXV’S RIGHT TO CONDUCT STEM  
7 CELL RESEARCH WITH THE INALIENABLE RIGHTS GUARANTEED TO  
8 MARY SCOTT DOE BY ARTICLE I, SECTION 1 OF SUCH CONSTITUTION  
9

10 133. Plaintiffs hereby incorporate the allegations of Paragraphs 1 through  
11 132 of the Complaint, as if fully set forth herein at length.

12 134. The Preamble of the Constitution of the State of California provides in  
13 pertinent part:

14 “We, the People of the State of California, grateful to Almighty God  
15 for our freedom, in order to secure and perpetuate its blessings, do  
16 establish this Constitution.”

17 135. Article I, Section 1 of the California Constitution provides in relevant  
18 part that “[a]ll people are by nature free and independent and have inalienable  
19 rights”, much the same as the Declaration of Independence, the “charter” of our  
20 nation, recites that “all men are created equal and *endowed by their Creator with*  
21 *certain unalienable rights.*” (Emphasis added.)

22 136. The “inalienable rights” referred to in Article I, Section 1 of the  
23 California Constitution, like the “unalienable rights” referenced in the Declaration  
24 of Independence, are beyond the reach of the legislative, executive, or judicial  
25 branches of the state or federal government, which may only acknowledge, affirm,  
26 or secure such inalienable or unalienable rights, but which may not alter, amend,  
27 or abolish them.

28 137. Assuming that the right to conduct stem cell research established by

1 Article XXXV, Section 5 includes the absolute and unfettered right to conduct  
2 human embryo stem cell research, which necessarily involves the involuntary use  
3 and destruction of human embryos, then an irreconcilable conflict exists between  
4 the right to conduct stem cell research established by Article XXXV, Section 5 of  
5 the California Constitution and the fundamental rights granted by Article I of the  
6 California Constitution, including especially the inalienable rights to the enjoy-  
7 ment and defense of life and liberty recognized and guaranteed by Article I,  
8 Section 1.

9 138. In resolving this conflict, it must be recognized that the “inalienable  
10 rights” of the people GUARANTEED by Article I, Section 1 of the California  
11 Constitution PREEXISTED the original enactment of the state constitution, as the  
12 people have these inalienable rights “by nature” (the “Laws of Nature and  
13 Nature’s God” referenced in the Declaration of Independence), and that these  
14 rights are therefore so fundamental that they cannot be abrogated by subsequent  
15 constitutional amendments, not even by amendments added by the initiative  
16 process.

17 139. To the extent that Article XXXV, Section 5 attempts to abrogate the  
18 fundamental and inalienable rights to the enjoyment and defense of life and liberty  
19 of Mary Scott Doe and of the other human embryos *in vitro* that she represents, by  
20 conferring a right to use and destroy human embryos for the conduct of human  
21 embryo stem cell research and experimentation, Article XXXV, Section 5 fatally  
22 conflicts with Article I, Section 1 of the California Constitution and is, to that  
23 extent, null and void and unenforceable.

24 WHEREFORE, Plaintiffs pray for the entry of a judgment against the  
25 Defendants:

26 (a) Declaring that Mary Scott Doe and the other human embryos *in vitro*  
27 that she represents are “persons” who are recognized as having inalienable rights,  
28 including the right of enjoying and defending life and liberty, by Article I, Section

1 1 of the California Constitution;

2 (b) Declaring that, to the extent that Article XXXV, Section 5 of the  
3 California Constitution attempts to abrogate and the fundamental and inalienable  
4 rights to the enjoyment and defense of life and liberty of human embryos *in vitro*,  
5 by conferring a right to use and destroy such human embryos for the conduct of  
6 human embryo stem cell research and experimentation, Article XXXV, Section 5  
7 fatally conflicts with Article I, Section 1 of the California Constitution and is, to  
8 that extent, null and void and unenforceable, including the authority to issue state  
9 bonds to fund such an initiative and the duty imposed thereunder to back such  
10 bonds by the full faith and credit of the state of California since the bonds are  
11 funding that which is 'unfaithful' to the inalienable rights of all human beings,  
12 including the right to be free from non-consensual involuntary servitude guaran-  
13 teed by Article I, Section 6 of the California Constitution;

14 (c) Temporarily and permanently enjoining Defendants, as well as their  
15 employees, officers, and agents, from (i) issuing or adopting any interim or final  
16 standards governing either the conduct of human embryo stem cell research and/or  
17 experimentation, the donation of human embryos for such research and/or experi-  
18 mentation, and/or the derivation of stem cells from living human embryos, (ii)  
19 approving or issuing any bonds (which if the necessity for default is found to lie  
20 constitutionally would result in irreparable financial loss to countless members of  
21 the public) and/or grants of state funds or monies to finance or fund human  
22 embryo stem cell research and/or experimentation projects, or (iii) undertaking  
23 any other action to encourage, assist or facilitate human embryo stem cell research  
24 and/or experimentation;

25 (d) Awarding Plaintiffs their costs of suit; and

26 (e) Granting such other relief as to this Honorable Court may seem just and  
27 equitable.

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COUNT SEVEN

PROPOSITION 71 VIOLATES ARTICLE I, SECTION  
1 OF THE CALIFORNIA CONSTITUTION.

140. Plaintiffs hereby incorporate the allegations of Paragraphs 1 through 139 of the Complaint, as if fully set forth herein at length.

141. Proposition 71, as enacted by California electorate on November 2, 2004, insofar as it authorizes, sanctions, provides public monies for, and otherwise assists and encourages human embryo stem cell research, violates Article I, Section 1 of the California Constitution, which provides in relevant part that “[a]ll people, [including all human embryos *in vitro*,] are by nature free and independent and have inalienable rights.”

WHEREFORE, Plaintiffs pray for the entry of a judgment against the Defendants:

(a) Temporarily and permanently enjoining Defendants, as well as their employees, officers, and agents, from (i) issuing or adopting any interim or final standards governing either the conduct of human embryo stem cell research and/or experimentation, the donation of human embryos for such research and/or experimentation, and/or the derivation of stem cells from living human embryos, (ii) approving or issuing any bonds and/or grant of state funds or monies to finance or fund human embryo stem cell research and/or experimentation projects, or (iii) undertaking any other action to encourage, assist or facilitate human embryo stem cell research and/or experimentation;

(b) Awarding Plaintiffs their costs of suit; and

(c) Granting such other relief as to this Honorable Court may seem just and equitable.

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COUNT EIGHT

PROPOSITION 71 VIOLATES ARTICLE I, SECTION  
6 OF THE CALIFORNIA CONSTITUTION.

142. Plaintiffs hereby incorporate the allegations of Paragraphs 1 through 141 of the Complaint, as if fully set forth herein at length.

143. Proposition 71, as enacted by California electorate on November 2, 2004, insofar as it authorizes, sanctions, authorizes the issuance of bonds to finance, provides public monies for, and otherwise assists and encourages human embryo stem cell research, violates Article I, Section 6 of the California Constitution, which guarantees all human beings, including human embryos *in vivo*, the right to be free from slavery and from involuntary servitude.

WHEREFORE, Plaintiffs pray for the entry of a judgment against the Defendants:

(a) Temporarily and permanently enjoining Defendants, as well as their employees, officers, and agents, from (i) issuing or adopting any interim or final standards governing either the conduct of human embryo stem cell research and/or experimentation, the donation of human embryos for such research and/or experimentation, and/or the derivation of stem cells from living human embryos, (ii) approving or issuing any bonds and/or grant of state funds or monies to finance or fund human embryo stem cell research and/or experimentation projects, or (iii) undertaking any other action to encourage, assist or facilitate human embryo stem cell research and/or experimentation;

(b) Awarding Plaintiffs their costs of suit; and

(c) Granting such other relief as to this Honorable Court may seem just and equitable.

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COUNT NINE  
PROPOSITION 71 VIOLATES THE DUE PROCESS  
GUARANTEE OF ARTICLE I, SECTION 7(a) OF THE  
CALIFORNIA CONSTITUTION.

144. Plaintiffs hereby incorporate the allegations of Paragraphs 1 through 143 of the Complaint, as if fully set forth herein at length.

145. Proposition 71, as enacted by California electorate on November 2, 2004, insofar as it authorizes, sanctions, authorizes the issuance of bonds to finance, provides public monies for, and otherwise assists and encourages human embryo stem cell research, violates the due process guarantee of Article I, Section 7(a) of the California Constitution, which guarantees all “persons”, including all human embryos *in vitro*, their rights not to be deprived of life and liberty without due process of law.

WHEREFORE, Plaintiffs pray for the entry of a judgment against the Defendants:

(a) Temporarily and permanently enjoining Defendants, as well as their employees, officers, and agents, from (i) issuing or adopting any interim or final standards governing either the conduct of human embryo stem cell research and/or experimentation, the donation of human embryos for such research and/or experimentation, and/or the derivation of stem cells from living human embryos, (ii) approving or issuing any bonds and/or grant of state funds or monies to finance or fund human embryo stem cell research and/or experimentation projects, or (iii) undertaking any other action to encourage, assist or facilitate human embryo stem cell research and/or experimentation;

(b) Awarding Plaintiffs their costs of suit; and

(c) Granting such other relief as to this Honorable Court may seem just and equitable.

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COUNT TEN  
PROPOSITION 71 VIOLATES THE EQUAL PROTECTION GUARANTEE OF ARTICLE I, SECTION 7(a) OF THE CALIFORNIA CONSTITUTION.

146. Plaintiffs hereby incorporate the allegations of Paragraphs 1 through 145 of the Complaint, as if fully set forth herein at length.

147. Proposition 71, as enacted by California electorate on November 2, 2004, insofar as it authorizes, sanctions, authorizes the issuance of bonds to finance, provides public monies for, and otherwise assists and encourages human embryo stem cell research, violates the equal protection guarantee of Article I, Section 7(a) of the California Constitution, which guarantees all “persons”, including all human embryos *in vitro*, the right to the equal protection of the laws.

WHEREFORE, Plaintiffs pray for the entry of a judgment against the Defendants:

(a) Temporarily and permanently enjoining Defendants, as well as their employees, officers, and agents, from (i) issuing or adopting any interim or final standards governing either the conduct of human embryo stem cell research and/or experimentation, the donation of human embryos for such research and/or experimentation, and/or the derivation of stem cells from living human embryos, (ii) approving or issuing any bonds and/or grant of state funds or monies to finance or fund human embryo stem cell research and/or experimentation projects, or (iii) undertaking any other action to encourage, assist or facilitate human embryo stem cell research and/or experimentation;

(b) Awarding Plaintiffs their costs of suit; and

(c) Granting such other relief as to this Honorable Court may seem just and equitable.

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(301) 790-0640  
Attorney for Plaintiffs



Adopted Human Embryos:  
Genetic Siblings  
Jonah David Vest and Gabrielle Ammorie Vest