

1 THOMAS E. DONAHUE (SBN 156279)
2 NICHOLE D. PODGURSKI (SBN
3 251240)
4 DONAHUE & HORROW, LLP
5 1960 E. Grand Ave., Suite 1215
6 El Segundo, California 90245
7 Telephone: (310) 322-0300
8 Facsimile: (310) 322-0302
9 Email: tDonahue@donahuehorrow.com
10 Email: nPodgurski@donahuehorrow.com

11 Attorneys for Plaintiffs MIGUEL
12 GONZALEZ, JR., a minor, by and
13 through his guardian ad litem, Maria
14 Gonzalez, MARIA GONZALEZ and
15 MIGUEL GONZALEZ

16 UNITED STATES DISTRICT COURT
17 FOR THE EASTERN DISTRICT OF CALIFORNIA

18 MIGUEL GONZALEZ, JR., a minor, by
19 and through his guardian ad litem, Maria
20 Gonzalez, MARIA GONZALEZ and
21 MIGUEL GONZALEZ,

22 Plaintiffs,

23 vs.

24 UNITED STATES OF AMERICA,
25 GURVIR KHURANA, M.D.; KERN
26 MEDICAL CENTER; and DOES 1
27 through 300, inclusive,

28 Defendants.

Case No. 1:09-cv-00509 LJO SKO

**RENEWED JOINT STIPULATION
OF THE PARTIES TO CONTINUE
TRIAL DATE; PRE-TRIAL
CONFERENCE AND DEADLINE TO
COMPLETE EXPERT DISCOVERY
SO THAT THE PARTIES MAY
ATTEND PRIVATE MEDIATION;
ORDER**

(Filed concurrently with Declaration of
Thomas E. Donahue In Support Thereof)

TO THE HONORABLE COURT:

All parties in this action, by and through their counsel of record, hereby agree
and stipulate as follows:

1. This is a complex medical malpractice case involving severe and

1 permanent brain injury to 3 ½ year old Miguel Gonzalez, Jr. He is permanently and
2 completely disabled and will require round the clock care for the remainder of his life.
3
4 Maria Gonzalez, Miguel Gonzalez, Jr.'s mother, has a claim for medical negligence
5 and negligent infliction of emotional distress. Miguel Gonzalez, Miguel Gonzalez,
6 Jr.'s father, has a claim for negligent infliction of emotional distress and loss of
7
8 consortium. Plaintiffs allege that Defendants were negligent in the management of the
9 labor and delivery in this case, in that they failed to recognize fetal distress before
10 delivery and were negligent in conducting a vaginal delivery that was not consented
11 to. Miguel Gonzalez, Jr. requires round the clock care for the remainder of his life.
12
13 Plaintiffs allege future medical care needs in excess of \$10,000,000.

14 2. Defendants deny these allegations.

15
16 3. Substantial discovery has been completed in this matter. Extensive fact
17 written discovery has been completed and over 19 percipient depositions have been
18 completed. The parties have disclosed and submitted voluminous expert and rebuttal
19 expert reports. Plaintiffs designated 9 experts located throughout the country in
20 various specialties including obstetrics-gynecology, maternal-fetal medicine, pediatric
21 neurology, pediatric neuroradiology, neonatal perinatal, nursing, physical medicine
22 and rehabilitation, life care planning, and an economist. Defendants designated 13
23 experts in total and submitted rebuttal expert reports. Miguel Gonzalez, Jr. underwent
24 multiple Independent Medical Examinations.
25
26
27

28 4. Plaintiffs and defendants United States of America and the County of

1 Kern have all agreed to attend a full day of private mediation. All parties have agreed
2 to and selected Jay Horton of Judicate West to mediate this case. Mr. Horton is
3 extremely experienced and familiar with mediating birth-injury cases. Once the parties
4 agreed to Mr. Horton, they immediately inquired as to his availability. However, Mr.
5 Horton's schedule is extremely impacted and the next date he has available and that
6 all parties and their counsel are available is August 29, 2011.
7
8

9 5. The parties are ordered to complete expert discovery and depositions no
10 later than July 11, 2011.
11

12 6. The non-dispositive motion filing deadline is July 13, 2011.

13 7. The dispositive motion filing deadline is July 22, 2011.

14 8. The Pre-Trial Conference is set for September 15, 2011 at 8:30 a.m. in
15 Courtroom 4/LJO.
16

17 9. The Trial is scheduled for October 31, 2011 at 8:30 a.m. in Courtroom
18 4/LJO and will last approximately 15-20 days. Plaintiffs and Defendants County of
19 Kern and Dr. Khurana have demanded a jury trial. Defendant United States of
20 America disputes that the parties are entitled to a jury trial.
21

22 10. The parties request and submit that the Trial, Pre-Trial Conference and
23 the corresponding pre-trial deadlines, including the deadline for completion of expert
24 discovery and the deadline for filing non-dispositive motions and dispositive motions
25 be continued for approximately five months. The parties submit that this request is
26 being made for good cause so as to allow the parties time to meaningfully explore
27
28

1 mediation prior to extensive expert discovery depositions and pre-trial disclosures.
2 There are over 22 experts to be deposed in this matter and before the costs and
3 expense go into these depositions, the parties wish to explore mediation. Further, due
4 to the fact that Mr. Horton is not available for mediation until August 29, 2011, the
5 parties wish to explore meaningful mediation prior to the time for pre-trial disclosures
6 and filing dispositive motions.
7
8

9 11. There have been no prior requests for a trial continuance in this matter.

10 12. The parties hereby stipulate and request as follows:

- 11 a. The cut-off for expert discovery, currently set to be completed by
12 July 11, 2011, shall be continued until **February 17, 2012**;
13
14 b. The non-dispositive motion filing deadline, currently set for July
15 13, 2011, shall be continued until **February 22, 2012**;
16
17 c. The dispositive motion filing deadline, currently set for July 22,
18 2011, shall be continued to **March 2, 2012**;
19
20 d. The Pre-Trial Conference currently set for September 15, 2011 at
21 8:30 a.m. in Courtroom 4/LJO, shall be continued until **June 14,**
22 **2012**;
23
24 e. The Trial, currently scheduled for October 31, 2011, shall be
25 continued until **August 6, 2012**.

26 \\\

27 \\\

1
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

13. The execution and return of this Stipulation may be by facsimile transmission in lieu of an original.

IT IS SO STIPULATED.

UNITED STATES ATTORNEY

Dated: June 6, 2011

By: /s/ Jason Ehrlinspiel
Jason Ehrlinspiel
Attorneys for Defendant United States of America

LEBEAU THELEN, LLP

Dated: June 6, 2011

By: /s/ Dennis R. Thelen
Dennis R. Thelen, Esq.
Attorneys for Defendant Gurvir Khurana, M.D.

PATTERSON, LOCKWOOD, HARRIS,
JURICH & HILLYER, LLP

Dated: June 6, 2011

By: /s/ John A. Jurich
John A. Jurich
*Attorneys for Defendant County of Kern
(erroneously sued as Kern Medical Center)*

COUNTY COUNSEL OF THE COUNTY OF
KERN, STATE OF CALIFORNIA

Dated: June 6, 2011

By: /s/ Jennifer E. Zahry
Jennifer E. Zahry
*Attorneys for Defendant County of Kern
(erroneously sued as Kern Medical Center)*

\\\

\\\

\\\

1
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

DONAHUE & HORROW, LLP

Dated: June 6, 2011

By: /s/ Thomas E. Donahue
Thomas E. Donahue
Nichole D. Podgurski
*Attorneys for Plaintiffs Miguel Gonzales, Jr., a
minor, by and through his guardian ad litem,
Maria Gonzalez, Maria Gonzalez, and Miguel
Gonzalez*

IT IS SO ORDERED.

Dated: June 7, 2011

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE