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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Deshawn L. Taylor,
Movant,
v.
Ken Paxton,
Defendant.

No. MC-17-00051-PHX-GMS
ORDER

Pending before this Court are (1) The Movant’s Emergency Motion to Quash Subpoena Duces Tecum or in the Alternative Motion for Protective Order, (Doc. 1) and, (2) Movant’s Emergency Motion to Stay Pending Decision on Motion to Quash/Motion for Protective Order (Doc. 2). After reading the parties’ submissions on the motions, the Motion to Quash is denied, but the alternative motion for protective order is granted in part as is further explained below. Therefore, the Emergency Motion to stay (Doc. 2) is denied as moot.

The Movant, Dr. Taylor is an obstetrician-gynecologist who practices in Phoenix, Arizona. Dr. Taylor is a former medical director of Planned Parenthood Arizona, a position she left in 2013. At various times in her career, Dr. Taylor has worked for or with Planned Parenthood or its affiliates in California, Arizona and Nevada—but not Texas. Dr. Taylor is not licensed in Texas, nor has she ever worked in Texas.

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1 Dr. Taylor has been subpoenaed to testify in an action in which various Plaintiffs,
2 including the Texas affiliates of Planned Parenthood, have challenged certain provisions
3 of a newly passed Texas law, S.B. 8. The law apparently bans the D&E procedure—a
4 common procedure by which abortion is accomplished -- except for when the physician
5 uses a drug known as digoxin to cause fetal demise prior to starting the evacuation phase
6 of the D&E. Petitioners in the underlying lawsuit challenge this digoxin requirement as
7 an undue burden on a woman's right to an abortion.

8 Texas apparently notices the deposition of Dr. Taylor because, in an apparently
9 surreptitious recording made at a Planned Parenthood conference in Los Angeles,
10 California in 2014, Dr. Taylor apparently advocates the use of digoxin in performing
11 abortions. To the extent that Dr. Taylor gave such instruction or made such statements in
12 a conference sponsored by Planned Parenthood or when she held a Planned Parenthood
13 position, such statements are sufficiently relevant to the question of whether the Texas
14 mandated use of digoxin in a D&E abortion procedure presents an undue burden on a
15 woman's right to an abortion, and the Texas Planned Parenthood affiliates' present
16 assertion that it does.

17 Dr. Taylor may be unable to authenticate the video to the extent that she did not
18 take it. Even so, her instruction and/or statements at the conference or otherwise are, or
19 may be, directly relevant to the law now at issue in Texas that is challenged by Planned
20 Parenthood affiliates there. And, at any event, it will not be up to this Court to determine
21 whether the video is admissible. Such a determination appropriately belongs to the Court
22 in the Western District of Texas. The Motion to Quash is, therefore, denied.

23 Nevertheless, the Court is not persuaded that it would be appropriate for the
24 Defendants in the underlying lawsuit to question Dr. Taylor about further topics
25 including her present opinions or medical practices. It appears to the Court that such
26 questioning would make Dr. Taylor an unwilling and unreimbursed expert witness for the
27 State of Texas. And for the reasons set forth in Movant's briefing, Texas is perfectly
28 capable of obtaining its own expert witnesses in this regard. Preventing an inquiry into

1 Dr. Taylor's present practices would not only avoid conscripting Dr. Taylor beyond that
2 which her comments in Planned Parenthood conferences or positions may permit, it
3 would further protect the privacy of her patients who may have received such procedures.
4 Therefore, while Dr. Taylor's Motion to Quash is denied, her Motion for Protective Order
5 is granted to the extent that Defendants may inquire into statements, instruction, opinions,
6 training or teaching provided by Dr. Taylor at Planned Parenthood conferences or when
7 she held a position with Planned Parenthood concerning the use of digoxin in conducting
8 abortion procedures. They may not inquire into her present opinions or practices. While
9 such a limitation should practically limit the length of the deposition, the Court declines
10 to limit the deposition to only one hour as the Movant suggests. Professionalism and this
11 Court's mandate not to abuse the time or limitations given should be adhered to by both
12 parties concerned with the present motions.


13 Further, while the Court does not grant the Motion to Quash, the Court does
14 observe that if a mutually acceptable date can be found during the week of October 9 as
15 the parties have previously suggested in their correspondence, such a date ought to be
16 accommodated by all parties to promote civility, the convenience of the state and the
17 Doctor and her patients.

18 **IT IS THEREFORE ORDERED:**

19 1. The Motion to Quash is denied; the Motion for Protective Order is granted
20 (Doc. 1).

21 2. The Emergency Motion to Stay (Doc. 2) is denied as moot.

22 Dated this 3rd day of October, 2017.

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24 
25 Honorable G. Murray Snow
26 United States District Judge
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