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9 IN THE UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 CINTHIA HERNANDEZ,
12
13 Plaintiff,
14
15 v.
16 COUNTY OF KERN; KERN MEDICAL
CENTER; DOREEN TADOKORO, D.O.;
INEALFER ROSALES, and DOES 1 to 100
Inclusive,
17
18 Defendants.

Case No. 1:15-cv-01719-LJO-JLT

**STIPULATION AND ORDER REGARDING
UNITED STATES OF AMERICA'S
MOTION TO DISMISS**

Date: December 22, 2015
Time: 8:30 a.m.
Ctrm: 4 (7th Floor, Hon. Lawrence J. O'Neill)

18 The parties to this action, through their undersigned attorneys of record, hereby stipulate and
19 agree as follows:

20 **RECITALS**

21 1. On February 13, 2015, Plaintiff, Cinthia Hernandez, filed a Complaint for Damages
22 (Wrongful Death) in the Superior Court of California, County of Kern, Case No. S-1500-CV-284153
23 LHB, naming as defendants the County of Kern, Kern Medical Center, Doreen Tadokoro, D.O.,
24 Inealfer Rosales and Does 1 to 100 and alleging medical negligence in connection with the labor and
25 delivery of Anais Rosales at Kern Medical Center.

26 2. The United States of America removed the action to this Court and filed a Certificate of
27 Scope of Employment certifying that Doreen Tadokoro, D.O., was at all relevant times acting within
28 the scope of her employment with Clinica Sierra Vista, a federally funded healthcare facility covered

1 under the Federal Tort Claims Act (“FTCA”) by operation of the Federally Supported Health Centers
2 Assistance Act, 42 U.S.C. § 233. See ECF Nos. 1, 1-1. The Certificate of Scope of Employment
3 (ECF No. 1-1) effects the substitution of the United States as defendant in place of Doreen Tadokoro,
4 D.O. 28 U.S.C. § 2679(d)(1).

5 3. The United States has filed a Motion to Dismiss (the “Motion,” ECF No. 4), asserting
6 that the Court lacks jurisdiction because Plaintiff did not exhaust administrative remedies prior to
7 bringing suit.

8 4. Plaintiff does not oppose the Motion and consents to the dismissal of her claims against
9 the United States without prejudice.

10 **STIPULATION**

11 WHEREFORE, the parties request that the Court enter an Order granting the Motion;
12 dismissing Plaintiff’s claims against the United States without prejudice; and remanding the action to
13 the Superior Court of California, County of Kern.

14 Respectfully submitted,

15 Dated: November ____, 2015

BENJAMIN B. WAGNER
United States Attorney

17 /s/ Benjamin E. Hall
18

BENJAMIN E. HALL
19 Assistant U.S. Attorney
20 Attorneys for Defendant
United States of America

21 Dated: November ____, 2015

SALDO LAW GROUP P.C.

23

TYLER B. SALDO
24 Attorneys for Plaintiff

25 Dated: November ____, 2015

HALL HIEATT & CONNELLY LLP

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JAY A. HIEATT
28 Attorneys for Defendant
Kern Medical Center

ORDER

Pursuant to the foregoing Stipulation, and good cause appearing,

IT IS HEREBY ORDERED as follows:

The United States of America's Motion to Dismiss (ECF No. 4) is GRANTED; the United States is dismissed from this action without prejudice, and the hearing set for December 22, 2015, is VACATED;

The case is REMANDED to the Superior Court of California, County of Kern.

IT IS SO ORDERED.

Dated: December 2, 2015

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