

1 M. Jeffery Kallis, SBN 190028
2 **THE LAW FIRM OF KALLIS & ASSOCIATES, P.C.**
3 333 W. San Carlos St., 8th Floor
4 San Jose, CA 95110
5 Telephone: (408) 971-4655
6 Facsimile: (408) 971-4644
7 M_J_Kallis @Kallislaw.org

8 Andrew V. Stearns, SBN 164849
9 Steven M. Berki, SBN 245426
10 **BUSTAMANTE, O'HARA & GAGLIASSO, P.C.**
11 333 W. San Carlos St., 8th Floor
12 San Jose, California 95110
13 Telephone: (408) 977-1911
14 Facsimile: (408) 977-0746
15 astearns@boglawyers.com
16 sberki@boglawyers.com

17 Attorneys for Plaintiff
18 **MICHAEL TATER-ALEXANDER**

19 **UNITED STATES DISTRICT COURT**
20 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
21 **FRESNO DIVISION**

22 **MICHAEL TATER-ALEXANDER,**

23 Plaintiff,

24 vs.

25 **COMMUNITY REGIONAL**
26 **MEDICAL CENTER, et al.**

27 Defendants.

28 Case No. 1:08-cv-00372 OWW SMS

**ORDER GRANTING PLAINTIFF'S
MOTION TO DISMISS DAMAGES
CLAIMS AND DEFENDANT
MARILYN JO GREENE**

Complaint Filed: March 14, 2008
Trial: May 3, 2011

29 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

30 On February 18, 2011, in Courtroom 3 of the above-entitled Court, the Honorable
31 Oliver W. Wanger, judge presiding, the Court held a hearing on Motions in Limine in which
32 additional issues as set forth below were heard and ruled upon by the Court. Plaintiff was
33 represented by Andrew V. Stearns, Esq., Bustamante O'Hara & Gagliasso, and M. Jeffery

1 Kallis, Esq., The Law Firm of Kallis & Associates. Defendants Fresno Community
2 Hospital and Medical Center and Marilyn Jo Greene were represented by Carey H. Johnson,
3 Esq. and Celene Resong, Esq. Stammer McKnight Barnum & Bailey, LLP. Defendant
4 Thomas E. Mansfield was represented by Daniel L. Wainwright, Esq., McCormick Barstow
5 Sheppard Wayte & Carruth, LLP. Defendant Thomas E. Mansfield was dismissed prior to
6 oral argument and counsel was excused by the Court.
7

8 The Court addressed pre-trial matters, including the continuance of the trial in light
9 of an emergency hearing in the Delta Smelt case, the health of plaintiff, and the calendaring
10 conflict for Attorney Kallis.
11

12 The Court also considered the Request by Plaintiff to dismiss damage claims,
13 including penalties, as well as an oral Request to dismiss the claims against defendant
14 Marilyn Jo Greene.
15

16 For good cause shown, the Court Orders as follows:

17 IT IS HEREBY ORDERED that the motion by plaintiff to dismiss the damages
18 claims and to dismiss Marilyn Jo Greene are GRANTED.
19

20 IT IS FURTHER ORDERED that the case will proceed to be tried on the claims of
21 violation of the Americans with Disabilities Act, the Unruh claim, and the Disabled Persons
22 Act of California.
23

24 IT IS FURTHER ORDERED that the issue of injunctive relief will be decided by the
25 Court.
26

27 IT IS FURTHER ORDERED that the Court will have an advisory jury and the jury
28 will be submitted questions that will be mutually agreed upon by the parties and the Court to
be propounded in the form of written interrogatories on factual findings that will aid the

1 Court's decisions on the claims and defenses that are asserted.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS SO ORDERED.

Dated: March 14, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE