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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

THE LAW OFFICES OF ANDREW
D. FORTNEY, PH.D., P.C., et al.,

CASE NO. CV F 11-1451 LJO DLB

Plaintiffs,

**ORDER TO VACATE HEARING, TERM
MOTION AND FILE CONSENT FORM
(Doc. 10.)**

vs.

UNITED STATES PATENT AND
TRADEMARK OFFICE, et al.,

Defendants.

On October 26, 2011, defendants filed their F.R.Civ.P. 12(b)(1), (3) motion to dismiss plaintiffs' original complaint and set a November 30, 2011 hearing. On November 10, 2011, plaintiffs filed their first amended complaint as a matter of course under F.R.Civ.P. 15(a)(1). Plaintiffs also filed their form to consent to the conduct of all further proceedings by a U.S. Magistrate Judge. As such, this Court:

1. VACATES the November 30, 2011 hearing in that the first amended complaint renders moot the pending F.R.Civ.P. 12(b)(1), (3) motion to dismiss;
2. DIRECTS the clerk to term the F.R.Civ.P. 12(b)(1), (3) motion (doc. 10). This Court will take no further action on the F.R.Civ.P. 12(b)(1), (3) motion; and
3. ORDERS defendants, no later than November 22, 2011, to file papers to indicate whether they consent to the conduct of all further proceedings by a U.S. Magistrate Judge.

Due to having the heaviest district court caseload in the nation, limited Court resources, and the

1 need to prioritize criminal and older civil matters over newly filed actions, this Court ADMONISHES
2 defendants to consent to the conduct of all further proceedings by a U.S. Magistrate Judge. This Court
3 has far more U.S. Magistrate Judges than U.S. District Court Judges, who carry far heavier caseloads
4 than U.S. Magistrate Judges, who have greater flexibility and time to devote to civil matters. Without
5 such consent, this Court is unable to commit to address this action to meet the parties' needs and
6 expectations.

7 A consent form is available on the Court's website www.caed.uscourts.gov by checking the
8 Clerk's Office link or by telephoning the Clerk's Office at (559) 499-5600 or (559) 499-5601.

9 IT IS SO ORDERED.

10 **Dated:** November 14, 2011

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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