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10 Attorneys for the United States

11 IN THE UNITED STATES DISTRICT COURT
 12 EASTERN DISTRICT OF CALIFORNIA

13 I.P., A MINOR, BY AND THROUGH HER
 14 GUARDIAN AD LITEM, FACUNDO
 15 PALACIO DIAZ; MICAELA PALACIO,
 16
 17 Plaintiffs,

18 v.

19 UNITED STATES OF AMERICA,
 20
 21 Defendant.

22 CASE NO. 2:13-CV-01012 JAM-CKD

23 **STIPULATION AND ORDER TO MODIFY
 24 THE AMENDED PRETRIAL CONFERENCE
 25 ORDER REGARDING TRIAL WITNESSES**

26 Judge: Hon. John A. Mendez
 27 Crtrm: 6, 14th floor

28 **TRIAL DATE: MAY 26, 2015**

1 I.P., A MINOR, BY AND THROUGH HER
 2 GUARDIAN AD LITEM, FACUNDO
 3 PALACIO DIAZ; MICAELA PALACIO,
 4
 5 Plaintiffs,

6 vs.

7 BANNER HEALTH, AN ARIZONA
 8 CORPORATION, doing business as BANNER
 9 LASSEN MEDICAL CENTER; DOES 100-
 10 200,
 11 Defendants.

12 Plaintiffs and the United States respectfully request modification of the Court's Amended
 13 Pretrial Conference Order (Dkt. 77) regarding trial witnesses for good cause. The United States has
 14 been informed that Plaintiffs and Banner recently settled their claims, that Banner is withdrawing its
 15

1 expert witnesses, and that Plaintiffs are withdrawing some of their experts. During meet and confer
2 discussions, the parties reached certain agreements as reflected below.

3 **A. Neither Plaintiffs Nor the United States Will Offer Neuroradiologist Testimony at Trial**

4 Plaintiffs and the United States stipulate to the following:

- 5
- 6 1. Neuroradiologists analyzing the May 1, 2012 ultrasound and the May 7, 2012 MRI of
7 I.P.'s brain concluded that those images are consistent with I.P. having experienced
8 hypoxic ischemic injury of the acute profound pattern.
 - 9 2. A hypoxic ischemic injury of the acute profound pattern results from a near-total
10 cessation of oxygenated blood reaching the fetus for a short amount of time, typically
11 10 to 20 minutes.
 - 12 3. These imaging results are consistent with I.P. having experienced a sentinel event such
13 as a cord compression occurring within the last 15 to 20 minutes prior to birth.
14

15 As a result of this stipulation, Plaintiffs withdraw their expert witnesses Dr. Patrick Barnes and
16 Dr. Jerome Barakos and the United States withdraws its expert witness Dr. Gordon Sze.

17 **B. Plaintiffs Withdraw Three Other Witnesses**

18 Plaintiffs will present only one neonatologist, Dr. William Rhine, at trial and withdraw
19 neonatologist Dr. Michael Sherman. Plaintiffs also withdraw Maternal Fetal Medicine Dr. Richard H.
20 Paul and Nurse Laura Mahlmeister.
21

22 **CONCLUSION**

23 The parties respectfully request modification of the Court's Amended Pretrial Conference
24 Order to reflect the parties' Neuroradiology stipulation and the withdrawal of experts Dr. Barnes, Dr.
25 Barakos, Dr. Sze, Dr. Sherman, Dr. Paul, and Nurse Mahlmeister.
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Dated: April 15, 2015

Respectfully submitted,

BENJAMIN B. WAGNER
United States Attorney

/s/ Victoria L. Boesch

VICTORIA L. BOESCH
Assistant United States Attorney

Attorneys for Defendant United States

Dated: April 15, 2015

/s/ Bruce G. Fagel (authorized 4/15/15)

BRUCE G. FAGEL
LAW OFFICES OF BRUCE G. FAGEL
& ASSOCIATES

Attorneys for Plaintiffs

IT IS SO ORDERED.

DATED: 4/16/2015

/s/ John A. Mendez _____

JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE