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 BANNER HEALTH dba BANNER LASSEN MEDICAL CENTER

**UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF CALIFORNIA**

I.P., a minor, by and through her  
 guardian ad litem, FACUNDO  
 PALACIO DIAZ, MICAELA PALACIO,  
 FACUNDO PALACIO DIAZ,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendants.

Case No.: 2:13-CV-01012 JAM-CKD  
 Consolidated w/ 2:13-CV-02013 JAM-  
 CKD

**STIPULATION OF DISMISSAL  
 AND ORDER OF DISMISSAL  
 [FRCP 41(a)]**

Plaintiffs I.P., a minor, by and through her guardian ad litem, FACUNDO PALACIO DIAZ, MICAELA PALACIO and FACUNDO PALACIO DIAZ, Defendant and Cross-Complainant BANNER HEALTH dba BANNER LASSEN MEDICAL CENTER and Defendant UNITED STATES OF AMERICA hereby stipulate under Federal Rule of Civil Procedure 41(a)(1) that the portion of this action removed from the Lassen County Superior Court, Case No. 56180 (complaint *Palacio v. Banner Health* and cross-complaint *Banner Health v. Davainis*) be dismissed with prejudice, with each party bearing their own attorney's fees and costs. This stipulation and order does not include the Federal Tort Claims Act complaint by

1 plaintiffs I.P., a minor by and through her guardian ad litem, FACUNDO PALACIO  
2 DIAZ and MICAELA PALACIO against the United States of America which is still  
3 pending and is set to begin trial on  
4 September 24, 2015.

5 Dated: 7/27/2015

LAW OFFICES OF BRUCE G. FAGEL &  
ASSOCIATES

6  
7  
8 By: /s/  
9 Bruce G. Fagel, Esq.  
10 100 N. Crescent Dr., Ste. 360  
11 Beverly Hills, CA 90210  
12 Attorneys for Plaintiffs

13 Dated: 8/1/2015

SCHUERING ZIMMERMAN & DOYLE,  
LLP

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15  
16  
17 By: /s/  
18 Thomas J. Doyle, Esq.  
19 400 University Avenue  
20 Sacramento, California 95825-6502  
21 Attorneys for Defendant BANNER  
22 HEALTH dba BANNER LASSEN  
23 MEDICAL CENTER  
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1 Dated: 8/10/2015

BENJAMIN B. WAGNER  
United State Attorney

4 By: /s/  
5 Victoria Boesch  
6 Assistant United States Attorney  
7 Attorneys for Defendant UNITED  
8 STATES OF AMERICA

9 ORDER OF DISMISSAL

10 Pursuant to the stipulation of the parties under Federal Rule of Civil  
11 Procedure 41(a)(1) IT IS ORDERED THAT the portion of this action removed from  
12 the Lassen County Superior Court, Case No. 56180 (complaint *Palacio v. Banner*  
13 *Health* and cross-complaint *Banner Health v. Davainis*) be, and hereby is dismissed  
14 with prejudice, with each party bearing their own attorney's fees and costs.

15 IT IS FURTHER ORDERED THAT this order does not include the Federal  
16 Tort Claims Act complaint by plaintiffs I.P., a minor by and through her guardian  
17 ad litem, FACUNDO PALACIO DIAZ and MICAELA PALACIO against the United  
18 States of America which is still pending and is set for trial on September 24, 2015.  
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20 Dated: 8/19/2015

21 /s/ John A. Mendez  
22 John A. Mendez  
23 UNITED STATES DISTRICT COURT JUDGE  
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