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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 KATHERINE JODOIN,
12 Plaintiff,
13 v.
14 UNITED STATES,
15 Defendant.
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No. CIV. S-13-1689 LKK/KJN

ORDER

17 This case concerns an alleged incident of medical
18 malpractice at the Chapa-De Indian Health Program, an Indian
19 Health Service facility located in Placer County. Plaintiff
20 Katherine Jodoin initially sued the Chapa-De Program and dentist
21 Dr. Hahn Tran in Placer County Superior Court, alleging
22 negligence and fraud. (Complaint, ECF No. 1.)

23 Defendant United States contends that, under the Indian
24 Self-Determination and Education Assistance Act ("ISDEAA"), 25
25 U.S.C. §§ 450 *et seq.*, employees working within the scope of
26 their employment under an ISDEAA contract are deemed employees of
27 the United States. See 25 U.S.C. § 450f. (Notice of Removal ¶¶ 4,
28 5, ECF No. 1.) Accordingly, the United States removed the action

1 to this court, and now moves to dismiss plaintiff's cause of
2 action for fraud for lack of subject matter jurisdiction on
3 grounds of sovereign immunity. (ECF No. 5.)

4 As plaintiff has filed a notice of non-opposition, the
5 motion will be granted. (ECF No. 9.)

6 A status conference has been set in this matter for November
7 4, 2013 at 1:30 p.m. (ECF No. 2.) In their joint status report,
8 the parties request a continuance of the status conference and
9 all other dates in this matter because the Assistant U.S.
10 Attorney who represents the defendants has been furloughed as
11 part of the ongoing government shutdown. (ECF No. 10.) The court
12 finds this request to be reasonable.

13 The court hereby orders as follows:

14 [1] Plaintiff's cause of action for fraud is DISMISSED.
15 Plaintiff is GRANTED leave to file an amended complaint
16 within twenty-eight (28) days of docketing of this order.
17 If, due to the government shutdown and furlough, defendants
18 require additional time to respond to the amended complaint
19 beyond that provided in the Federal Rules of Civil
20 Procedure, they are GRANTED leave to apply ex parte for a
21 reasonable extension of time.


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23 [2] The hearing on the motion to dismiss, currently set for
24 October 21, 2013, is VACATED.

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26 [2] The Status (Pretrial Scheduling) Conference herein is
27 CONTINUED until January 21, 2014 at 11:00 a.m. in chambers.
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1 The parties are DIRECTED to file a joint status report, or
2 individual status reports, no later than January 7, 2014.

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4 IT IS SO ORDERED.

5 DATED: October 9, 2013.

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9 LAWRENCE K. KARLTON
10 SENIOR JUDGE
11 UNITED STATES DISTRICT COURT
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