IN THE MATTER OF THE ARBITRATION BEFORE ALTERNATIVE RESOLUTION CENTERS

JAMES STUDNICKI *et al.*, Claimants, v. SAGE PUBLICATIONS, INC., Respondent.	ARC Case No. 78M8839 Arbitrator: Hon. Vincent J. O'Neill, Jr.

RESPONDENT'S OPPOSITION TO CLAIMANT'S MOTION FOR DISCOVERY

Respondent Sage Publications, Inc. hereby opposes Claimants' motion for discovery, submitted on March 14, 2025, and requests that the motion be denied for the following reasons.

First, the parties' arbitration agreements are silent as to the right to take discovery and, under the California Arbitration Act, in the absence of an agreement the default rule is no discovery. Second, the recent amendment of the California Arbitration Act's discovery provision is not retroactive and does not apply to this arbitration, which commenced before the amendment became effective. Third, even if Claimants were entitled in theory to discovery based on their discrimination claim, the claim does not justify the unlimited, free-ranging discovery they seek.

FACTS

The License Agreements

Claimants, as authors, and Sage, as publisher, entered into three license agreements, one for each article the authors submitted for publication in Sage's journal *Health Services Research*

and Managerial Epidemiology in 2019, 2021, and 2022. (Demand, Exs. E, F, and G.)[1] By the license agreements, the authors granted Sage a commercial license to produce, publish, sell, and sub-license the article under the terms and conditions in the agreement. (*Id.*) Each agreement contains the following dispute resolution provision:

> In the event a dispute arises out of or relating to this Agreement, the parties agree to first make a good-faith effort to resolve such dispute themselves. Upon failing, the parties shall engage in non-binding mediation with a mediator to be mutually agreed on by the parties. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, which the parties cannot settle themselves or through mediation, shall be settled by arbitration.

(*Id.*) The arbitration agreements do not provide for discovery.

Each agreement also contains the following choice of law and venue provision, quoted in relevant part:

> The validity, interpretation, performance and enforcement of this Agreement shall be governed as follows: . . . where the Journal is published by Sage's offices in the United States, by the laws of the State of California and subject to the jurisdiction and venue of the courts of the State of California located in Ventura County and of the U.S. District Court for the Central District of California . . . ."

(*Id.*) Sage published the articles in *Health Services Research and Managerial Epidemiology* in 2019, 2021, and 2022.

The Dispute

The dispute began in June 2023, when Sage's research integrity team emailed the authors to inform them of a reader's concerns regarding issues with the representation of data in the 2021 article and the authors' conflicts of interest. The authors responded regarding the merits of the concerns, and the parties directly exchanged correspondence over a five-month

[1] While the authors of the three articles are not identical, they substantially overlap and together are the Claimants in this proceeding.

period, until counsel became involved in November 2023. Thereafter David Shaneyfelt, as Claimants' counsel, and Ronni Sander, as Sage's counsel, exchanged additional, substantive correspondence regarding the concerns about the article and the authors' responses. While investigating the concerns about the 2021 article, Sage discovered that the 2019 and 2022 articles raised the same conflicts of interest concern. Independent peer reviewers undertook a post-publication review anew of all three articles and identified problems in the articles that rendered the articles' conclusions, in the opinions of the reviewers, invalid or unreliable. Sage's research integrity team and the journal's editor concluded that the articles should be retracted. On February 5, 2024, Sage posted a notice of retraction, explaining the reasons for retraction, and delivered a copy to the authors, through counsel. (Exhibit A.) The retraction notice states as follows:

> **Reader concerns and investigation**
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> A reader contacted the journal with concerns about the 2021 article as to whether presentation of the data in Figures 2 and 3 is misleading, whether there are defects in the selection of the cohort data, and whether the authors' affiliations with pro-life advocacy organizations, including Charlotte Lozier Institute, present conflicts of interest that the authors should have disclosed as such in the article.
>
> In response to the reader's concerns about the selection and presentation of data, an independent reviewer with expertise in statistical analyses evaluated the concerns and opined that the article's presentation of the data in Figures 2 and 3 leads to an inaccurate conclusion and that the composition of the cohort studied has problems that could affect the article's conclusions.
>
> In response to the reader's concerns about conflicts of interest, Sage confirmed that all but one of the article's authors had an affiliation with one or more of Charlotte Lozier Institute, Elliot Institute, and American Association of Pro-Life Obstetricians and Gynecologists, all pro-life advocacy organizations, despite having declared they had no conflicts of interest when they submitted the article for publication or in the article itself. As a result of Sage's inquiry into the authors' conflicts of interest, Sage became aware that a peer reviewer who evaluated the article for initial publication also was affiliated with Charlotte Lozier Institute at the time of the review. In accordance with the Committee of Publication Ethics (COPE) standards, Sage and the Journal Editor determined the peer review for initial publication was unreliable. This reviewer also peer reviewed two other articles by the same lead author, published in the journal in 2022 and 2019, which also are the subject of this notice.
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> **Post-publication peer review**
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> Two subject matter experts undertook an independent post-publication peer review of the three articles anew. In the 2021 and 2022 articles, which rely on the same dataset, both experts identified fundamental problems with the study design and methodology, unjustified or incorrect factual assumptions, material errors in the authors' analysis of the data, and misleading presentations of the data that, in their opinions, demonstrate a lack of scientific rigor and invalidate the authors' conclusions in whole or in part. In the 2019 article, which relies on a different dataset, both experts identified unsupported assumptions and misleading presentations of the findings that, in their opinions, demonstrate a lack of scientific rigor and render the authors' conclusion unreliable.

Retraction decision

Based on the results of the investigation, the post-publication peer reviews, and COPE standards, Sage and the Journal Editor retracted these articles.

(Ex. A.)

Claimants' Enforcement of the Arbitration Agreements

One day after Sage posted the notice of retraction, Claimants asserted their rights under the arbitration agreements. On February 6, 2024, Mr. Shaneyfelt sent Ms. Sander a letter demanding mediation of the dispute. (Exhibit B.) In the letter, Mr. Shaneyfelt suggested that the parties' and counsel's pre-demand correspondence had exhausted informal efforts to resolve the dispute, and on behalf of Claimants he proposed to "waive mediation and proceed directly to arbitration." (Ex. B, p. 2.) He further demanded that Sage preserve documents related to the dispute, referencing a similar demand he made in a November 29, 2023, letter to Ms. Sander. (*Id.*) On February 14, 2024, Sage, through its counsel Caroline Gately, agreed to arbitrate the dispute. (Exhibit C.) Ms. Gately informed Mr. Shaneyfelt that Sage accepted Claimants' proposal to waive the mediation prerequisite and proceed directly to arbitration. (*Id.*) Ms. Gately also wrote, "You may deliver the demand for arbitration to me. To the extent you have a proposal as to the logistics of arbitration, please let me know so we can begin a discussion." (*Id.*)

On May 28, 2024, Claimants through counsel delivered a Demand for Arbitration and draft form of submission to dispute resolution. (Exhibit D.) Because the arbitration agreements do not provide an arbitration forum, Claimants requested that Sage consent to submission of the dispute to the American Arbitration Association under its rules. (Ex. D.) Sage's counsel responded. (Exhibit E.) While Sage was amenable to agreement on a forum, Sage would not consent to a forum in which the rules provide for discovery, as do the AAA rules, since the parties' arbitration agreement is silent as to discovery and the default under the California

Arbitration Act, in the absence of an agreement to take discovery, is no discovery. (Ex. E.) The parties engaged in lengthy discussions about the right to discovery in a California arbitration, but those discussions did not resolve their discovery debate. On September 9, 2024, Sage proposed to submit the dispute to arbitration before Alternative Resolutions Center (ARC), without prejudice to each party's position on the availability of discovery, *i.e.*, with Sage retaining the right to argue for no discovery and the Authors retaining the right to argue for discovery. (Mot., Ex. C.) Claimants refused.

Instead, on October 3, 2024, Claimants filed a petition to compel arbitration in the Superior Court of California, County of Ventura, expressly invoking the California Arbitration Act, Cal. Civ. Proc. Code § 1280 *et seq.* (Exhibit F.) Their petition was granted on November 21, 2024. (Exhibit G.) After appointment of the Arbitrator in this matter, Claimants submitted a Demand for Arbitration that is substantively the same as the Demand for Arbitration served in May 2024.

In their Demand, Claimants take issue with the reasons Sage offered for retraction of the articles, claiming that Sage applied a double standard for publishing pro-choice articles and publishing pro-life articles, such as theirs. (Demand ¶¶ 5, 158–61.) Claimants assert that Sage discriminated against them on the basis of religion and political affiliation in violation of the Unruh Civil Rights Act. (*Id.*) They also make claims for breach of the license agreements, breach of the implied covenant of good faith and fair dealing in the license agreements, negligent misrepresentation regarding the soundness of Sage's peer review process, and negligence in Sage's handling of the investigation and retractions. Claimants seek money damages for injury to their reputations and for publishing and consulting opportunities they claim they have lost as a result of the retractions. Claimants also seek an injunction compelling Sage to rescind the notices of retraction.

ARGUMENT

I. The California Arbitration Act Provides for No Discovery in this Arbitration.

The license agreements provide for the arbitration of the parties' disputes and incorporate California law, which includes the California Arbitration Act. When the license agreements were signed in 2019, 2021, and 2022, and at the time Claimants invoked the arbitration clauses in 2024, the California Arbitration Act provided for no discovery except for the arbitration of claims of a "wrongful act or neglect" resulting in "injury to, or death of, a person":

> (a) All of the provisions of Section 1283.05 [providing the types of discovery allowed in arbitration] shall be conclusively deemed to be incorporated into, made a part of, and shall be applicable to, every agreement to arbitrate any dispute, controversy, or issue arising out of or resulting from any injury to, or death of, a person caused by the wrongful act or neglect of another.
>
> (b) Only if parties by their agreement so provide, may the provisions of Section 1283.05 be incorporated into, made a part of, or made applicable to, any other arbitration agreement.

Cal. Civ. Proc. Code § 1283.1 (West 2024), *repealed by* S.B. 940, Cal. 2023–2024 Reg. Sess. (Cal. 2024). Parties are presumed to incorporate the law as it existed at the time of entering into agreements, and not subsequent changes to the law, unless the language of the agreement "clearly indicates this to have been the intention of the parties." *Swenson v. File*, 475 P.2d 852, 854–55 (Cal. 1970) (enforcing legal prohibition as it existed at time of entering into agreement, despite later relaxation of prohibition). This is so because "to hold that subsequent changes in the law which impose greater burdens or responsibilities upon the parties become part of that agreement would result in modifying it without their consent, and would promote uncertainty in commercial transactions." *Id.* at 856. Here, the parties' agreement to arbitration without specifying a venue, coupled with their submission to jurisdiction in California courts and incorporation of California law, evidences their intent to incorporate the California Arbitration

Act as it existed at the time of entering into the license agreements. There is no language in the agreement that "clearly indicates" an intention to incorporate subsequent changes to the law, particularly a change that imposes greater burdens or responsibilities.

Claimants argue that they are entitled to discovery under subsection (a), the exception for personal injury claims caused by the wrongful act or neglect of another, because they claim reputational harm. This argument is unavailing because Claimants have not asserted (1) a claim for wrongful act or neglect or (2) a personal injury in the meaning of the statute. Rather, their claims are commercial claims arising from a business dispute. By "reputational harm," they mean "loss of subsequent business and scientific publishing opportunities." (Demand ¶ 111.) They provide examples of rejected attempts to publish that they attribute to the retractions. (*Id.* ¶¶ 112–14.) They predict future rejections of attempts to publish, and lost opportunities to provide compensated consulting services, that they attribute to the retractions. (*Id.* ¶¶ 115–16.) In support of their attempt to apply the personal injury exception to a commercial transaction that allegedly resulted in lost business opportunities, Claimants do not cite a single authority. Instead, the known decisions finding a personal injury for purposes of Cal. Civ. Proc. Code § 1283.1 consist of two medical malpractice cases,[2] one case of intentional and negligent infliction of emotional distress,[3] one auto collision case,[4] and sexual harassment claims

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[2] *Berglund v. Arthroscopic & Laser Surgery Ctr. of San Diego, L.P.*, 187 P.3d 86, 92–93; (Cal. 2008); *Alexander v. Blue Cross of California*, 106 Cal. Rptr. 2d 431, 433 (Cal. Ct. App. 2001).

[3] *Rodgers v. Homes*, No. B199193, 2008 WL 2568482, at *6 (Cal. Ct. App. June 30, 2008) (unpublished).

[4] *Miranda v. 21st Century Ins. Co.*, 12 Cal. Rptr. 3d 159, 161 (Cal. Ct. App. 2004).

involving physical bodily harm.[5] None involves a business transaction resulting in reputational harm.

In the absence of authority supporting Claimants' interpretation of "injury to person" under section 1283.1 to mean reputational harm, Claimants resort to cases interpreting "personal injury" resulting from tortious conduct for purposes of the prejudgment interest statute, Cal. Civ. Code § 3291. That statute provides,

> In any action brought to recover damages for *personal injury sustained by any person resulting from or occasioned by the tort of any other person*, corporation, association, or partnership, whether by negligence or by willful intent of the other person, corporation, association, or partnership, and whether the injury was fatal or otherwise, it is lawful for the plaintiff in the complaint to claim interest on the damages alleged as provided in this section.

Cal. Civ. Code § 3291 (West 2025) (emphasis added). Claimants rely on *Bihun v. AT&T Info. Sys., Inc.*, 16 Cal. Rptr. 2d 787 (Cal. Ct. App. 1993), in which the court held that severe psychological and emotional distress from sexual harassment in the workplace constitutes a "personal injury" for purposes of the prejudgment interest statute. *Id.* at 803. The plaintiff in *Bihun* sued her employer for sexual harassment that occurred when a senior official, over her objection, made sexual overtures to her and walked into her office with his shirt unbuttoned and his pants unzipped and pressed his body against hers and, on a different occasion, rubbed his leg with her foot and thrust his groin at her when she rejected his advances, and so on in a chain of similar events described in the court's opinion. *Id.* at 790–91. The plaintiff's doctor diagnosed her as suffering from an adjustment disorder, anxiety, and depression that rendered her disabled as a result of the harassment. *Id.* at 791. In opposing prejudgment interest, her employer

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[5] *Armendariz v. Found. Health Psychcare Servs., Inc.*, 6 P.3d 669, 678–85 (Cal. 2000).

argued that the plaintiff's claim was primarily for economic losses, not personal injury. *Id*. at 802. While the court accepted the legal premise that a claim for personal injury incidental to an action primarily to recover economic losses does not entitle the plaintiff to prejudgment interest, in Bihun's case the court concluded that her sexual harassment claim was one to vindicate her personal right to be free from unwelcome sexual advances, a "decidedly personal" right. *Id.* at 804. In *O'Hara v. Storer Commc'ns, Inc.*, 282 Cal. Rptr. 712 (Cal. Ct. App. 1991), also cited by Claimants, an individual sued a news agency for falsely naming her "an alleged prostitute" in the company of an elected official when in fact she was a witness in a grand jury investigation of police involvement in a prostitution ring. *Id.* at 714. At trial, a doctor testified that the false news broadcast had caused plaintiff "to suffer from post traumatic stress syndrome and had left her disabled. [The doctor said plaintiff] had become guilt-ridden, frightened, hypersensitive, suicidal, manic depressive and utterly incapable of performing a job outside the home." *Id.* at 715. The question presented was whether plaintiff's defamation claim was for "personal injury" for purposes of entitling her to prejudgment interest, and the court concluded that it was. *Id.* at 722–23.

To state the obvious, the reputational harm that Claimants assert here as a personal injury is nothing like the personal injuries in *Bihun* and *O'Hara*. The results in those cases have no bearing on this case, even if one were to assume a parallel between the prejudgment interest statute and the arbitration discovery statute — an assumption that Sage does not concede. If anything, the premise in *Bihun* that a personal injury claim incidental to an action primarily to recover economic losses does not make the action one for "personal injury" supports Sage's position, not Claimant's. Here, Claimants' demand is primarily to recover economic losses allegedly resulting from Sage's retraction of the articles. The Demand for Arbitration refers to loss of business and scientific publishing opportunities, and lost opportunities to provide

compensated consulting services, which they attribute to Sage's retractions allegedly undertaken in breach of contract. (Demand ¶¶ 111, 115–16.) There is no tort claim for wrongful retraction of a publication causing personal injury, and Claimants do not allege that any one of them is experiencing emotion or mental suffering like the plaintiffs in *Bihun* and *O'Hara*. Finally, Claimants cite *Armendariz v. Found. Health Psychcare Servs., Inc.*, but in that case the court explicitly refrained from addressing whether section 1283.1 applies to discrimination claims, stating "the scope of this provision is not before us." *Armendariz*, 6 P.3d at 685.

Accordingly, because the personal injury exception does not apply here and the arbitration agreements are silent as to the right to discovery, under California Civil Procedure Code section 1283.1(b) the parties are presumed to have intended no right to discovery in arbitration.

II. The Recent Amendment of the Discovery Provision of the California Arbitration Act Does Not Apply to This Matter.

Claimants argue that a recent bill amending the California Arbitration Act's discovery provisions, which repeals the restriction of discovery to personal injury cases, means that they are entitled to discovery. This argument is without merit because the amendments are not retroactive and do not apply to this matter. The repeal of section 1283.1, and corresponding amendment of section 1283.05, both by the passage of S.B. 940, became effective on January 1, 2025. Cal. Civ. Proc. Code § 1283.1 (West 2025), *amended by* S.B. 940, Cal. 2023–2024 Reg. Sess. (Cal. 2024); Cal. Civ. Proc. Code § 1283.05 (West 2025), *amended by* S.B. 940, Cal. 2023–2024 Reg. Sess. (Cal. 2024). Because the amendments contain no language explicitly stating a legislative intent to apply them retroactively, they are not retroactive. *See* Cal. Civ. Proc. Code § 3 (West 2025); *Quarry v. Doe I*, 272 P.3d 977, 981–82 (Cal. 2012) (holding "in

the absence of a clear indication of a contrary legislative intent," there exists a "presumption against retroactive application . . . .").

To avoid the result that the amendment does not apply, Claimants argue an exception to the presumption that the law in effect at the time of contracting is the applicable law. They claim that when a law will not be invoked until the agreement is enforced, such as the California Arbitration Act here, future versions of the law are also incorporated into the agreement, citing *Gallo v. Wood Ranch USA, Inc.*, 297 Cal. Rptr. 3d 373 (Cal. Ct. App. 2022). In *Gallo*, the Court of Appeal held that the parties intended to incorporate the future version of the California Arbitration Act in effect at the time a party might seek to enforce the arbitration agreement in the future. *Id*. at 388–89.

Even if *Gallo* were applied here, the outcome would not change because Claimants sought to enforce the arbitration agreements before January 1, 2025. Arbitration is commenced when a party sends a written demand for arbitration to the opposing party. *Santangelo v. Allstate Ins. Co.*, 76 Cal. Rptr. 2d 735, 742 (Cal. Ct. App. 1998), *as modified* (Aug. 18, 1998) (holding that the demand letter initiated arbitration). And a petition to compel arbitration is in essence a suit to compel specific performance of, *i.e.*, to enforce, an arbitration agreement. *Brock v. Kaiser Found. Hosps.*, 13 Cal. Rptr. 2d 678, 682 (Cal. Ct. App. 1992). Here, on February 6, 2024, Claimants delivered a letter demanding arbitration of the dispute, to which Sage agreed, and on May 28, 2024, they served their more detailed Demand for Arbitration. On October 3, 2024, Claimants filed a petition to compel arbitration in Superior Court, (Ex. F), and the court granted the petition on November 21, 2024, (Ex. G). Claimants' argument that this arbitration began in February 2025, after the Arbitrator accepted the appointment and they paid filing fees, is contrary to California law. Accordingly, even under *Gallo*, the result would be the

same: the version of the California Arbitration Act in effect before January 1, 2025, applies to this arbitration, without the 2025 amendment, and Claimants are not entitled to discovery.

III. Claimants' Discrimination Claim Does Not Justify the Unlimited Discovery They Seek.

Claimants argue that their Unruh Civil Rights Act discrimination claim, as a statutory claim, entitles them to discovery under *Armendariz*. In that case, the California Supreme Court held that employees who filed a complaint against their former employer under California's Fair Employment and Housing Act (FEHA), for wrongful termination for harassment and discrimination, were entitled to discovery because their FEHA claims were unwaivable statutory claims and "adequate discovery is indispensable for the vindication of FEHA claims." *Armendariz*, 6 P.3d at 684. In other words, the court concluded that an employee's unwaivable statutory right to bring a FEHA claim against its employer for harassment and discrimination would be vitiated, that is, effectively waived in violation of the statute, if the employee has no access to the discovery necessary to meaningfully exercise the right. Even in such a case, courts applying *Armendariz* to FEHA claims recognize that the scope of discovery in those cases may be limited to what is necessary and adequate to prove the employees' statutory claim. *Fitz v. NCR Corp.*, 13 Cal. Rptr. 3d 88, 97 (Cal. Ct. App. 2004) (stating, "In permitting less than the full panoply of discovery provided by the CAA, the *Armendariz* court recognized that 'a limitation on discovery is one important component of the "simplicity, informality, and expedition of arbitration."'"); *Mercuro v. Superior Ct.*, 116 Cal. Rptr. 2d 671, 683 (Cal. Ct. App. 2002) (applying *Armendariz* to require some discovery in an FEHA case but cautioning that "adequate discovery does not mean unfettered discovery").

Here, Claimants have not asserted an unwaivable statutory right like an employee's FEHA right that they will be unable to pursue without discovery. In fact, in their Demand,

Claimants demonstrated the opposite: using Sage's website — containing hundreds of thousands of articles, and open to search by the general public — Claimants identified eleven articles that they believe prove their claim that Sage's reasons for retraction are a pretext for religious and political affiliation discrimination. (Demand ¶ 91.) Claimants offer no reason they need Sage to finish their searches for them, which would be impossible to do in any event without search terms because their searches are subjective. Unlike information about other employees that is in the exclusive possession of the employer defending an FEHA claim, the information about Sage's other articles and retractions is publicly available, as shown by the facility with which Claimants used the website to develop their theory of the case in the Demand for Arbitration.

But even if Claimants' Unruh Act claim entitled them to some discovery as a statutory claim, Claimants' discovery wish list is far from the limited scope allowed under *Armendariz* and instead is the kind of open-ended, unguided fishing expedition that would be disfavored in a court proceeding and is even more disfavored in arbitration. Claimants demand broad discovery into "the inner workings of Sage's retraction process and how Sage carried out that process in the Authors' case," in order to answer the following questions:

- How Sage retracted the Authors' articles;
- Why Sage ignored the Authors' attempts to cooperate with Sage;
- Why Sage suddenly expanded the retraction from one article to three;
- How Sage conducted its secret internal review of the articles to justify retraction;
- Whether Sage considered the Authors' rebuttals of Sage's accusations;
- Why Sage refused to consider any alternatives to retraction, such as correction; and

- Whether and why Sage treated the Authors and their articles differently from similarly situated authors and articles.

(Mot. p. 5.) None of these questions bears on their claim, the theory of which is that Sage applied one standard to pro-choice articles and another to pro-life articles. Even if these questions were relevant, Claimants are free to cross-examine Sage's witnesses at the arbitration hearing. They have not explained why they need discovery in order to present their side of the case, as do employees asserting FEHA claims.

While disclaiming "dragnet" discovery, Claimants proceed to demonstrate they are unwilling or unable to constrain themselves with the following litany of requests:

- Documents related to the Authors' articles – the pre-publication peer review, any third-party complaints against the articles, the pre-retraction investigation, the expression of concern, the post-publication review, the retractions, and the removal of Dr. Studnicki from HSRME's editorial board;
- Documents related to Sage's general policies and procedures for taking corrective actions against published articles;
- Information about how Sage has applied those policies to other articles;
- Documents and information relating to how Sage treats other articles dealing with abortion and similar controversial issues;
- Whether Sage applies the same "conflict of interest" standard to similarly situated authors of such articles;
- How Sage responds to complaints against those articles;
- How often Sage responds to complaints against those articles; and
- How often Sage responds with various forms of corrective action.

The list is so complete it is hard to imagine what they left out. As Sage explained in its letter attached to Claimants' motion as Exhibit C, over the past five years, Sage has published over 1,000 journals at any one time. (Mot., Ex. C p. 2.) An initial search using the search term "abortion" among its content generates approximately 60,000 hits, the majority of which are research articles. (*Id.*) Almost 1,000 of the hits are in a journal owned by the Catholic Medical Association, and 27 of the hits are articles authored by the Claimants. (*Id.*) These figures do not account for any of the undefined "similar controversial issues" or "similarly situated authors" that Claimants propose to pursue in discovery, which would make the search results even more burdensome.

Unconstrained discovery, like the discovery Claimants seek, threatens a key advantage *both parties* intended when they entered into the license agreements and would make this arbitration just like a court proceeding except with limited rights of appeal. Arbitration is meant to be an expedited, cost-effective means to resolve a dispute as an alternative to court litigation, not a shadow litigation. *See Rockefeller Tech. Invs. (Asia) VII v. Changzhou SinoType Tech. Co.*, 460 P.3d 764, 776 (Cal. 2020). And, as the court recognized in *Armendariz,* "a limitation on discovery is one important component of the 'simplicity, informality, and expedition of arbitration.'" *Armendariz*, 6 P.3d at 684 n.11.

CONCLUSION

Sage respectfully requests that the parties' expectations at the time of contracting be enforced and that the Claimants' motion for discovery be denied in its entirety. At a minimum, a decision to grant any form of discovery ought to be deferred until Claimants propose specific discovery requests.

Date: April 4, 2025

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PROOF OF SERVICE

On **April 4, 2025**, I served a copy ☑ / original ☐ of the foregoing document(s) described as **RESPONDENT'S OPPOSITION TO CLAIMANT'S MOTION FOR DISCOVERY**, with Exhibits A through G, on the interested parties in this action addressed as follows:

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☐ **BY MAIL (CCP §1013(a)&(b)):** I am readily familiar with the firm's practice of collection and processing correspondence for mailing with the U.S. Postal Service. Under that practice such envelope(s) is deposited with the U.S. postal service on the same day this declaration was executed, with postage thereon fully prepaid at 2049 Century Park East, Suite 2300, Los Angeles, California, in the ordinary course of business.

☑ **BY E-MAIL:** I transmitted the above-stated document(s) from my computer (electronic notification address *cpgately@venable.com*) associated with my office at Venable LLP, 600 Massachusetts Avenue, N.W., Washington, DC 20001, to the interested parties in this action whose names and e-mail addresses are listed above. I will update this Proof of Service if I receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. Service by e-mail or electronic transmission is based on agreement of the parties to accept service by this means.

Signed on **April 4, 2025**.

Caroline P. Gately