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6 UNITED STATES DISTRICT COURT  
7 FOR THE EASTERN DISTRICT OF CALIFORNIA  
8

9 E.R., a minor, by and through his Guardian ad  
Litem, CAROLYN YOUNG,

10 Plaintiff,

11 v.

12 SUTTER DAVIS HOSPITAL, SUTTER WEST  
13 WOMEN'S HEALTH, SUSAN MAAYAH,  
M.D., and DOES 1 to 100, inclusive,

14 Defendants.  
15

Case No. 2:14-CV-02053-WBS-CKD

**REVISED STIPULATION AND  
[PROPOSED] ORDER SETTING  
SUPPLEMENTAL BRIEFING SCHEDULE  
REGARDING UNITED STATES' MOTION  
FOR SUMMARY JUDGMENT ON SUTTER  
DAVIS HOSPITAL'S THIRD-PARTY  
CLAIMS FOR INDEMNITY AND  
CONTRIBUTION**

16 AND RELATED CROSS-ACTION.  
17

18 The parties hereby stipulate and propose to modify the supplemental briefing schedule on the  
19 United States' motion for summary judgment such that the hearing on the motion can resume and be  
20 concluded by November 28, 2016. The parties to this motion propose that supplemental briefs be  
21 filed on or before November 18, 2016, and the United States file any response brief on or before  
22 November 23, and that the hearing be continued on November 28, 2016, at 1:30 p.m.

23 The United States filed its Motion for Summary Judgment regarding Third Party Plaintiff  
24 Sutter Davis Hospital's Claims for Indemnity and Contribution on October 17, 2016. (See Dkt. No.  
25 37). Sutter Davis Hospital filed its opposition October 28 and the United States replied on  
26 November 7, 2016. (See Dkt. Nos. 40 & 42). No other party filed any papers regarding this motion,  
27 which solely concerns Sutter Davis Hospital's third party claim against the United States.  
28

1 On November 14, 2016, the Court held a hearing on the United States' Motion for Summary  
2 Judgment regarding Third Party Plaintiff Sutter Davis Hospital's Claims for Indemnity and  
3 Contribution. (*See* Dkt. No. 44). The Court indicated a desire for supplemental briefing on  
4 causation at that hearing, but the parties had difficulty articulating a workable schedule. The Court  
5 issued a minute order following the hearing permitting supplemental briefing by November 28, the  
6 United States to file a response by December 19, and any replies brief by January 3, 2017. (Dkt. No.  
7 44). This would put the hearing date on or near the time for the parties to make pre-trial disclosures  
8 and file their pretrial statements, all while this dispositive motion is still pending.

9 Since the hearing, the parties have had the opportunity to meet and confer and have agreed  
10 upon a schedule that would permit this matter to be fully briefed and concluded in a more timely  
11 fashion. Because there are limited materials to review regarding causation, and because the parties  
12 wish to have this matter resolved in advance of trial preparation, the parties have stipulated to, and  
13 propose, the following supplemental briefing schedule:

- 14 1. Supplemental briefs shall be filed on or before November 18, 2016;
- 15 2. The United States shall file any responsive brief on or before November 23, 2016; and
- 16 3. The hearing shall resume on November 28, 2016, at 1:30 p.m.

17 This schedule will permit the Court to receive the supplemental briefing, hear arguments on this  
18 matter, and render a decision sufficiently in advance of trial (and trial preparation), and in keeping  
19 with the Scheduling Order adopted in this case in September 2015. (*See* Dkt. No. 24). This will  
20 conserve the parties' resources and the Court's by promoting an orderly resolution of the United  
21 States' motion against Sutter Davis Hospital's claim, which has already been the subject of full  
22 summary judgment briefing and a lengthy oral argument.

23 Because this schedule will promote the orderly resolution of this matter, conserve the  
24 resources of the parties and the Court, hew more closely to the long-standing Scheduling Order, and  
25 allow the parties to prepare for trial with a clear view of which claims are still in the case, if any.  
26 This is particularly important where claims against some defendants will be tried to a jury, but where  
27 the third party claim against the United States (which is the only claim against the United States in  
28 this action) must be tried to the Court, not a jury. *See* 28 U.S.C. § 2402 (claims under FTCA "shall

1 be tried by the court without a jury.”).

2 Respectfully submitted,

3 Dated: November 16, 2016

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Acting United States Attorney

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5 By: /s/ Gregory T. Broderick  
GREGORY T. BRODERICK  
Assistant U.S. Attorney

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7 LA FOLLETTE, JOHNSON,  
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8 By: /s/ Larry Thornton (authorized 11/15/2016)  
LARRY THORNTON  
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SUTTER DAVIS HOSPITAL

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11 SCHUERING ZIMMERMAN & DOYLE

12 By: /s/ Kat Todd (authorized 11/16/2016)  
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WOMEN’S HEALTH & SUSAN MAAYAH,  
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15 RICE & BLOOMFIELD, LLP


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17 By: /s/ Linda Fermoyle Rice (authorized 11/16/2016)  
LINDA FERMOYLE RICE  
Attorneys for Plaintiff E.R.

1 Good cause appearing, **IT IS SO ORDERED.**

2 The November 14, 2016, minute order regarding supplemental briefing (Dkt. No. 44) is  
3 hereby modified such that:

- 4 1. Supplemental briefs shall be filed on or before November 18, 2016;
- 5 2. The United States shall file any responsive brief on or before November 23, 2016; and
- 6 3. The hearing shall resume on November 28, 2016, at 1:30 p.m.

7  
8 Dated: November 17, 2016

  
9 **WILLIAM B. SHUBB**  
10 **UNITED STATES DISTRICT JUDGE**

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