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FILED

OCT 25 1990

FRANK S. ZOLIN, COUNTY CLERK
Ruby R. Maya
BY RUBY R. MAYA, DEPUTY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF LOS ANGELES

11	JOHN ROE and ALCOR LIFE)	CASE NO. C 697 147
12	EXTENSION FOUNDATION, INC., a)	
13	California Non-profit)	ORDER ON CROSS-MOTIONS FOR
14	Corporation,)	SUMMARY ADJUDICATION OF ISSUES
15)	AND FOR SUMMARY JUDGMENT
16	Plaintiffs,)	
17)	
18	v.)	
19)	
20	DAVID W. MITCHELL, KENNETH W.)	
21	KIZER, M.D., M.P.H.; OFFICE OF)	
22	THE STATE REGISTRAR;)	
23	DEPARTMENT OF HEALTH SERVICES;)	
24	and DOES 1 to 100, inclusive,)	
25)	
26	Defendants.)	

22 Plaintiffs' Motion for Summary Adjudication of Issues and
23 defendants' Motion for Summary Judgment were heard by the court on
24 September 27, 1990, plaintiffs appearing by their counsel, David
25 B. Epstein, of Garfield, Tepper, Ashworth & Epstein, and defendants
26 appearing by their counsel, Y. Tammy Chung, Deputy Attorney
27 General. Upon hearing the arguments of counsel, and having read
28 and considered the supporting and opposing papers filed by each

1 party, the court continued the matter for further proceedings to
2 October 2, 1990, at which time the court heard and considered
3 further arguments and comments by counsel and thereupon ruled as
4 follows:

5 **1. Plaintiffs' Motion for Summary Adjudication of Issues**

6 Plaintiffs' Motion for Summary Adjudication of Issues is
7 granted as to Issues 1 through 8. Pursuant to Code of Civil
8 Procedure Section 437c(f), the court specifies the following
9 issues to be without substantial controversy:

10 **Issue No. 1.** As applied to plaintiffs, defendants'
11 instructions and policies prohibiting the
12 registration of death certificates and the issuance
13 of disposition permits in all cases in which an
14 individual has directed that, upon death, his or
15 her body be placed in cryonic suspension, are
16 invalid as an impermissible interference with the
17 rights of the individual plaintiffs to determine
18 the disposition of their own bodies.

19 **Issue No. 2.** Defendants' refusal to permit the
20 registration of deaths and the issuance of
21 disposition permits for persons who have directed
22 that Alcor, as a donee under the Uniform Anatomical
23 Gift Act, place their bodies in cryonic suspension,
24 on the grounds that cryonic suspension is not a
25 scientific use, is arbitrary and capricious and
26 therefore invalid.

27 **Issue No. 3.** As applied to plaintiffs, defendants'
28 instructions and policies prohibiting the

1 registration of death certificates and the issuance
2 of disposition permits in all cases in which an
3 individual has directed that, upon death, his or
4 her body be placed in cryonic suspension, are
5 invalid as an impermissible interference with
6 plaintiffs' right to contract for the performance
7 of a lawful activity.

8 Issue No. 4. Defendants' instructions and policies
9 prohibiting the registration of death certificates
10 and the issuance of disposition permits in all
11 cases in which an individual has directed that,
12 upon death, his or her body be placed in cryonic
13 suspension, on the grounds that plaintiff Alcor is
14 not a licensed donee pursuant to the Uniform
15 Anatomical Gift Act, is invalid and a denial of due
16 process as applied to Alcor.

17 Issue No. 5. Defendants' instructions prohibiting
18 the registration of death certificates and the
19 issuance of disposition permits in all cases in
20 which an individual has directed that, upon death,
21 his or her body be placed in cryonic suspension,
22 are, as a matter of law, regulations and are
23 invalid because they were adopted without
24 compliance with the procedural requirements of the
25 Administrative Procedures Act.

26 Issue No. 6. Defendants' instructions prohibiting
27 the registration of death certificates and the
28 issuance of disposition permits in all cases in

1 which an individual has directed that, upon death,
 2 his or her body be placed in cryonic suspension,
 3 are invalid because they exceed defendants'
 4 statutory authority.

5 Issue No. 7. Defendants' instructions prohibiting
 6 the registration of death certificates and the
 7 issuance of disposition permits in all cases in
 8 which an individual has directed that, upon death,
 9 his or her body be placed in cryonic suspension,
 10 are invalid because they violate defendants'
 11 statutory duty to register all deaths.

12 Issue No. 8. Plaintiffs are entitled to
 13 injunctive relief enjoining defendants from
 14 refusing to issue to plaintiffs disposition permits
 15 and refusing to register death certificates for its
 16 members who have designated Alcor as a donee
 17 pursuant to the Uniform Anatomical Gift Act and,
 18 who have directed that Alcor place their bodies in
 19 cryonic suspension.

20 Plaintiffs are ordered to prepare a judgment for the
 21 court's signature which directs defendants to desist from
 22 prohibiting the registration of deaths and the issuance of
 23 disposition permits for persons who have directed that their
 24 bodies be placed in cryonic suspension by plaintiff Alcor. Said
 25 judgment is to provide also that in the event of and at such time
 26 as defendants implement an otherwise lawful and reasonable
 27 licensing and registration system for organizations such as
 28 plaintiff Alcor who desire to qualify as procurement

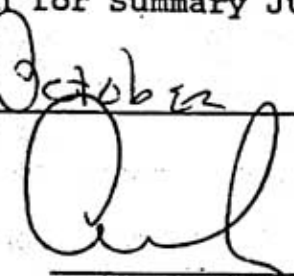
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organizations, as that term is used in Health and Safety Code
Section 7051.1 and 7153, Alcor may be subject to the requirements
of that licensing and registration system.

2. Defendants' Motion for Summary Judgment

Defendants' Motion for Summary Judgment is denied.

DATED THIS 25th DAY OF October, 1990.



AURELIO MUNOZ
Judge, Superior Court