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7
 8 IN THE UNITED STATES DISTRICT COURT
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 LAURA HEBERT-TORRES,

12 Plaintiff,

13 v.

14 UNITED STATES OF AMERICA and DOES 1
 15 through 100 inclusive,

16 Defendants.

CASE NO. 2:09-CV-03495 KJM-CMK

**STIPULATION TO DISMISS
 PLAINTIFF'S SECOND CAUSE OF
 ACTION; AND ORDER**

17
 18 Plaintiff Laura Hebert-Torres, by and through her attorney of record, and the United States, by
 19 and through its attorneys of record, hereby stipulate, subject to approval of the Court, to dismissal of
 20 Plaintiff's Second Cause of Action in her Complaint. In her Second Cause of Action, Hebert-Torres
 21 alleges that the United States violated 42 U.S.C. § 1395dd and California Health and Safety Code §
 22 1317 *et seq.*, when a nurse practitioner at the Del Norte Clinic allegedly failed to perform an
 23 appropriate screening examination to determine whether Hebert-Torres had an emergency medical
 24 condition and failed to stabilize Hebert-Torres prior to sending her home. Complaint ¶¶ 29-33. The
 25 parties agree that because neither 42 U.S.C. § 1395dd nor California Health and Safety Code § 1317
 26 contain an express waiver of sovereign immunity, the Court lacks subject matter jurisdiction over the
 27 Second Cause of Action in the Complaint.
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Dated: May 26, 2011

Respectfully submitted,

BENJAMIN B. WAGNER
United States Attorney

/s/ Edward A. Olsen
EDWARD A. OLSEN

Dated: May 26, 2011

/s/ Steven H. Schultz
STEVEN H. SCHULTZ
DEMAS & ROSENTHAL, LLP
Attorneys for Plaintiff

ORDER

IT IS HEREBY ORDERED that Plaintiff Laura Hebert-Torres' Second Cause of Action is dismissed with prejudice.

Date: June 21, 2011.


UNITED STATES DISTRICT JUDGE