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3 **UNITED STATES DISTRICT COURT**  
4 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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6 ELISA MAGALLANES DEVALLE,

7 **Plaintiff,**

8 **v.**

9 UNITED STATES OF AMERICA and DOCTORS  
10 MEDICAL CENTER OF MODESTO.,

11 **Defendants.**

Case No. 1:18-cv-00130 LJO BAM

**MEMORANDUM DECISION AND  
ORDER GRANTING UNITED STATES  
OF AMERICA’S UNOPPOSED  
MOTION TO DISMISS AND  
REMANDING TO THE SUPERIOR  
COURT FOR THE COUNTY OF  
STANISLAUS (ECF NO. 5)**

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13 This medical malpractice action was filed on September 27, 2018 in Stanislaus Superior Court  
14 by Elisa Magallanes deValle (“Plaintiff”) against Defendants Rebecca Brock, MD (“Dr. Brock”);  
15 Doctors Medical Center of Modesto, and Golden Valley Health Centers-Modesto Women’s Health. ECF  
16 No. 1, Ex. A. The case was removed to this Court on January 24, 2018, pursuant to the Federally  
17 Supported Health Centers Assistance Act (“FSHCAA”), 42 U.S.C. § 233(c), because, at the time of the  
18 incidents out of which this suit arose, Dr. Brock and Golden Valley Health Centers-Modesto Women’s  
19 Health were deemed employees of the Public Health Service pursuant to the FSHCAA. In addition, the  
20 case was removable under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 433(c), 1346(b)(1),  
21 2671, *et seq.*, because the FSHCAA makes the FTCA the exclusive remedy for damages resulting from  
22 the performance of medical functions by deemed employees of the Public Health Service acting within  
23 the scope of such employment. 42 U.S.C. § 233(a), (g).

24 On January 31, 2018, the United States, substituted for Dr. Brock and Golden Valley Health  
25 Centers-Modesto Women’s Health under 28 U.S.C. § 2679(d)(2), ECF No. 1-3, moved to dismiss for

1 lack of jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1) on the ground that Plaintiff had  
2 failed to exhaust her administrative remedies under the FTCA. ECF No. 5. On February 15, 2018,  
3 Plaintiff filed a statement of non-opposition to the United States' motion, agreeing to file an  
4 administrative tort claim pursuant to the FTCA. ECF No. 6.

5 Accordingly, as the motion is both well-founded and unopposed, the United States' motion to  
6 dismiss is GRANTED. Dr. Brock and Golden Valley Health Centers-Modesto Women's Health are  
7 **DISMISSED WITHOUT PREJUDICE AS DEFENDANTS.**

8 The remaining claims against Doctors Medical Center arise under state law and do not appear to  
9 be subject to this Court's jurisdiction on any independent ground. Accordingly, and pursuant to 28  
10 U.S.C. § 1447, the remaining state law claims are **REMANDED** to the Superior Court for the County of  
11 Stanislaus.

12  
13 IT IS SO ORDERED.

14 Dated: February 16, 2018

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