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JAN 07 2009
ATTORNEY GENERALS OFFICE
HELENA, MONTANA

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

<p>ROBERT BAXTER, STEVEN STOELB, STEPHEN SPECKART, M.D., C. PAUL LOEHNEN, VM.D., LAR AUTIO, M.D., GEORGE RISI, JR., M.D., and COMPASSION AND CHOICES,</p> <p>Plaintiffs,</p> <p>v.</p> <p>STATE OF MONTANA and MIKE McGRATH, Attorney General,</p> <p>Defendants.</p>	<p>Cause No. ADV-2007-787</p> <p>DECISION AND ORDER</p>
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The State of Montana has filed a motion to stay the judgment in the above-entitled case pending appeal.

The Court denies the motion based on the following considerations:

1. The Court believes that there is a very good chance that the Montana Supreme Court will affirm the decision of this Court.
2. The constitutional interests protected by this Court's decision are fundamental to the Plaintiffs.

1 3. The Court is unaware of any prejudice to any of the parties by the
2 Court's refusal to issue a stay. On the other hand, a stay pending appeal would deny
3 the fundamental right of Montanans to die with dignity for a lengthy period of time
4 while the case is being appealed.

5 IT IS THEREFORE ORDERED that the State's motion for stay is
6 DENIED.

7 DATED this 6 day of January 2009.

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DOROTHY McCARTER
District Court Judge

11 pcs: Mark S. Connell/Debra Thatcher Gilcrest
12 Kathryn Tucker
Jennifer Anders/Anthony Johnstone

13 T/DMc/baxter v state d&o.wpd
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