

IN THE TENTH JUDICIAL DISTRICT
DISTRICT COURT, JOHNSON COUNTY, KANSAS

In the Matter of the Grand Jury
Investigation

Case No. 07CV8495

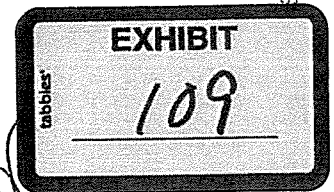
**MOTION TO QUASH SUBPOENA DUCES TECUM
ISSUED TO COMPREHENSIVE HEALTH**

COMES NOW, Comprehensive Health of Planned Parenthood of Kansas and Mid-Missouri, Inc. ("Comprehensive Health"), by and through its counsel of record, and hereby moves the Court to quash the subpoena duces tecum issued by this Grand Jury pursuant to K.S.A. 22-3008 dated January 7, 2008 and served on Comprehensive Health on January 7, 2008 for the following reasons:

1. The Subpoena violates Comprehensive Health's rights guaranteed by the Constitution of the United States of America and the Constitution of the State of Kansas and is an improper use of the grand jury process because it would result in the third investigation of identical information and evidence;

2. Comprehensive Health reasonably believes that the Subpoena is being used to strengthen the Government's case or as a substitute for discovery in an ongoing criminal proceeding pending in this County and is, therefore, an improper use of the grand jury process;

3. The medical records which have been requested in the Subpoena are subject to the Kansas Supreme Court's ruling in Alpha Medical Clinic v. Anderson, 280 Kan. 903, 128 P.3d 364 (Kan. 2006), and the Subpoena fails to comply with that ruling and with the procedures required by that case;



FAX FILED

SCAN DATE 2008/01/29 14:05

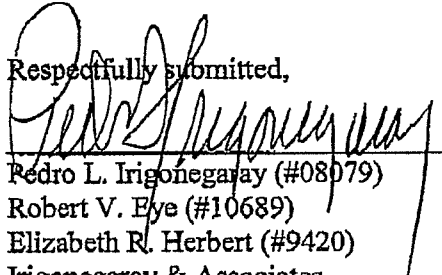
3381

4. Compliance with the Subpoena violates the right of privacy of Comprehensive Health's patients guaranteed by the Constitution of the United States of America and the Constitution of the State of Kansas; and

5. The Subpoena fails to meet the requirements of the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. § 1320d et seq.).

WHEREFORE, for the above stated reasons, and for those additional reasons as set forth in the Memorandum in Support filed contemporaneously with this Motion, Comprehensive Health prays for an order of this Court quashing the Subpoena and for such other and further relief as this Court may deem just and proper.

Respectfully submitted,


Pedro L. Irigonegaray (#08079)
Robert V. Eye (#10689)
Elizabeth R. Herbert (#9420)
Irigonegaray & Associates
1535 S.W. 29th Street
Topeka, KS 66611
(785) 267-6115

Douglas N. Ghertner (Mo. 22086)
Slagle, Bernard & Gorman, P.C.
4600 Madison, Suite 600
Kansas City, MO 64112-3012
(816) 410-4600

Roger K. Evans
Planned Parenthood Federation of America
434 West 33rd Street
New York, NY 10001
(212) 541-7800

SCAN DATE 2008/01/29 14:05

3385

Helene T. Krasnoff
Planned Parenthood Federation of America
1780 Massachusetts Avenue, NW
Washington, DC 20036
(202) 973-4800

ATTORNEYS FOR COMPREHENSIVE
HEALTH OF PLANNED PARENTHOOD
OF KANSAS AND MID-MISSOURI, INC.

SCAN DATE 2008/01/29 14:05