

1 pursuant to 28 U.S.C. § 1391(b).

2 II. JURY/NON-JURY

3 1. Pursuant to the FTC, Plaintiff is not entitled to a
4 jury trial in this action against the United States. 28 U.S.C.
5 § 2402. Third-Party Defendants have each requested a jury trial
6 on the third-party complaint. The parties estimate that trial of
7 this matter will take 20 days of trial time.

8 III. FACTS

9 A. Undisputed Facts

10 1. The Plaintiff Lorena S. Alvarado is a minor appearing
11 in this matter through her mother and guardian ad litem. The
12 Plaintiff received medical care at a federally funded facility
13 identified as the Camarena Center in Madera, California from
14 October 14, 2004 through October 22, 2004. All of the care she
15 received at that facility was provided by either nursing staff or
16 a physician's assistant by the name of Evangelina Nunez who was
17 operating under the supervision of the medical director of the
18 facility who did not see the patient. Ms. Nunez diagnosed the
19 Plaintiff's condition as related to either a kidney infection or
20 a urinary tract infection and rendered treatment based on that
21 diagnosis.

22 2. On October 22, 2004 the Plaintiff's mother took her to
23 Children's Hospital of Central California where she was seen in
24 the emergency room by a Dr. Shahbazian who was a resident
25 physician at the hospital at that time assigned to the pediatric
26 surgical group. Certain radiology studies were performed at that
27 hospital at the request of Dr. Shahbazian which demonstrated
28 evidence of free fluid in the patient's abdomen caused by a

1 perforated appendix. This diagnosis was confirmed by John E.
2 Dinsmore, M.D., the staff pediatric surgeon who was responsible
3 for the patient's care and he made a medical judgment to treat
4 her initially with medical therapy which included the
5 administration of three antibiotics including Gentamicin all of
6 which she received as an inpatient at the hospital up to the time
7 of her discharge on November 4, 2004.

8 3. During the patient's stay in the hospital she was seen
9 by Dr. Dinsmore, and two nurse practitioners assigned to the
10 pediatric surgical unit, Lisa Gilliam and Jill Ghanbarian as well
11 as Dr. Dinsmore and during his absence on vacation, the Third-
12 Party Defendant David Hodge, M.D.

13 4. At the time the patient was discharged on November 4,
14 2004, Dr. Dinsmore was on vacation and Dr. Hodge and nurse
15 practitioner Ghanbarian oversaw the discharge of the patient and
16 the discharge orders that went with her including instructions
17 for her to continue to receive antibiotics including Gentamicin
18 at home under the care and oversight of a home health nurse who
19 is provided as a part of the care structure of Children's
20 Hospital. As a part of the discharge orders the antibiotics were
21 to be discontinued after November 9, 2004 and that in fact did
22 occur.

23 5. By prearrangement the patient was seen in the
24 outpatient pediatric surgical group's clinic on November 10, 2004
25 by nurse practitioner Ghanbarian at which time she had no
26 complaints. When seen again at the clinic on November 12, 2004
27 she did complain of frequent vomiting but had no other complaints
28 and no new therapies were instituted and she was instructed to

1 have a repeat CT scan done on November 15, 2004 pursuant to
2 previous scheduling.

3 6. The patient did undergo the repeat CT scan on November
4 15, 2004 which indicated that one of the abscesses was resolving
5 by virtue of the fact that it had shrunk in size but that abscess
6 was still present as was another abscess. Because of continued
7 complaints of vomiting and the continued presence of the
8 abscesses nurse practitioner Ghanbarian, with the approval by
9 telephone of Dr. Dinsmore who had returned to the hospital but
10 was in surgery that day, Gentamicin therapy was reordered for a
11 period of 14 days.

12 7. Thereafter, the patient was followed by Children's Home
13 Care Unit of Children's Hospital and Surgery Clinic and her
14 Gentamicin therapy was started either on November 15 or 16 and
15 continued through either November 20 or 21 when the mother
16 voluntarily discontinued the medication because the child was not
17 feeling well.

18 8. On November 23, 2004 the Plaintiff presented at the
19 pediatric surgery outpatient clinic office with continued
20 complaints of vomiting. She was seen by the resident Dr.
21 Shahbazian who consulted with Dr. Hodge the pediatric surgeon on
22 call at the time because Dr. Dinsmore was again on vacation, and
23 pursuant to Dr. Shahbazian's order a follow-up CT scan was done
24 on November 23, 2004 which again revealed the presence of the
25 abscesses although smaller in size.

26 9. On November 24, 2004 after the Plaintiff's mother had
27 returned to the clinic requesting records for a second opinion on
28 the child she was advised to bring the child to the emergency

1 room at Children's Hospital which she did in the afternoon of
2 that date. She was diagnosed as being in acute renal failure and
3 certain blood chemistry tests were done which demonstrated high
4 Gentamicin levels in the patient's blood. At that time her care
5 was assumed by a nephrologist, Dr. Murphy, and the patient
6 underwent kidney dialysis on two occasions to assist the kidney
7 function. The Gentamicin levels were tested daily in her blood
8 and eventually were found to be therapeutic. No further dialysis
9 was necessary and on December 5, 2004 the patient was discharged
10 from the hospital.

11 10. While the patient initially did sustain acute kidney
12 failure, testimony of the various pediatric nephrologists who
13 have cared for her confirms that the kidney problem has resolved
14 and that she has no permanent residuals from the temporary renal
15 failure. The patient's residual disabilities have to do with a
16 loss of hearing aided by bilateral hearing aids and some level of
17 impairment of her balance apparently related to the hearing loss.
18 The patient continues to be seen at the nephrology clinic at
19 Children's Hospital for extreme obesity and problems with high
20 blood pressure neither of which have anything to do with the
21 medical therapy related to her treatment for the ruptured
22 appendix according to the deposition testimony of her treating
23 nephrologists.

24 The parties agree that the undisputed facts will be read by
25 the Court to the jury prior to opening statements.

26 B. Disputed Facts

27 1. Whether Evangelina Nunez PA, as a deemed employee of
28 the United States, was negligent in the care of the Plaintiff on

- 1 a. October 14, 2004;
- 2 b. October 15, 2004;
- 3 c. October 18, 2004;
- 4 d. October 19, 2004;
- 5 e. October 22, 2004.

6 2. Whether the treatment Plaintiff received at the
7 Camarena Clinic is the legal and proximate cause of Plaintiff's
8 Gentamicin toxicity.

9 3. Whether Plaintiff and/or her mother and guardian ad
10 litem contributed to the alleged delay in diagnosis of
11 appendicitis based upon their failure to complete the testing
12 ordered on October 18, 2004, and failure to appear at the follow-
13 up examination on October 19, 2004.

14 4. Whether Dr. Dinsmore's decision to treat Plaintiff's
15 appendicitis medically rather than surgically on October 23,
16 2004, met the standard of care.

17 5. Whether the window of opportunity to surgically treat
18 appendicitis closed prior to October 24, 2004.

19 6. Whether Plaintiff received Gentamicin on November 15,
20 2004, as prescribed.

21 7. Whether Plaintiff stopped the Gentamicin on November
22 21, 22, or 23, 2004.

23 8. If in fact the United States is liable for the alleged
24 failure to diagnose appendicitis, whether the chain of causation
25 was broken by Plaintiff's discharge from CHCC on November 4,
26 2004.

27 9. If in fact the United States is liable for the alleged
28 failure to diagnose appendicitis, whether the chain of causation

1 was broken when the Gentamicin was stopped on November 9, 2004.

2 10. Whether the Gentamicin test on November 4, 2004, was an
3 accurate reading.

4 11. Whether the Gentamicin test on November 5, 2004, was an
5 accurate reading.

6 12. Whether the increase in serum Creatinine from .5 to .7
7 and the increase of BUN from 9 to 11 measured on November 4,
8 2004, was medically significant.

9 13. Whether the serum Creatinine of .7 and the increase of
10 BUN from 11 to 14 measured on November 5, 2004, was medically
11 significant.

12 14. Whether it fell below the standard of care to re-start
13 Gentamicin on November 15, 2004, without determining the
14 Plaintiff's renal function.

15 15. Whether the "pre-printed order" dated November 4, 2004,
16 was a protocol document and, if so, was FNP Ghanbarian's failure
17 to use the pre-printed order on November 15, 2004, or her failure
18 to order Gentamicin and/or renal function tests on November 15,
19 2004, fell below the standard of care.

20 16. Whether it fell below the standard of care for FNP
21 Ghanbarian to order Gentamicin on November 15, 2004, without
22 monitoring Gentamicin levels after the third or fourth dose.

23 17. Whether it fell below the standard of care, for
24 Dr. Dinsmore to leave FNP Ghanbarian in charge of the
25 administration of Gentamicin on November 15, 2004.

26 18. Whether it fell below the standard of care, for
27 Dr. Dinsmore to leave on a planned, two-week vacation, on
28 November 18, 2004, without formally appointing a supervising

1 physician for FNP Ghanbarian and without ensuring that
2 appropriate Gentamicin tests and renal function tests were
3 ordered before he left on vacation.

4 19. Whether, during the planned absence of Dr. Dinsmore, it
5 was Dr. Hodge's responsibility to supervise FNP Ghanbarian based
6 upon his role in Dr. Dinsmore's practice group and his prior role
7 in the care of Plaintiff.

8 20. Whether it met the standard of care for FNP Ghanbarian
9 to prescribe Gentamicin on November 15, 2004, for a period of 14
10 days without ordering laboratory work, including testing for
11 Gentamicin.

12 21. Whether it met the standard of care for FNP Ghanbarian
13 to prescribe Gentamicin on November 15, 2004, for a period of 14
14 days without ordering laboratory work, including testing
15 Plaintiff's renal function.

16 22. Whether it met the standard of care for FNP Ghanbarian
17 to respond to Knudson's email on November 17, 2004, without
18 testing Gentamicin levels and renal function.

19 23. Whether it met the standard of care for FNP Ghanbarian
20 to ignore the contacts made by Dolan on November 22 and 23, 2004.

21 24. Whether Dr. Dinsmore was negligent in his supervision
22 of FNP Ghanbarian.

23 25. Whether Dr. Dinsmore's decision to dose and monitor
24 Gentamicin between November 15 through November 29, 2004, was a
25 duty he could delegate to FNP Ghanbarian.

26 26. Whether the standard of care is the same for an FNP as
27 it is for an MD.

28 27. Whether the injuries suffered by Plaintiff from

1 Gentamicin toxicity include any loss of future earning capacity.

2 28. Whether Plaintiff's future medical expenses reasonably
3 include Tai Chi.

4 All remaining material facts are disputed.

5
6 With regard to the Third-Party Defendant Children's Hospital
7 and Jill Ghanbarian FNP, the following disputed factual issues
8 are present in the case.

9 1. Was the Third-Party Defendant Children's Hospital and
10 Jill Ghanbarian FNP negligent in their care of the patient?

11 2. Is the United States Government entitled to full or
12 partial indemnification from Children's Hospital and Jill
13 Ghanbarian FNP should the court find that employees of the United
14 States Government were negligent in their care of the plaintiff
15 and that that negligence was a legal cause of her claimed
16 injuries and damages?

17 All remaining material facts are disputed.

18
19 With regard to the Third-Party Defendant John E. Dinsmore,
20 M.D., the following disputed factual issues are present in the
21 case.

22 1. Was the Third-Party Defendant John E. Dinsmore, M.D.
23 negligent in his care of the patient?

24 2. Is the United States Government entitled to full or
25 partial indemnification from Dr. Dinsmore should the court find
26 that employees of the United States Government were negligent in
27 their care of the plaintiff and that that negligence was a legal
28 cause of her claimed injuries and damages?

1 All remaining material facts are disputed.

2
3 With regard to the Third-Party Defendant David Hodge, M.D.,
4 the following disputed factual issues are present in the case.

5 1. Was the Third-Party Defendant David Hodge, M.D.
6 negligent in his care of the patient?

7 2. Is the United States Government entitled to full or
8 partial indemnification from Dr. Hodge should the court find that
9 employees of the United States Government were negligent in their
10 care of the plaintiff and that that negligence was a legal cause
11 of her claimed injuries and damages?

12 All remaining material facts are disputed.

13
14 IV. DISPUTED EVIDENTIARY ISSUES

15 1. Plaintiff: Plaintiff will seek to preclude testimony of
16 Jerald Udinsky, Ph.D. if the sources of the data upon which his
17 opinion are based are not produced.

18 2. Plaintiff will seek to preclude any testimony or
19 evidence concerning the alleged failure of Ms. Alvarado's mother
20 in missing a dose of Bactrim, the alleged failure to take
21 Plaintiff into the Health Center on October 19, 2004, the alleged
22 failure to get a KUB, or any reference to family litigation
23 between Plaintiff's's mother and her step family.

24 3. Defendant, United States: The United States will seek
25 to preclude the testimony of any witness not disclosed pursuant
26 to Rule 26, and to the extent any such testimony is allowed, will
27 request the opportunity to depose any such witness.

28 4. Third-Party Defendant, Children's Hospital/Jill

1 Ghanbarian: We would reserve the right at the time of trial to
2 raise any evidentiary issues that may become evident at that
3 time.

4 5. Third-Party Defendant, Dr. Dinsmore: On behalf of
5 Third-Party Defendant Dr. Dinsmore there are no disputed
6 evidentiary issues assuming this title references admissibility
7 of evidence that the Third-Party Defendant John E. Dinsmore, M.D.
8 is presently aware of. However, we would reserve the right at
9 the time of trial to raise any evidentiary issues that may become
10 evident at that time.

11 6. Third-Party Defendant, Dr. Hodge: We would reserve the
12 right at the time of trial to raise any evidentiary issues that
13 may become evident at that time.

14 V. SPECIAL FACTUAL INFORMATION

15 A. Plaintiffs.

16 1. The facts and issues described above provide
17 information relevant to tort actions required by LR 16-
18 281(a)(6)(iv). Additionally, the parties provide additional
19 responses.

20 2. Plaintiff: Plaintiff provides the following information
21 and intends to pursue the following affirmative defenses and
22 claims:

23 Dates: On October 14, 2005, October 15, 2004, October 18,
24 2004, October 22, 2004, Ms. Alvarado was seen at Camarena
25 Health Center. On these dates, Camarena Health Center
failed to diagnose the appendicitis when the infection was
still operable.

26 Place: Camarena Health Center, a federally funded health
27 clinic.

28 General Nature of Incident: Camarena Clinic failed to
diagnose appendicitis resulting prolonged infection. This

1 failure prevented surgical intervention which resulted in
2 antibiotic treatment. The antibiotic treatment caused
hearing loss and vestibular dysfunction.

3 Particular Acts, Omissions or Conditions Constituting the
4 Basis for Liability: Camarena Health Center failed to
5 consider appendicitis and persisted in the treatment of
6 cystitis despite clear indications that Lorena was not
7 suffering from this on October 14th, 15th, and 18. This was
below the standard of care. Ms. Alvarado would have been a
8 surgical candidate if the diagnosis was made as late as
9 October 18, 2004.

10 Because Ms. Alvarado was not properly diagnosed on October
11 14th, 15th, or 18th, she was not a surgical candidate and
12 would not have been placed on the Interval Pathway that
13 resulted in some of her injuries. Accordingly, Plaintiff's
14 position is that Camarena Health Center is 100% liable for
15 the injuries sustained by Stephanie Alvarado as a result of
16 its failure to properly diagnose the appendicitis.

17 Particular Acts, Omissions or Conditions Constituting the
18 Basis of any Defense: It is expected that Defendant
19 Camarena Health Center may attempt to place fault with
20 Plaintiff's mother for failing to have a KUB performed.
21 This test was not performed due to confusion at the lab to
22 which Mrs. Alvarado brought Stephanie for the KUB and blood
23 work. Even if performed this is not a test that diagnoses
24 appendicitis. If the KUB was done it would likely have
25 produced no useful information.

26 Camarena Health Center may also attempt to find fault with
27 Plaintiff's mother for missing a dose of Bactrim. However,
28 Bactrim does not treat appendicitis and was worthless in
treating her.

Camarena Health Center may also argue that somehow a family
conflict prevented the clinic from diagnosing appendicitis.
However, a family conflict should not have affected the
ability of the practitioner to diagnose appendicitis.

Defendant Camarena Health Center has not identified nor
produced any experts that will testify that it met the
standard of care in its failure to diagnose the appendicitis
in Lorena.

Age: As of October 14, 2004, Stephanie Alvarado was 9 years
old. Ms. Alvarado is currently 14 years old.

Injuries sustained: Ms. Alvarado currently suffers from
bilateral hearing loss and vestibular dysfunction.

Prior Injury or Condition Worsened: None.

1 Period of Hospitalization: Ms. Alvarado was hospitalized
2 from October 22, 2004 through November 15, 2004 and then
3 from November 24, 2004 through December 5, 2004.

4 Medical Expenses: All expenses to date were covered by Blue
5 Cross.

6 Estimated Future Medical Expenses: Future Medical Expenses
7 are estimated to be \$301,248.26.

8 Period of Total and/or Partial Disability: Ms. Alvarado has
9 been determined by the Social Security Administration to be
10 disabled as a result of her hearing loss and vestibular
11 dysfunction as of 2007 to the present.

12 Annual Monthly or Weekly Earnings Prior to the Incident:
13 None.

14 Earnings Lost to Date: None.

15 Estimated Diminution of Future Earnings Power: Ms. Alvarado
16 will lose an estimated \$328,608 in future earning capacity
17 as a result of her injuries.

18 General Damages: Although Plaintiff's general damages far
19 exceed this amount, Plaintiff seeks the maximum recoverable
20 under Civ. Code 3333.2 (MICRA), \$250,000

21 Defendant, United States: Defendant and Third-Party

22 Plaintiff intends to pursue the following affirmative defenses
23 and claims:

24 a. Plaintiff's Negligence/Comparative Fault. On
25 October 18, 2004, Plaintiff failed to follow the order for a KUB
26 X-ray and failed to return for an examination the following day.
27 The injuries and/or damages plaintiff alleges to have incurred
28 are the result of plaintiff's own negligence and failure to
exercise due care, and any recovery to which plaintiff would
otherwise be entitled, an entitlement the United States denies,
must be reduced on a pro rata basis to the extent of her
comparative fault.

b. Superseding and Intervening Cause. Plaintiff was

1 discharged from Children's Hospital on November 4, 2004, and all
2 antibiotics including Gentamicin were stopped on November 9,
3 2004. Children's Hospital re-started Gentamicin on November 15,
4 2004, for a period of 14 days without monitoring renal function
5 and Gentamicin levels. In the event the United States is found
6 to have been negligent, which negligence the United States
7 denies, the superseding and intervening negligence of third
8 parties for whom the United States cannot be held liable broke
9 any causal connection between the United States' negligence and
10 the plaintiff's alleged injuries, thereby cutting off the legal
11 effect of any negligence.

12 c. Apportionment. The United States did not prescribe any
13 Gentamicin for the Plaintiff and any liability for Gentamicin
14 related damages must be apportioned according to fault. Any
15 liability on the part of the United States for non-economic
16 damages is governed by California Civil Code §§ 1431-1431.5, and
17 must be apportioned according to the responsibility of all
18 tortfeasors, named or unnamed.

19
20 Third-Party Defendant, Dr. Dinsmore: With regard to the
21 Third-Party Defendant John E. Dinsmore, M.D. while we certainly
22 understand and agree with the fact that the plaintiff is not
23 entitled to a jury trial against the United States Government, we
24 do believe that the Third-Party Defendant John E. Dinsmore, M.D.
25 is entitled to have the Government's allegations of
26 indemnification decided by a jury. If the court agrees with our
27 position in that regard then, with the court's assistance, we
28 will need to develop a mechanism for proceeding with simultaneous

1 court and jury trials in this case. A second legal issue that
2 will need to be decided is the question of whether or not conduct
3 of the third-party defendants meets the legal test of a
4 superseding and intervening cause thereby insulating the
5 Government from any damage award in the case. Obviously, if the
6 court finds that that is so, then the plaintiff will not be
7 entitled to a verdict against the Government and the Government
8 will not be the subject of any adverse award from which it would
9 be entitled to seek contribution or indemnification from the
10 third-party defendants. This presents an interesting threshold
11 legal issue.

12 Third-Party Defendants, Children's Hospital, Jill Ghanbarian
13 FNP and Dr. Hodge: Third-Party Defendants Children's Hospital,
14 Jill Ghanbarian FNP, and David Hodge, M.D. agree with the Third-
15 Party Defendant John E. Dinsmore, M.D. in this regard.

16 VI. RELIEF SOUGHT

17 1. Plaintiff seeks monetary damages for the following:

18 General Damages: \$250,000
19 Future Medical Expenses: \$301,248.26
20 Future Lost Earnings: \$328,608

21 The United States denies any liability and seeks dismissal of the
22 complaint. In the event plaintiff is successful in holding the
23 United States liable for damages, the United States seeks a
24 determination of comparative fault, indemnification and
25 contribution against third-party defendants.

26 2. Plaintiff cannot recover any amount for prejudgment
27 interest against the United States under FTCA. 28 U.S.C. § 2674.
28

1 Plaintiff cannot recover punitive damages against the United
2 States under the FTCA. 28 U.S.C. § 2674.

3 VII. DISPUTED ISSUES OF LAW

4 A. Plaintiffs

5 1. The courts require only that physicians exercise in
6 diagnosis and treatment that reasonable degree of skill,
7 knowledge, and care ordinarily possessed and exercised by members
8 of the medical profession under similar circumstances. Mann v.
9 Cracchiolo (1985) 38 Cal.3d 18, 36.

10 2. It is settled as a matter of law that where one who has
11 suffered personal injuries by reason of the tortious act of
12 another exercises due care in securing the services of a doctor
13 and his injuries are aggravated by the negligence of such doctor,
14 the law regards the act of the original wrongdoer as a proximate
15 cause of the damages flowing from the subsequent negligent
16 medical treatment and holds him liable therefor. Maxwell v.
17 Powers (1994) 22 Cal.App.4th 1596, 1606.

18 3. Superseding cause is an inappropriate instruction in
19 medical malpractice actions. CACI 432, Directions For Use.
20 "The concurrence of the non-tortious cause does not absolve
21 defendant from liability for the tortious one." Hughey v.
22 Candoli (1958) 159 Cal.App.2d 231, 240.

23 4. In medical malpractice cases, with the problem of
24 multiple causes, "The law is well settled that in a personal
25 injury action causation must be proven within a reasonable
26 medical probability based upon competent expert testimony. Mere
27 possibility alone is insufficient to establish a prima facie
28 case." Espinosa v. Little Co. of Mary Hosp. (1995) 31

1 Cal.App.4th 1304, 1316.

2 B. Defendant.

3 1. In California, a medical service provider must exercise
4 that reasonable degree of skill, knowledge and care ordinarily
5 possessed and exercised by members of their profession under
6 similar circumstances. Alef v. Alta Bates Hospital, 5
7 Cal.App.4th 208, 215 (Cal.App. 1 Dist., 1992). The conduct of a
8 medical provider is compared to that of other providers of the
9 same position and specialty, operating in the same locality and
10 under similar circumstances. Fraijo v. Hartland Hospital, 99
11 Cal.App.3d 331, 341 (1979); Fein v. Permanente Medical Group, 38
12 Cal.3d 137, 150-51 (1985).

13 2. California follows a pure comparative negligence rule,
14 as a plaintiff's negligence reduces his recovery but will never
15 bar recovery. Li v. Yellow Cab Co., 119 Cal.Rptr.858 (Cal.3d
16 1975). The plaintiff's negligence is compared to the combined
17 negligence of all tortfeasors, whether or not joined as parties,
18 and reduced proportionately. American Motorcycle Ass'n v.
19 Superior Court of Los Angeles County, 20 Cal.3d 578, 578 P.2d
20 899, 146 Cal.Rptr.182 (1978). This is referred to as partial
21 equitable indemnity. Id. at 578. The common law doctrine of
22 equitable indemnity is modified to permit partial indemnity on a
23 comparative basis; several liability only is retained, but a
24 party who satisfies more than his share of a claim may require
25 proportionate contribution from the other parties joined. Cal.
26 Civ. Code 1431.2 (West 2007); Cal. Civ. Code § 1432 (West
27 2007).

28 3. Under California law, a plaintiff in a personal injury

1 action is entitled to recover damages for pain and suffering
2 proximately caused by the defendant. Garfoot v. Avila, 261
3 Cal.Rptr. 924, 926 (Cal.App.3d 1989); See Hilliard v. A.H. Robins
4 Co., 196 Cal.Rptr. 117, 143 (Cal.App.3d 1989). However, in an
5 action for injury caused by a healthcare provider, the maximum
6 recovery for non-economic loss compensation for pain, suffering,
7 inconvenience, physical impairment, disfigurement or other non-
8 pecuniary damage is \$250,000. Cal. Civ. Code § 3333.2 (West
9 2007).

10 VIII. ABANDONED ISSUES

11 1. Plaintiff has abandoned damages claimed for a future
12 cochlear implant as well as damages resulting from high blood
13 pressure.

14 2. By stipulation, Third-Party Defendant Jill Ghanbarian
15 FNP will be dismissed from this suit.

16 IX. WITNESSES

17 A. Plaintiffs

18 1. Attached hereto as Exhibit 1. (Hold this Final
19 Pretrial Order for 3 days so the parties may provide any
20 supplemental identification of witnesses and/or exhibits).

21 B. Defendants

22 1. Attached hereto as Exhibit 2.

23 C. Third-Party Defendant, Children's Hospital/Jill Ghanbarian.

24 1. Attached hereto as Exhibit 3.

25 D. Third-Party Defendant, Dr. Dinsmore.

26 1. Attached hereto as Exhibit 4.

27 E. Third-Party Defendant, Dr. Hodge.

28 1. Attached hereto as Exhibit 5.

1 Counsel are each ordered to submit a list of witnesses to
2 the court along with a copy for use by the Courtroom Deputy
3 Clerk, on the same date and at the same time as the list of
4 exhibits are to be submitted as ordered below.

5 CAUTION

6 Counsel are cautioned that expert witnesses, including
7 percipient experts, must be designated as such. No witness, not
8 identified as a witness in this order, including "rebuttal"
9 witnesses, will be sworn or permitted to testify at trial.

10 X. EXHIBITS, SCHEDULES AND SUMMARIES

11 The following is a list of documents or other exhibits that
12 the parties expect to offer at trial.

13 CAUTION

14 Only exhibits so listed will be permitted to be offered into
15 evidence at trial, except as may be otherwise provided in this
16 order. No exhibit not designated in this pretrial order shall be
17 marked for identification or admitted into evidence at trial.

18 A. Plaintiff's Exhibits

19 1. Attached hereto as Exhibit 6.

20 B. Defendant's Exhibits

21 1. Attached hereto as Exhibit 7.

22 C. Third-Party Defendant, Children's Hospital.

23 1. Attached hereto as Exhibit 9.

24 D. Third-Party Defendant Dr. Dinsmore.

25 1. Attached hereto as Exhibit 8.

26 E. Third-Party Defendant Dr. Hodge.

27 1. Attached hereto as Exhibit 10.

28 ///

1 XI. DISCOVERY DOCUMENTS

2 Only specifically designated discovery requests and
3 responses will be admitted into evidence. Any deposition
4 testimony shall be designated by page and line and such
5 designations filed with the Court on or before November 30, 2009.
6 The opposing party shall counter-designate by line and page from
7 the same deposition and shall file written objections to any
8 question and answer designated by the opposing party and filed
9 with the court on or before December 11, 2009.

10 Written discovery shall be identified by number of the
11 request. The proponent shall lodge the original discovery
12 request and verified response with the courtroom deputy one day
13 prior to trial. The discovery request and response may either be
14 read into evidence, or typed separately, marked as an exhibit, as
15 part of the exhibit marking process, and offered into evidence.

16 A. Plaintiff's List

17 1. Plaintiff does not anticipate using any discovery
18 answers provided in the case.

19 B. Defendant's List

20 1. Attached hereto as Exhibit 11.

21 C. Third-Party Defendant Children's Hospital.

22 1. None.

23 D. Third-Party Defendant Dr. Dinsmore.

24 1. None.

25 E. Third-party Defendant Dr. Hodge.

26 1. None.

27 XII. STIPULATIONS

28 1. The parties stipulate to the authenticity and

1 admissibility of the records produced by the following entities:
2 Camarena Center; Children's Hospital Central California;
3 Children's Home Care; Brent Lanier, MD; Larry M. Miller, MD;
4 Lincoln Elementary School; Merced Hearing Aid; Rogelio Hernandez,
5 MD; and, San Joaquin Valley Rehabilitation.

6 2. Children's Hospital Central California was at all
7 relevant times the employer of Jill Ghanbarian FNP, Steffaney
8 Dolan, Pharm.D. and Sandra Knudson. Children's Home Care is a
9 component of Children's Hospital Central California.

10 At all relevant times FNP Ghanbarian was licensed by the State of
11 California as a Family Nurse Practitioner holding a furnishing
12 license which authorizes her to, among other things, order
13 laboratory tests and prescribe medication under the supervision
14 of a licensed physician.

15 XIII. AMENDMENTS - DISMISSALS

16 1. The United States has agreed to dismiss Third-Party
17 Defendant Jill Ghanbarian, FNP, pursuant to the request of
18 Children's Hospital Central California, upon execution by all
19 parties of a written stipulation. The stipulation is based upon
20 the admission of Children's Hospital that, at all relevant times,
21 FNP Ghanbarian was employed by Children's Hospital and was acting
22 within the scope of her employment. Children's Hospital has
23 agreed to indemnify the United States for any damages assessed
24 based upon the acts and omissions of FNP Ghanbarian made in
25 connection with this case.

26 2. The parties do not anticipate any further amendments to
27 the pleadings, dismissals, additions or substitutions of parties
28 and there are no defaulting parties herein.

1 XIV. FURTHER TRIAL PREPARATION

2 A. Trial Briefs.

3 Counsel are directed to file a trial brief in this matter on
4 or before December 20, 2009. No extended preliminary statement
5 of facts is required. The brief should address disputed issues
6 of substantive law, disputed evidentiary issues of law that will
7 not be resolved in limine, and any other areas of dispute that
8 will require resolution by reference to legal authority.

9 B. Duty of Counsel To Pre-Mark Exhibits.

10 1. Counsel for the parties are ordered to meet and conduct
11 a joint exhibit conference on December 4, 2009, at 9:00 a.m. via
12 telephone conference for purposes of pre-marking and examining
13 each other's exhibits and preparing an exhibit list. Any
14 objections to exhibits shall be filed by December 11, 2009. All
15 joint exhibits will be pre-marked JX1-JX100; all of the
16 plaintiff's exhibits will be pre-marked with numbers 101-200; all
17 of the United States' exhibits will be pre-marked with numbers
18 201-450; Third-Party Defendant Children's Hospital's exhibits
19 will be pre-marked with numbers 451-650; Third-Party Defendant
20 Dr. Dinsmore's exhibits will be pre-marked with numbers 651-700;
21 Third-Party Defendant Dr. Hodge's exhibits will be pre-marked
22 with numbers 701-751.

23 2. Each and every page of each and every exhibit shall be
24 individually Bates-stamped for identification purposes, and
25 paginated with decimals and arabic numerals in seriatim; i.e.,
26 1.1, 1.2, 1.3

27 3. Following such conference, each counsel shall have
28 possession of four (4) complete, legible sets of exhibits, for

1 use as follows:

2 a. Two (2) sets to be delivered to the Courtroom
3 Deputy Clerk, Renee Gaumnitz, no later than 4:00 p.m. on December
4 30, 2009, an original for the court and one for the witness.

5 b. One (1) set to be delivered to counsel for the
6 opposing party and one (1) set to be available for counsel's own
7 use.

8 4. Counsel are to confer to make the following
9 determination as to each of the exhibits proposed to be
10 introduced into evidence and prepare separate indexes, one
11 listing joint exhibits, one listing each party's exhibits:

12 a. Joint exhibits, i.e., any document which both
13 sides desire to introduce into evidence, will be marked as a
14 joint exhibit (JX), and numbered JX1-___. Joint exhibits shall
15 be listed as such in the exhibit list in a column that notes they
16 are admitted into evidence without further foundation;

17 b. As to any exhibit, not a joint exhibit, to which
18 there is no objection to its introduction into evidence, the
19 exhibit will be marked as Plaintiff's Exhibit ___, or Defendant's
20 Exhibit ___ in evidence, and will be listed in the exhibit list
21 as the exhibit of the offering party;

22 c. The exhibit list shall include columns for noting
23 objections to exhibits. The first column will list any
24 objections as to foundation; i.e., Plaintiff's Foundation 2 -
25 "not authenticated."

26 d. The exhibit list shall include a second column for
27 noting substantive objections to exhibits based on any other
28 grounds; i.e., "hearsay, improper opinion, irrelevant."

1 e. The exhibit list shall include a description of
2 each exhibit on the left-hand side of the page, and the three
3 columns outlined above (as shown in the example below).

4 List of Exhibits

5 Exhibit # Description Admitted Objection Other
6 In Evidence To Foundation Objection

7 f. The completed exhibit list shall be delivered to
8 Renee Gaumnitz CRD on or before December 30, 2009, at 4:00 p.m.

9 g. If originals of exhibits cannot be located, copies
10 may be used, however, the copies must be legible and accurate.

11 If any document is offered into evidence that is partially not
12 legible, the Court sua sponte will exclude it from evidence.

13 C. Discovery Documents.

14 1. Counsel shall file a list of discovery documents with
15 Renee Gaumnitz CRD at the same time and date as the witness and
16 exhibit lists are lodged with her, unless the discovery documents
17 are marked as exhibits, which counsel intend to use at trial by
18 designating by number, the specific interrogatory, request for
19 admission, or other discovery document. Counsel shall comply
20 with the directions of subsection XII (above) for introduction of
21 the discovery document into evidence.

22 D. Motions In Limine.

23 1. The motions in limine shall be filed by November 23,
24 2009, and any responses shall be filed by December 11, 2009. The
25 Court will conduct a hearing on motions in limine in this matter
26 on December 18, 2009, at 12:00 p.m. in Courtroom 3, Seventh
27 Floor, before the Honorable Oliver W. Wanger United States
28 District Judge, at which time all evidentiary objections, to the

1 extent possible, will be ruled upon, and all other matters
2 pertaining to the conduct of the trial will be settled.

3 E. Trial Documents.

4 1. Exhibits To Be Used With Witness. During the trial of
5 the case, it will be the obligation of counsel to provide
6 opposing counsel not less than forty-eight hours before the
7 witness is called to the witness stand, the name of the witness
8 who will be called to testify and to identify to the Court and
9 opposing counsel any exhibit which is to be introduced into
10 evidence through such witness that has not previously been
11 admitted by stipulation or court order or otherwise ruled upon,
12 and to identify all exhibits and other material that will be
13 referred to in questioning of each witness. If evidentiary
14 problems are anticipated, the parties must notify the court at
15 least twenty-four hours before the evidence will be presented.

16 F. Counsel's Duty To Aid Court In Jury Voir Dire.

17 1. Counsel shall submit proposed voir dire questions, if
18 any, to Renee Gaumnitz CRD at rgaumnitz@caed.uscourts.gov on or
19 before December 30, 2009, at 4:00 p.m. Counsel shall also
20 prepare a joint "statement of the case" which shall be a neutral
21 statement, describing the claims and defenses for prospective
22 jurors, to be used in voir dire.

23 2. In order to aid the court in the proper voir dire
24 examination of the prospective jurors, counsel are directed to
25 lodge with the Court the day before trial a list of the
26 prospective witnesses they expect to call if different from the
27 list of witnesses contained in the Pre-Trial Order of the Court.
28 Such list shall not only contain the names of the witnesses, but

1 their business or home address to the extent known. This does
2 not excuse any failure to list all witnesses in the Pre-Trial
3 Order.

4 3. Counsel shall jointly submit, to Renee Gaumnitz CRD the
5 Friday before trial, a neutral statement of the claims and
6 defenses of the parties for use by the court in voir dire.

7 G. Counsel's Duty To Prepare And Submit Jury Instructions.

8 1. All proposed jury instructions shall be filed and
9 served on or before January 4, 2010, by 4:00 p.m. Jury
10 instructions shall be submitted in the following format.

11 2. Proposed jury instructions, including verdict forms,
12 shall be submitted via e-mail to dpell@caed.uscourts.gov
13 formatted in WordPerfect for Windows X3. Counsel shall be
14 informed on all legal issues involved in the case.

15 3. The parties are required to jointly submit one set of
16 agreed upon jury instructions. To accomplish this, the parties
17 shall serve their proposed instructions upon the other fourteen
18 days prior to trial. The parties shall then meet, confer, and
19 submit to the Court the Friday before the trial is to commence,
20 one complete set of agreed-upon jury instructions.

21 4. If the parties cannot agree upon any instruction, they
22 shall submit a supplemental set of instructions designated as not
23 agreed upon by January 4, 2010, at 4:00 p.m.

24 5. Each party shall file with the jury instructions any
25 objection to non-agreed upon instructions proposed by any other
26 party. All objections shall be in writing and shall set forth
27 the proposed instruction objected to in its entirety. The
28 objection should specifically set forth the objectionable matter

1 in the proposed instruction and shall include a citation to legal
2 authority explaining the grounds for the objection and why the
3 instruction is improper. A concise statement of argument
4 concerning the instruction may be included. Where applicable,
5 the objecting party shall submit an alternative proposed
6 instruction covering the subject or issue of law.

7 6. Format. The parties shall submit one copy of each
8 instruction. The copy shall indicate the party submitting the
9 instruction, the number of the proposed instruction in sequence,
10 a brief title for the instruction describing the subject matter,
11 the test of the instruction, the legal authority supporting the
12 instruction, and a legend in the lower lefthand corner of the
13 instruction: "Given," "Given As Modified," "Withdrawn" and
14 "Refused" showing the Court's action with regard to each
15 instruction and an initial line for the judge's initial in the
16 lower right-hand corner of the instruction. Ninth Circuit Model
17 Jury Instructions should be used where the subject of the
18 instruction is covered by a model instruction.

19 7. All instruction should be short, concise,
20 understandable, and neutral statements of the law. Argumentative
21 or formula instructions will not be given, and should not be
22 submitted.

23 8. Parties shall, by italics or underlining, designate any
24 modifications of instructions from statutory authority, or any
25 pattern instruction such as the Model Circuit Jury Instructions
26 or any other source of pattern instructions, and must
27 specifically state the modification made to the original form
28 instruction and the legal authority supporting the modification.

1 9. Proposed verdict forms shall be jointly submitted or if
2 the verdict forms are unagreed upon, each party shall submit a
3 proposed verdict form. Verdict forms shall be submitted to the
4 Courtroom Deputy Clerk on the first day of the trial.

5 10. Failure to comply with these rules concerning the
6 preparation and submission of instructions and verdict forms may
7 subject the non-complying party and/or its attorneys to
8 sanctions.

9 XV. USE OF LAPTOP COMPUTERS/POWERPOINT FOR
10 PRESENTATION OF EVIDENCE

11 1. If counsel intends to use a laptop computer for
12 presentation of evidence, they shall contact Renee Gaumnitz CRD
13 at least one week prior to trial. The Courtroom Deputy Clerk
14 will arrange a time for any attorney to bring any laptop to be
15 presented to someone from the Court's Information Technology
16 Department, who will provide brief training on how the parties'
17 electronic equipment interacts with the court's audio/visual
18 equipment. If counsel intend to use PowerPoint, the resolution
19 should be set no higher than 1024 x 768 when preparing the
20 presentation.

21 2. ALL ISSUES CONCERNING AUDIO-VISUAL MATERIALS AND
22 COMPUTER INTERFACE WITH THE COURT'S INFORMATION TECHNOLOGY SHALL
23 BE REFERRED TO THE COURTROOM DEPUTY CLERK.

24 XVI. FURTHER DISCOVERY OR MOTIONS

25 1. Discovery has closed pursuant to status conference
26 order. Absent a stipulation, Plaintiff will seek a motion to
27 preclude any evidence concerning the alleged failure of Ms.
28 Alvarado's mother in missing a dose of Bactrim, the alleged

1 failure to take Ms. Alvarado into the Health Center on October
2 19, 2004, the alleged failure to get a KUB, or any reference to
3 family litigation between Ms. Alvarado's mother and her step
4 family.

5 2. Further, if Defendant U.S.A. fails to provide the
6 source information for its expert Dr. Udinsky, Plaintiff will
7 seek that his testimony upon which such data is based be
8 precluded.

9 3. The United States will seek to preclude the testimony
10 of any witness not disclosed pursuant to Rule 26, and to the
11 extent any such testimony is allowed, the United States will
12 request additional discovery.

13 XVII. SETTLEMENT

14 1. Settlement efforts have been exhausted.

15 XVIII. SEPARATE TRIAL OF ISSUES

16 1. This issue will be addressed by in limine motions.

17 2. Plaintiff suggests that the third party case be tried
18 first to determine the liability of the respective parties and
19 then the damages case. This will allow a streamlined damages
20 case if it is determined that some of the cross-defendants are
21 not liable. The United States agrees.

22 3. The Third-Party Defendant John E. Dinsmore, M.D. does
23 not believe there should be a separate trial of liability and
24 damages in this case and rather the entire case should be tried
25 together. Children's Hospital and Dr. Hodge agree.

26 XIX. IMPARTIAL EXPERTS, LIMITATIONS OF EXPERTS

27 1. The parties see no basis for appointment by the Court
28 of impartial expert witnesses. The United States believes that

1 the limitation of the number of expert witnesses is advisable.
2 It is duplicative for each of the Third-Party Defendants to
3 present an expert on the issues.

4 XX. ATTORNEYS' FEES

5 1. Plaintiff will not seek attorney's fees. Plaintiff
6 cannot recover any separate amount for attorney's fees in this
7 action. 28 U.S.C. 2412(d)(1)(A). Plaintiff's attorney fees are
8 capped by the FTCA and must be paid out of any judgment awarded.
9 28 U.S.C. § 2678.

10 XXI. ESTIMATE OF TRIAL TIME

11 1. Twenty days.

12 XXII. TRIAL DATE

13 1. January 5, 2010, at 9:00 a.m., in Courtroom 3, on the
14 Seventh Floor.

15 XXIII. NUMBER OF JURORS AND PEREMPTORY CHALLENGES

16 1. There will be an eight person jury. Peremptory
17 challenges are allocated as follows: Third-Party Plaintiff shall
18 have 4 challenges; and Third-Party Defendants shall have 4
19 challenges to be jointly exercised.

20 XXIV. AMENDMENT OF FINAL PRETRIAL ORDER

21 1. The Final Pretrial Order shall be reviewed by the
22 parties and any corrections, additions, and deletions shall be
23 drawn to the attention of the Court immediately. Otherwise, the
24 Final Pretrial Order may only be amended or modified to prevent
25 manifest injustice pursuant to the provisions of Fed. R. Civ. P.
26 16(e).

27 XXV. MISCELLANEOUS

28 1. Most of the witnesses in this case are medical

1 professionals. Many of them are located outside of the Eastern
2 District of California. In order to minimize the disruption to
3 the schedule of the witnesses and to promote the efficient use of
4 the court's time, the parties request witnesses be scheduled in
5 advance and that time limits be imposed.

6 2. The Third-Party Defendant John E. Dinsmore, M.D. agrees
7 that efforts should be made by the parties to minimize the
8 disruption of scheduling of trial witnesses and while we would
9 oppose time limits being imposed on the testimony of any
10 particular witnesses we do think it would be appropriate for all
11 parties to at least in a general sense identify when they expect
12 to call certain witnesses and then specifically at the close of
13 court business each day the party who is putting the case on the
14 following day should notify all other parties as to who they
15 intend to call as witnesses the next day for efficiency of both
16 direct and cross-examination.

17 3. The Third-Party Defendant John E. Dinsmore, M.D.,
18 agrees there is no basis for the appointment by the court of an
19 expert witness. The Third-Party Defendant John E. Dinsmore, M.D.
20 also believes that there should be no limitation on the expert
21 witnesses called save and except where there may be absolute
22 duplication of testimony on specific issues. Each of the third-
23 party defendants find themselves in a different liability
24 position from the other third-party defendants and should be
25 entitled to submit their own expert testimony on those subjects.

26 4. With regard to damage experts in the interest of
27 judicial economy the third-party defendants have jointly agreed
28 on who they will call as an economist, a life care planner and a

1 vocational rehabilitation specialist.

2 5. Third-Party Defendants Children's Hospital, Jill
3 Ghanbarian FNP, and David Hodge, M.D. agree with the Third-Party
4 Defendant John E. Dinsmore, M.D. in this regard.

5 6. The parties shall observe a forty-eight hour notice
6 period before a witness is called, to identify the witness and
7 the exhibit that will be used with that witness.

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9 DATED: November 24, 2009.

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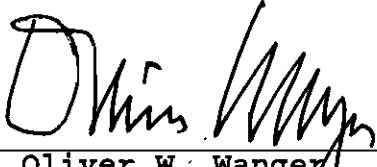
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Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

EXHIBIT 1

Plaintiff Lorena S. Alvarado's Witnesses

1. Plaintiff Lorena S. Alvarado
2. Lorena Alvarado, mother of plaintiff Lorena S. Alvarado.
3. Jose Alvarado, father of plaintiff Lorena S. Alvarado
4. Evangelina Nunez, PAC
5. Elaine Acasio, MA
6. Kenneth Bernstein, M.D.
7. Carolyn Rosel
8. Socorro Vizcarra
9. Nancy Hernandez
10. Araceli Garcia
11. John E. Dinsmore, M.D.
12. Larry M. Miller, M.D.
13. Jerome L. Murphy, M.D.
14. Audra Johnson, RD, CSP
15. James Prochazka, M.D.
16. Valeriano C. Simbre, II, M.D.
17. Rogelio Hernandez, M.D.
18. L. Richard Feldenberg, M.D.
19. Jill Carson, M.D.
20. Randy Shahbazian, M.D.
21. Jorge Montes, M.D.
22. Karen Dahl, M.D.
23. Sandra Sanchez, MA
24. William Hastrup, Jr., M.D.
25. Sandra Carlsen, M.D.

26. J. Charles Smith, M.D.
27. Darin S. Smith., M.D.
28. Paveen K. Jindal, M.D.
29. Jill Ghanbarian, FNP
30. Kenneth Bernstein, M.D.
31. David S. Hodge, M.D.,
32. John E. Dinsmore, M.D.
33. Douglas Tamura, M.D.
34. William Palk, M.D.
35. Parveen K. Jindal, M.D.
36. Syed S. Kamal, M.D.
37. Mary Towne – Merritt, RD, CSP
38. Brent Lanier, M.D.
39. Nancy Wubenhorst, MPT
40. Augie Valencia
41. Nancy Parker, RN, PHN
42. Patrick Johnson
43. Patrick F. Mason, Ph.D.
44. Karen L. Aznavoorian, MA, CC, CLCP
45. Edward L. Bennett, MA, CRC, CDMS
46. Lawrence Drew, M.D.
47. Barry N. Gardiner, M.D.
48. Any other witness identified by any other party.

EXHIBIT 2

**DEFENDANT UNITED STATES OF AMERICA'S
EXHIBIT 2 TO THE JOINT PRE-TRIAL STATEMENT**

DEFENDANT USA'S WITNESSES

1. ACASIO, Elaine
Darin M. Camarena Medical Health Centers, Inc.
c/o Jeffrey J. Lodge, AUSA
2. ALBEE, Tracy RN (expert)
MediLegal
A Professional Nursing Corporation
1852 W. Eleventh Street
Suite 333
Tracy, California 95376
3. ALVARADO, Lorena
Plaintiff's mother and her Guardian Ad Litem
c/o Steven J. Brewer, Esq.
4. ALVARADO, Lorena S.
Plaintiff
c/o Steven J. Brewer, Esq.
5. BELKNAP, Steven MD (expert)
Northwestern University Feinberg School of Medicine
750 North Lake Shore Drive, 10th Floor
Chicago, Illinois 60611
6. BERNSTEIN, Kenneth E. MD
Darin M. Camarena Medical Health Centers, Inc.
c/o Jeffrey J. Lodge, AUSA
7. BLUMENKRANTZ, Michael MD (expert)
Century City Medical Plaza
2080 Century Park East, Suite 707
Los Angeles, California 90067
8. BRAUTBAR, Nachman MD (expert)
6200 Wilshire Blvd., Suite 1000
Los Angeles, California 90048
9. DINSMORE, John E. MD
Third-Party Defendant
c/o Lawrence E. Wayte, Esq.

10. DOLAN, Steffeny Pharm.D. (percipient & expert)
Children's Hospital Central California
c/o Jerry D. Jones, Esq.
11. FALLAS, Moses MD (expert)
8670 Wilshire Blvd., Suite 205
Beverly Hills, California 90211
12. FIELDS, Donald W. DO
7407 North Cedar Avenue, Suite 103
Fresno, California 93720
13. GARCIA, Arasella
Darin M. Camarena Medical Health Centers, Inc.
c/o Jeffrey J. Lodge, AUSA
14. GHANBARIAN, Jill FNP
Third-Party Defendant
Children's Hospital Central California
c/o Jerry D. Jones, Esq.
15. GILLIAM, Lisa PNP
Children's Hospital Central California
c/o Jerry D. Jones, Esq.
16. HARTMAN, Gary MD (expert)
Dept. Of Pediatric Surgery
Stanford Univ. School of Medicine
780 Welch Road, Suite 206
Stanford, California 94305
17. HERNANDEZ, Rogelio MD
Madera Children's Medical Clinic
1130 Country Club Drive, Suite F
Madera, California 93638
18. HODGE, David MD
Third-Party Defendant
c/o Robert W. Hodges, Esq.
19. KAMAL, Syed Shahid MD
Children's Hospital Central California
c/o Jerry D. Jones, Esq.
20. KNUDSON, Sandra RNC (percipient & expert)
Children's Hospital Central California
c/o Jerry D. Jones, Esq.

21. LANIER, Brent Joseph MD
1351 E. Spruce Avenue
Fresno, California 93720
22. MILLER, Larry Michael MD
4770 W. Herndon Avenue
Fresno, California 93722
23. MURPHY, Jerome, MD
Children's Hospital Central California
c/o Jerry D. Jones, Esq.
24. NUNEZ, Evangelina PA
Darin M. Camarena Medical Health Centers, Inc.
c/o Jeffrey J. Lodge, AUSA
25. PROBER, Charles G. MD (expert)
Dept. Of Pediatrics
Division of Infectious Diseases
Stanford Univ. Medical Ctr., G312
300 Pasteur Drive
Stanford, California 94305-5208
26. RATUITA, Emilie Joy Pharm.D. (By deposition only)
502 Weiner Way
San Ramon, California 94582
27. ROSEL, Carolyn
Darin M. Camarena Medical Health Centers, Inc.
c/o Jeffrey J. Lodge, AUSA
28. SARKISIAN, Ricky Ph.D. (expert)
Valley Rehabilitation Services, Inc.
545 E. Alluvial Avenue, Suite 116
Fresno, California 93720
29. SHAHBAZIAN, Randy MD
Children's Hospital Central California
c/o Jerry D. Jones, Esq.
30. SHAUL, Donald MD (expert)
Children's Hospital of Los Angeles
Pediatric Surgery
4650 Sunset Blvd., Mail Stop 100
Los Angeles, California 90027

31. UDINSKY, Jerald Ph.D. (expert)
The Udinsky Group
Business and Labor Appraisers
2941 Telegraph Avenue
Berkeley, CA 94705
32. VOLK, Erik MA (expert)
3650 Mt. Diablo Boulevard, Suite 104
Lafayette, California 94549
33. WUBENHORST, Nancy MPT
San Joaquin Valley Rehabilitation/Fresno Outpatient and
Fitness Center
7033 North Fresno Street, Suite 101
Fresno, California

EXHIBIT 3

EXHIBIT 3

WITNESS LIST FOR

CHILDREN'S HOSPITAL CENTRAL CALIFORNIA

1. Lorena Stephanie Alvarado;
2. Lorena Alvarado;
3. Jill Ghanbarian, FNP;
4. Lisa Gilliam, FNP;
5. Sandra Knudson, RN;
6. Steffeny Dolan, Pharm.D.;
7. Steven Waite, Pharm.D.;
8. Emilie Joy Ratuifa, Pharm.D.;
9. John E. Dinsmore, MD;
10. David Hodge, MD;
11. Nancy Hernandez;
12. Elaine Acasio;
13. Carolyn Rosel;
14. Evangelina Nunez;
15. Araselia Garcia;
16. Kenneth Edward Bernstein, MD;
17. Randy Shahbazian, MD;
18. Syed Shahid Kamal, MD;
19. Brent Joseph Lanier, MD;
20. Rogello M. Hernandez, MD;
21. Larry Michael Miller, MD;

22. Jerome Linus Murphy, MD;
23. Valeriano Simbre, II, MD;
24. Nancy Wubenhorst, PT;
25. Neil Kornzweig, MD;
26. Pamela Schramm, LCSW;
27. Sahar Barayan, MD;
28. Richard Feldenberg, MD;
29. Jill Carson, MD;
30. Douglas Tamura, MD;
31. Harry Kallas, MD;
32. Karen Dahl, MD;
33. Parveen Jindal, MD;
34. Menouchehr Bazyani, MD;
35. Donald Fields, DO;
36. Sandra Carlsen, MD;
37. William Hastrup, MD;
38. Beverly Hayden-Pugh;
39. Aftab Ahmad Naz, MD;
40. Karen Rodriguez, NP;
41. Robert L. Poole, MD;
42. Colleen Nespor;
43. Charles Prober, MD;
44. Barry Gardiner, MD;
45. Lawrence Drew, MD;

46. Gary Hartman, MD;
47. Ricky A. Sarkisian, PhD;
48. Linda Olzack, RN, CLCP;
49. Erik Volk.

EXHIBIT 4

EXHIBIT 4

1. Mark Cohen/Eric Volk
2. Linda Olzack, R.N.
3. Donald Shaul, M.D.
4. Rick Sarkisian, Ph.D.
5. Dr. John Dinsmore
6. Brent Lanier, M.D.
7. Evangelina Nunez
8. Aracelia Garcia
9. Nancy Hernandez
10. Carolyn Rosel
11. David Hodge, M.D.
12. Jill Ghanbarian, F.N.P.
13. Valeriano C. Simbre, M.D.
14. Jerome Murphy, M.D.
15. Syed Kamal, M.D.
16. Rogelio Hernandez, M.D.
17. Nancy Wubenhorst, MPT
18. Randy Shahbazian, M.D.
19. Larry Miller, M.D.
20. Kenneth Bernstein, M.D.
21. Barry N. Gardiner, M.D.
22. Lisa Gilliam, PNP

EXHIBIT 5

Exhibit 5

WITNESSES

1. Lorena Stephanie Alvarado;
2. Lorena Alvarado;
3. Jill Ghanbarian, FNP;
4. Lisa Gilliam, FNP;

5. Sandra Knudson, RN;
6. Steffeny Dolan, Pharm.D.;
7. Steven Waite, Pharm.D.;
8. Emilie Joy Ratuira, Pharm.D.;
9. John E. Dinsmore, MD;
10. David Hodge, MD;
11. Nancy Hernandez;
12. Elaine Acasio;
13. Carolyn Rosel;
14. Evangelina Nunez;
15. Araselia Garcia;
16. Kenneth Edward Bemstein, MD;
17. Randy Shahbazian, MD;
18. Syed Shahid Kamal, MD;
19. Brent Joseph Lanier, MD;
20. Rogelio M. Hernandez, MD;
21. Larry Michael Miller, MD;
22. Jerome Linus Murphy, MD;

23. Valeriano Simbre, II, MD;
 24. Nancy Wubenhorst, PT;
 25. Neil Kornzweig, MD;
 26. Pamela Schramm, LCSW;
 27. Sahar Barayan, MD;
-
28. Richard Feldenberg, MD;
 29. Jill Carson, MD;
 30. Douglas Tamura, MD;
 31. Harry Kallas, MD;
 32. Karen Dahl, MD;
 33. Parveen Jindal, MD;
 34. Menouchehr Bazyani, MD;
 35. Donald Fields, DO;
 36. Sandra Carlsen, MD;
 37. William Hastrup, MD;
 38. Beverly Hayden-Pugh;
 39. Aftab Ahmad Naz, MD;
 40. Karen Rodriguez, NP;
 41. Robert L. Poole, MD;
 42. Colleen Nespor;
 43. Charles Prober, MD;
 44. Barry Gardiner, MD;
 45. Lawrence Drew, MD;

46. Gary Hartman, MD;
 47. Ricky A. Sarkisian, PhD;
 48. Linda Olzack, RN, CLCP;
 49. Erik Volk.
-

EXHIBIT 6

Plaintiff Lorena S. Alvarado's Exhibits

1. Lorena S. Alvarado's Medical Records from Camarena Health Center from October 14, 2004 through October 22, 2004.
2. Lorena S. Alvarado's Medical Records from Children's Hospital from October 22, 2004 through February 28, 2005.
3. The expert disclosure report of Edward Bennett dated December 7, 2007 and attached exhibits.
4. The expert disclosure report of Edward Bennett dated June 11, 2009.
5. U.S. Census Bureau records demonstrating the difference income between disabled and able bodied workers.
6. The expert disclosure report of Dr. Drew dated January 28, 2009.
7. The expert disclosure report of Dr. Drew dated June 10, 2009.
8. The expert disclosure report of Karen Aznavoorian, M.A., CCC, CLCP dated June 11, 2009 and attached exhibits.
9. The expert disclosure report of Patrick Mason, Ph.D dated January 9, 2008.
10. The expert disclosure report of Patrick Mason, Ph.D. dated June 12, 2009.
11. The four reports of Patrick Mason, Ph.D. attached to the stipulation regarding his reports signed by all counsel, dated July 20, 2009.
12. The expert disclosure report of Barry Gardiner, M.D. dated June 11, 2009 and attached exhibits.
13. Visual aids depicting the information contained in the expert reports of all parties' experts.
14. The expert disclosure report of Barry Gardiner dated June 11, 2009.
15. Deposition of Lorena Alvarado V. I and II and attached exhibits.
16. Deposition of Lorena S. Alvarado and attached exhibits.
17. Deposition of Lawrence Drew, M.D. and attached exhibits.
18. Deposition of Patrick Mason, Ph.D. and attached exhibits.
19. Deposition of Karen Aznavoorian, M.A., CCC, CLCP and attached exhibits.
20. Deposition of Edward Bennett and attached exhibits.
21. Deposition of Barry Gardiner, M.D. and attached exhibits.
22. Deposition transcript of Jerald Udinsky, Ph.D. and attached exhibits.
23. Deposition transcript of Ricky Sarkesian, Ph.D. and attached exhibits.
24. Deposition transcript of Tracy Albee, PHN and attached exhibits.
25. Deposition transcript of Jerome Murphy, MD and attached exhibits.
26. Deposition transcript of Lisa Gilliam, PNP and attached exhibits.
27. Deposition transcript of Steffeny Dolan, Pharm.D. and attached exhibits from March 11, 2009 and July 24, 2009.
28. Deposition transcript of Sandra Knudson, RN and attached exhibits from March 11, 2009 and July 24, 2009.
29. Deposition transcript of Nachman Brautbar, M.D. and attached exhibits.
30. Deposition transcript of Kurt Volk, MA and attached exhibits.
31. Deposition transcript of Linda Olznack and attached exhibits.
32. Deposition transcript of Michael Blumenkratz, M.D. and attached exhibits.

33. Deposition transcript of Moses J. Fallas, M.D. and attached exhibits.
34. Deposition transcript of Nancy Wubenhorst, MPT and attached exhibits.
35. Deposition transcript of Stephen Belknap, M.D. and attached exhibits.
36. Deposition transcript of David Hodge, M.D. and attached exhibits.
37. Deposition transcript of Randy Shabedian, M.D. and attached exhibits.
38. Deposition transcript of John E. Dinsmore, M.D. and attached exhibits.
39. Deposition transcript of Brent Lanier, M.D. and attached exhibits.
40. Deposition transcript of Valeriano Simbre, M.D. and attached exhibits.
41. Deposition transcript of Larry Miller, M.D. and attached exhibits.
42. Deposition transcript of Rogelio Hernandez, M.D. and attached exhibits.
43. Deposition transcript of Elaine Acasio and attached exhibits.
44. Deposition transcript of Evangelina Nunes and attached exhibits.
45. Deposition transcript of Arasella Garcia and attached exhibits.
46. Deposition transcript of Nancy Hernandez and attached exhibits.
47. Deposition transcript of Carolyn Rosel and attached exhibits.
48. Deposition transcript of Syed Kamal, M.D. and attached exhibits.
49. Deposition transcript of Kenneth Bernstein, M.D. and attached exhibits.
50. Deposition transcript of Jill Ghanberian, FNP and attached exhibits.
51. Deposition transcript of Karen Ann Rodriguez, RN, MN, CPNP-PC/AC and attached exhibits.
52. Deposition transcript of Donald Fields, D.O. and attached exhibits.
53. Deposition transcript of Donald Shaul, RN, M.D. and attached exhibits.
54. Deposition transcript of Robert Poole, M.D. and attached exhibits.
55. Deposition transcript of Gary Hartman, MD and attached exhibits.
56. Deposition transcript of Colleen Nespor and attached exhibits.
57. Deposition transcript of Charles Prober, M.D. and attached exhibits.
58. Deposition transcript of Emilie Joy Rautita and attached exhibits.
59. Any supplemental information provided by experts to support their positions.
60. Any exhibit identified or utilized by any other party in this action.

EXHIBIT 7

**DEFENDANT UNITED STATES OF AMERICA'S
EXHIBIT 7 TO THE JOINT PRE-TRIAL STATEMENT**

DEFENDANT USA'S EXHIBITS - SCHEDULES & SUMMARIES

1. Exhibits B, F, G, H, K and L attached to the expert deposition of Tracy Albee, RN, taken on August 21, 2009.
2. Exhibits 3 and 10 attached to the expert deposition of Steven Belknap, MD, taken on August 27, 2009.
3. Exhibits 3-10, inclusive, attached to the deposition of Kenneth Bernstein, MD, taken on January 8, 2009.
4. Exhibits 4-10, inclusive, attached to the expert deposition of Michael Blumenkrantz, MD, taken on July 28, 2009.
5. Exhibit 1 attached to the expert deposition of Nachman Brautbar, MD, taken on July 22, 2009.
6. Exhibits 2-14, inclusive, attached to the deposition of John E. Dinsmore, MD, taken on May 22, 2009.
7. Exhibits 2-18, inclusive, attached to the deposition of Steffeny Dolan, Pharm.D. taken on March 11, 2009; exhibits 2-9, inclusive, attached to her expert deposition taken on July 24, 2009.
8. Exhibits 4-8, inclusive, attached to the expert deposition of Moses Fallas, MD, taken on July 31, 2009.
9. Exhibit 2, attached to the deposition of Donald W. Fields, DO, taken on March 30, 2009.

10. Exhibits 1, 3-4, 6, 7, 9-11, 14-15, 18, 23, 28, 31, 33-34, 36-37, 53, 63-64, and 67, attached to the deposition of Jill Ghanbarian, FNP, taken on January 26, 2009.
11. Exhibits 1-4, inclusive, attached to the deposition of Lisa Gilliam, PNP, taken on March 10, 2009.
12. Exhibit 1, attached to the expert deposition of Gary Hartman, MD, taken on August 13, 2009.
13. Exhibit A, attached to the deposition of Rogelio M. Hernandez, MD, taken on January 15, 2009.
14. Exhibits 1, 4, 14-15, 19, 31, 34-35 and 72, attached to the deposition of David Hodge, MD, taken on February 23, 2009.
15. Exhibits 2-27, inclusive, attached to the deposition of Sandra Knudson, RNC, taken on March 11, 2009; exhibits 2-9, inclusive, attached to her expert deposition taken on July 24, 2009.
16. All documents attached to the deposition of Bruce Joseph Lanier, MD, taken on January 13, 2009.
17. Exhibits 1 and 2, inclusive, attached to the expert deposition of Charles G. Prober, MD, taken on August 11, 2009.
18. Exhibits 2-5, inclusive, attached to the deposition of Emilie Joy Ratuila, Pharm.D., taken on May 5, 2009.
19. Exhibits 1, 3 and 5, attached to the expert deposition of Ricky Sarkisian, Ph.D., taken on September 1, 2009.

20. Exhibits to the deposition of Donald Shaul, MD taken on July 31, 2009.
21. Exhibits 3-7, and 11, attached to the expert deposition of Jerald Udinsky, Ph.D., taken on August 18, 2009.
22. Exhibits B, E-K, attached to the expert deposition of Erik Volk, MA, taken on August 12, 2009.
23. Documents produced in response to Subpoenas to Children's Hospital of Central California ("CHCC"); Children's Home Health Care ("CHHC"); Brent Lanier, MD; Larry M. Miller, MD; Lincoln Elementary School; Merced Hearing Aid; Rogelio Hernandez, MD; and, San Joaquin Valley Rehabilitation.
24. Initial and Supplemental Disclosures of Defendant and Third-Party Plaintiff United States of America ("USA").
25. Initial and Supplemental Disclosures of Plaintiff Lorena S. Alvarado ("Plaintiff").
26. Initial and Supplemental Disclosures of Third-Party Defendants Children's Hospital Central California ("CHCC") and Jill Ghanbarian, FNP ("Ghanbarian").
27. Initial and Supplemental Disclosures of Third-Party Defendant John E. Dinsmore, MD ("Dinsmore").
28. Initial and Supplemental Disclosures of Third-Party Defendant David Hodge, MD ("Hodge").
29. All documents produced by Plaintiff in response to Requests for Production of Documents.

30. Darin Camarena medical records for Lorena S. Alvarado.
31. CHCC's medical records for Lorena S. Alvarado.
32. All documents produced by CHCC in response to Requests for Production of Documents and Motion(s) to Compel.
33. All documents produced by Children's Home Care, a division of CHCC, in response to Requests for Production of Documents and Motion(s) to Compel.
34. All documents produced by Third-Party Defendant Dinsmore in response to Requests for Production of Documents.
35. All documents produced by Third-Party Defendant Hodge in response to Requests for Production of Documents.
36. Copies of the parties' expert reports and amended/revised reports and supporting documents subsequently produced, if any, with the exception of experts Karen Aznavoorian, RN, Edward L. Bennett, William Lawrence Drew, MD, Barry N. Gardiner, MD, Patrick F. Mason, Ph.D., Colleen Nespor, RN, Linda Olzack, RN, Robert L. Poole, Pharm.D., and Karen Ann Rodriguez RN's report(s).

The parties may supplement their respective exhibit lists up to the time of the pre-trial conference. The parties also reserve the right to supplement their exhibit lists for the purpose of cross or rebuttal examination, subject to the other parties objections pursuant to Rule 26, 37 or other applicable rules.

EXHIBIT 8

EXHIBIT 8

Medical records of the Plaintiff from:

- 1. Children's Hospital of Central California**
- 2. Darin M. Camarena Health Center**
- 3. Rogelio Hernandez, M.D.**
- 4. San Joaquin Valley Rehabilitation**
- 5. Northwest Medical Group**
- 6. Brent Lanier, M.D.**

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- Defendant, JOHN E. DINSMORE, M.D. adds the following Exhibits:
7. The expert disclosure report of Barry Gardiner, M.D., dated June 11, 2009 and attached exhibits.
 8. Deposition transcript of Lorena Alvarado, Volumes 1 & 2 and attached exhibits.
 9. Deposition transcript of Lorena S. Alvarado and attached exhibits.
 10. Deposition transcript of Barry Gardiner, M.D. and attached exhibits.
 11. Deposition transcript of Ricky Sarkisian, Ph.D. and attached exhibits.
 12. Deposition transcript of Jerome Murphy, M.D. and attached exhibits.
 13. Deposition transcript of Lisa Gillium, PNP and attached exhibits.
 14. Deposition transcript of Steffeny Dolan, Pharm.D and attached exhibits from March 11, 2009 and July 24, 2009.
 15. Deposition transcript of Sandra Knudson, R.N., and attached exhibits from March 11, 2009 and July 24, 2009.
 16. Deposition transcript of Eric Volk, M.A. and attached exhibits.
 17. Deposition transcript of Linda Olzack, R.N. and attached exhibits.
 18. Deposition transcript of Nancy Wubenhorst, MPT and attached exhibits.
 19. Deposition transcript of John E. Dinsmore, M.D. and attached exhibits.
 20. Deposition transcript of Brent Lanier, M.D. and attached exhibits.
 21. Deposition transcript of Larry Miller, M.D. and attached exhibits.
 22. Deposition transcript of Valeriano Simbre, M.D. and attached exhibits.
 23. Deposition transcript of Rogelio Hernandez, M.D and attached exhibits.
 24. Deposition transcript of Kenneth Bernstein, M.D. and attached exhibits.
 25. Deposition transcript of Donald Shaul, M.D. and attached exhibits.
 26. Deposition transcript of Emilie Joy Rautita and attached exhibits.
 27. Any supplemental information provide by experts to support their position.
 28. Any exhibit identified or utilized by and other party in this action.
 29. Exhibit 1 attached to the deposition of Gary Hartman, M.D. taken on August 13, 2009.

EXHIBIT 9

**EXHIBIT 9
EXHIBIT LIST FOR
CHILDREN'S HOSPITAL CENTRAL CALIFORNIA**

1. Deposition transcript of Karen Rodriguez, including, but not limited exhibits attached;
2. Expert report of Karen Rodriguez;
3. Curriculum Vitae of Karen Rodriguez;
4. Deposition transcript of Robert Poole, M.D., including, but not limited to, exhibits attached;
5. Expert report of Robert Poole, M.D.;
6. Curriculum Vitae of Robert Poole, M.D.;
7. Deposition transcript of Colleen Nespor, including, but not limited to, exhibits attached;
8. Expert report of Colleen Nespor;
9. Curriculum Vitae of Colleen Nespor;
10. Deposition transcript of Charles Prober, M.D., including, but not limited to, exhibits attached;
11. Expert report of Charles Prober, M.D.;
12. Curriculum Vitae of Charles Prober, M.D.;
13. Deposition transcript of Linda Olzack, RN, CLCP, including, but not limited to, exhibits attached;
14. Expert report of Linda Olzack, RN, CLCP;
15. Curriculum Vitae of Linda Olzack, RN, CLCP;

16. Deposition transcript of Ricky Sarkisian, Ph.D., including, but not limited to, exhibits attached;

17. Expert report of Ricky Sarkisian, Ph.D.;

18. Curriculum Vitae of Ricky Sarkisian, Ph.D.;

19. Deposition transcript of Eric Volk, M.A., including, but not limited to, exhibits attached;

20. Expert report of Eric Volk, M.A.;

21. Curriculum Vitae of Eric Volk, M.D.;

22. Deposition transcript of Barry Gardiner, M.D., including, but not limited to, exhibits attached;

23. Expert report of Barry Gardiner, M.D.;

24. Curriculum Vitae of Barry Gardiner, M.D.;

25. Deposition transcript of Gary Hartman, M.D., including, but not limited to, exhibits attached;

26. Expert report of Gary Hartman, M.D.;

27. Curriculum Vitae of Gary Hartman, M.D.;

28. Deposition transcript of Lawrence Drew, M.D., including, but not limited to, exhibits attached;

29. Expert report of Lawrence Drew, M.D.

30. Curriculum Vitae of Lawrence Drew, M.D.

31. Deposition transcript of Jill Ghanbarian, N.P., including, but not limited to, exhibits attached;

32. Deposition transcripts of Sandra Knudsen, R.N., including, but not limited to, exhibits attached;

33. Deposition transcript of Lisa Gilliam, FNP, including, but not limited to, exhibits attached;

34. Deposition transcripts of Steffeny Dolan, Pharm.D., including, but not limited to, exhibits attached;

35. Deposition transcript of Emilie Joy Ratuita, Pharm.D., including, but not limited to, exhibits attached;

36. Deposition transcript of Larry Miller, M.D., including, but not limited to, exhibits attached;

37. Deposition transcript of Jerome Murphy, M.D., including, but not limited to, exhibits attached;

38. Deposition transcript of Kenneth Edward Bernstein, MD, including, but not limited to, exhibits attached;

39. Deposition transcript of Randy Shahbazian, MD, including, but not limited to, exhibits attached;

40. Deposition transcript of Syed Shahid Kamal, MD, including, but not limited to, exhibits attached;

41. Deposition transcript of Nancy Wubenhorst, PT, including, but not limited to, exhibits attached;

42. Deposition transcript of Brent Joseph Lanler, MD, including, but not limited to, exhibits attached;

43. Deposition transcript of Valeriano Simbre, II, MD, including, but not limited to, exhibits attached;

44. Deposition transcript of Donald Fields, DO, including, but not limited to, exhibits attached;

45. Deposition transcript of Nancy Hernandez, including, but not limited to, exhibits attached;

46. Deposition transcript of Carolyn Rosel, including, but not limited to, exhibits attached;

47. Deposition transcript of Evangelina Nunez, including, but not limited to, exhibits attached;

48. Deposition transcript of Araselia Garcia, including, but not limited to, exhibits attached;

49. Deposition transcript of Elaine Acasio, including, but not limited to, exhibits attached;

50. Deposition transcript of David Hodge, MD, including, but not limited to, exhibits attached;

51. Deposition transcript of John E. Dinsmore, MD, including, but not limited to, exhibits attached;

52. Deposition transcripts of Lorena Stephanie Alvarado, including, but not limited to, exhibits attached;

53. Deposition transcripts of Lorena Alvarado, including, but not limited to, exhibits attached;

54. Medical chart of Lorena Stephanie Alvarado from Children's Hospital Central California;

55. Home Healthcare records of Lorena Stephanie Alvarado from Children's Hospital Central California;

56. Pelvis CT study of Lorena Stephanie Alvarado on November 15, 2004 at Children's Hospital Central California;

57. Pelvis CT study of Lorena Stephanie Alvarado on November 23, 2004 at Children's Hospital Central California;

58. Records of treatment of Lorena Stephanie Alvarado from San Joaquin Valley Rehabilitation;

59. Records of treatment of Lorena Stephanie Alvarado from Camarena Medical Center;

60. Records of treatment of Lorena Stephanie Alvarado from Madera Children's Medical Clinic;

61. Records of treatment of Lorena Stephanie Alvarado from Rogelio Hernandez, M.D.;

62. Records of treatment of Lorena Stephanie Alvarado from Northwest Medical Group;

63. Records of treatment of Lorena Stephanie Alvarado from Central California Ear Nose & Throat;

64. Records of treatment of Lorena Stephanie Alvarado from Eye-Q Vision Center;

65. Records of treatment of Lorena Stephanie Alvarado from Merced Hearing Aid Center;

66. Records of treatment of Lorena Stephanie Alvarado from Aftab Ahmad Naz, MD;

67. Records of treatment of Lorena Stephanie Alvarado from Neil Kornzweig, MD;

68. Insurance records regarding Lorena Stephanie Alvarado from Blue Cross;

69. Records regarding Lorena Stephanie Alvarado from California

Children's Services;

70. School records of Lorena Stephanie Alvarado from Lincoln Elementary

School;

71. School records of Lorena Stephanie Alvarado from Valley Park

Elementary;

72. School records of Lorena Stephanie Alvarado from Madera Unified

School District;

73. Demonstrative aids as well as any documents consulted by, referred to or relied upon by the expert witnesses in forming their opinions or that form a basis for their opinions, including but not limited to texts, periodicals, and articles;

74. Any exhibit identified or utilized by any other party in this action.

EXHIBIT 10

Exhibit 10

EXHIBITS

1. Deposition transcript of Karen Rodriguez;
2. Expert report of Karen Rodriguez;
3. Curriculum Vitae of Karen Rodriguez;
4. Deposition transcript of Robert Poole, M.D.;

5. Expert report of Robert Poole, M.D.;
6. Curriculum Vitae of Robert Poole, M.D.;
7. Deposition transcript of Colleen Nespor;
8. Expert report of Colleen Nespor;
9. Curriculum Vitae of Colleen Nespor;
10. Deposition transcript of Charles Prober, M.D.;
11. Expert report of Charles Prober, M.D.;
12. Curriculum Vitae of Charles Prober, M.D.;
13. Deposition transcript of Linda Olzack, RN, CLCP;
14. Expert report of Linda Olzack, RN, CLCP;
15. Curriculum Vitae of Linda Olzack, RN, CLCP;
16. Deposition transcript of Ricky Sarkisian, Ph.D.;
17. Expert report of Ricky Sarkisian, Ph.D.;
18. Curriculum Vitae of Ricky Sarkisian, Ph.D.;
19. Deposition transcript of Eric Volk, M.A.;
20. Expert report of Eric Volk, M.A.;
21. Curriculum Vitae of Eric Volk, M.D.;

22. Deposition transcript of Barry Gardiner, M.D.;
23. Expert report of Barry Gardiner, M.D.;
24. Curriculum Vitae of Barry Gardiner, M.D.;
25. Deposition transcript of Gary Hartman, M.D.;
26. Expert report of Gary Hartman, M.D.;

27. Curriculum Vitae of Gary Hartman, M.D.;
28. Deposition transcript of Lawrence Drew, M.D.;
29. Expert report of Lawrence Drew, M.D.
30. Curriculum Vitae of Lawrence Drew, M.D.
31. Deposition transcript of Jill Ghanbarian, N.P.;
32. Deposition transcripts of Sandra Knudsen, R.N.;
33. Deposition transcript of Lisa Gilliam, FNP;
34. Deposition transcripts of Steffeny Dolan, Pharm.D.;
35. Deposition transcript of Emilie Joy Ratuïta, Pharm.D.;
36. Deposition transcript of Larry Miller, M.D.
37. Deposition transcript of Jerome Murphy, M.D.;
38. Deposition transcript of Kenneth Edward Bernstein, MD;
39. Deposition transcript of Randy Shahbazian, MD;
40. Deposition transcript of Syed Shahid Kamal, MD;
41. Deposition transcript of Nancy Wubenhorst, PT;
42. Deposition transcript of Brent Joseph Lanier, MD;
43. Deposition transcript of Valeriano Simbre, II, MD;

44. Deposition transcript of Donald Fields, DO;
 45. Deposition transcript of Nancy Hernandez;
 46. Deposition transcript of Carolyn Rosel;
 47. Deposition transcript of Evangelina Nunez;
 48. Deposition transcript of Araselia Garcia;
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49. Deposition transcript of Elaine Acasio;
 50. Deposition transcript of David Hodge, MD
 51. Deposition transcript of John E. Dinsmore, MD;
 52. Deposition transcripts of Lorena Stephanie Alvarado;
 53. Deposition transcripts of Lorena Alvarado;
 54. Medical chart of Lorena Stephanie Alvarado from Children's Hospital Central California;
 55. Home Healthcare records of Lorena Stephanie Alvarado from Children's Hospital Central California;
 56. Pelvis CT study of Lorena Stephanie Alvarado on November 15, 2004 at Children's Hospital Central California;
 57. Pelvis CT study of Lorena Stephanie Alvarado on November 23, 2004 at Children's Hospital Central California;
 58. Records of treatment of Lorena Stephanie Alvarado from San Joaquin Valley Rehabilitation;
 59. Records of treatment of Lorena Stephanie Alvarado from Camarena Medical Center;

60. Records of treatment of Lorena Stephanie Alvarado from Madera Children's Medical Clinic;

61. Records of treatment of Lorena Stephanie Alvarado from Rogelio Hernandez, M.D.;

62. Records of treatment of Lorena Stephanie Alvarado from Northwest Medical Group;

63. Records of treatment of Lorena Stephanie Alvarado from Central California Ear Nose & Throat;

64. Records of treatment of Lorena Stephanie Alvarado from Eye-Q Vision Center;

65. Records of treatment of Lorena Stephanie Alvarado from Merced Hearing Aid Center;

66. Records of treatment of Lorena Stephanie Alvarado from Aftab Ahmad Naz, MD;

67. Records of treatment of Lorena Stephanie Alvarado from Neil Kornzweig, MD;

68. Insurance records regarding Lorena Stephanie Alvarado from Blue Cross;

69. Records regarding Lorena Stephanie Alvarado from California Children's Services;

70. School records of Lorena Stephanie Alvarado from Lincoln Elementary School;

71. School records of Lorena Stephanie Alvarado from Valley Park Elementary;

72. School records of Lorena Stephanie Alvarado from Madera Unified School District;

73. Demonstrative aids as well as any documents consulted by, referred to or relied upon by the expert witnesses in forming their opinions or that form a basis for their opinions, including but not limited to texts, periodicals, and articles;

74. Any exhibit identified or utilized by any other party in this action.

EXHIBIT 11

**DEFENDANT UNITED STATES OF AMERICA'S
EXHIBIT 11 TO THE JOINT PRE-TRIAL STATEMENT**

DEFENDANT USA'S DISCOVERY DOCUMENTS

1. Deposition excerpts of Emilie Joy Ratuita, Pharm.D., taken on May 5, 2009.
2. Defendant United States of America's ("USA") First Set of Interrogatories to Plaintiff Lorena S. Alvarado ("Plaintiff").
3. Defendant/Third-Party Plaintiff's First Set of Interrogatories to Third-Party Defendant John E. Dinsmore, MD.
4. Defendant/Third-Party Plaintiff's First Set of Interrogatories to Third-Party Defendant Jill Ghanbarian, FNP.
5. Defendant/Third-Party Plaintiff's First Set of Interrogatories to Third-Party Defendant David Hodge, MD.
6. Defendant/Third-Party Plaintiff's First Set of Interrogatories to Third-Party Defendant Children's Hospital Central California ("CHCC").
7. Defendant/Third-Party Plaintiff's Second Set of Interrogatories to Plaintiff.
8. Defendant/Third-Party Plaintiff's First Request for Admissions to Plaintiff.

9. Plaintiff's Responses To Interrogatories (Set No. One)
Propounded By Defendant USA.
10. Third-Party Defendant CHCC's Responses to
Defendant/Third-Party Plaintiff's First Set of
Interrogatories.
11. Third-Party Defendant Jill Ghanbarian, FNP's Response to
Defendant/Third-Party Plaintiff's First Set of
Interrogatories.
12. Third-Party Defendant John E. Dinsmore, MD's Responses to
Defendant/Third-Party Plaintiff's First Set of
Interrogatories.
13. Third-Party Defendant Jill Ghanbarian, FNP's Supplemental
response to Defendant/Third-Party Plaintiff's First Set of
Interrogatories.
14. Plaintiff's Responses to Request for Admissions (Set One)
Propounded By Defendant USA.
15. Plaintiff's Responses to Interrogatories (Set Two)
Propounded By Defendant USA.
16. Third-Party Defendant David Hodge, MD's Responses to First
Set of Interrogatories Propounded by Defendant/Third-Party
Plaintiff USA.
17. Correspondence from Jerry Jones to Jeff Lodge dated
March 26, 2009, re further responses to discovery pursuant
to meet and confer.

18. Correspondence from Jerry Jones to Jeff Lodge dated May 6, 2009 re p. 11 from Plaintiff's Home Health Care Chart.