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6 Attorneys for Plaintiffs MIGUEL  
7 GONZALEZ, JR., a minor, by and through  
his guardian ad litem, Maria Gonzalez,  
8 MARIA GONZALEZ and MIGUEL  
9 GONZALEZ

10  
11 UNITED STATES DISTRICT COURT  
12 FOR THE EASTERN DISTRICT OF CALIFORNIA  
13

14 MIGUEL GONZALEZ, JR., a minor, by  
and through his guardian ad litem, Maria  
15 Gonzalez, MARIA GONZALEZ and  
16 MIGUEL GONZALEZ,

17 Plaintiffs,

18 vs.

19 UNITED STATES OF AMERICA,  
GURVIR KHURANA, M.D.; KERN  
20 MEDICAL CENTER; and DOES 1  
through 300, inclusive,

21 Defendants.  
22

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

**JOINT STIPULATION OF THE  
PARTIES TO CONTINUE HEARING  
ON PETITION DUE TO CHANGE IN  
ANNUITY STRUCTURE AND  
UNAVAILABILITY OF COUNSEL;  
DECLARATION OF THOMAS E.  
DONAHUE; ORDER**

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

23 TO THE HONORABLE COURT:

24 All parties in this action, by and through their counsel of record, hereby agree  
25 and stipulate as follows:  
26

- 27 1. On November 2, 2011, Maria Gonzalez ("Petitioner"), as the court-  
28

1 appointed guardian *ad litem* of the named minor, Plaintiff Miguel Gonzalez, Jr.  
2 ("Miguel"), filed a petition to approve the proposed settlement between Miguel and  
3 the United States of America ("United States") (Docs. Nos. 64-66). The hearing was  
4 set for November 30, 2011 at 9:30 a.m.  
5

6           2.     On November 10, 2011, Defendant County of Kern, erroneously sued in  
7 the name of its agency, Kern Medical Center, filed a statement of non-opposition to  
8 the petition for approval of the proposed settlement between Miguel and the United  
9 States. (Doc. 66.)  
10

11           3.     On November 17, 2011 this Court ordered as follows:  
12

- 13           a.     The Petitioner is DIRECTED to file a supplemental brief on or  
14 before November 29, 2011, as set forth below.  
15  
16           b.     Any response to the supplemental brief that any party elects to file  
17 may be submitted on or before December 2, 2011.  
18  
19           c.     The hearing on the Petition is RESET to December 7, 2011, in  
20 Courtroom 7, at 9:30 a.m.

21           4.     The Petition proposes that a portion of the settlement funds be used to  
22 purchase an annuity. The annuity structure obtained and monthly benefit amount set  
23 forth in the petition assumes a hearing date on the Petition of November 30, 2011 and  
24 a funding date of January 13, 2012. The annuity structure assumes that the  
25 government will need at least 45 days from the date of the order on the petition until  
26 the annuity can be funded. Because of the continued hearing date of December 7,  
27  
28

1 2011, counsel for Petitioner has been advised the annuity structure will change.  
2 Counsel for Petitioner need additional time to obtain revised annuity quotes and  
3 submit the revisions to the court thereafter.  
4

5 5. In addition, Thomas E. Donahue, Counsel for Petitioner and Miguel are  
6 unavailable on December 7, 2011 as Mr. Donahue is scheduled to appear at the  
7 hearing on the Petition for Minor's Compromise in another matter in Dept. 7 of the  
8 Superior Court for the State of California, County of Tulare, Case No. 10-236520,  
9 *Klomp v. Foxe, M.D., et. al.*  
10

11 6. Counsel has met and conferred and due to unavailability of counsel the  
12 parties respectfully request that the hearing date on the Petition be continued until  
13 January 4, 2011 and that the briefing schedule be amended in accordance with the new  
14 hearing date as follows:  
15  
16

- 17 a. The Petitioner must file a supplemental brief on or before  
18 December 16, 2011, and address the issues set forth in the Court's  
19 order of November 17, 2011;  
20  
21 b. Any response to the supplemental brief that any party elects to file  
22 may be submitted on or before December 21, 2011.  
23  
24 c. The hearing on the Petition is continued to January 4, 2012, in  
25 Courtroom 7, at 9:30 a.m.  
26

27 7. The parties submit that this request is being made for good cause so as to  
28 permit a hearing date on the Petition that all counsel, including counsel for Petitioner

1 and Miguel, are available and to allow time to submit and review revised annuity  
2 proposals based on the continued hearing date.

3  
4 IT IS SO STIPULATED.

5 UNITED STATES ATTORNEY

6  
7 Dated: November 28, 2011 By: /s/ Jason Ehrlinspiel  
8 Jason Ehrlinspiel  
9 Attorneys for Defendant United States of  
10 America

11 PATTERSON, LOCKWOOD, HARRIS,  
12 JURICH & HILLYER, LLP

13 Dated: November 28, 2011 By: /s/ John A. Jurich  
14 John A. Jurich  
15 Attorneys for Defendant County of Kern  
16 (erroneously sued as Kern Medical Center)

17 COUNTY COUNSEL OF THE COUNTY OF  
18 KERN, STATE OF CALIFORNIA

19 Dated: November 28, 2011 By: /s/ Jennifer E. Zahry  
20 Jennifer E. Zahry  
21 Attorneys for Defendant County of Kern  
22 (erroneously sued as Kern Medical Center)

23 DONAHUE & HORROW, LLP

24 Dated: November 28, 2011 By: /s/ Thomas E. Donahue  
25 Thomas E. Donahue  
26 Nichole D. Podgurski  
27 Attorneys for Plaintiffs Miguel Gonzales, Jr., a  
28 minor, by and through his guardian ad litem,  
Maria Gonzalez, Maria Gonzalez, and Miguel  
Gonzalez

**ORDER**

Pursuant to the stipulation of the parties, IT IS HEREBY ORDERED that:

1. The Petitioner shall file a supplemental brief on or before December 16, 2011, addressing the issues set forth in the Court’s November 17, 2011, order;
2. Any response to the supplemental brief that any party elects to file may be filed on or before December 21, 2011; and
3. The December 7, 2011, hearing on the Petition is CONTINUED to **January 4, 2012, in Courtroom 7, at 9:30 a.m.**

IT IS SO ORDERED.

Dated: November 29, 2011

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE

DONAHUE & HORROW, LLP

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