Muir v. U.C. Davis et al Doc. 13

Charles D. Caraway/SBN: 289360 THE CARAWAY LAW FIRM 980 9<sup>TH</sup> Street, 16<sup>th</sup> Floor Sacramento, CA 95814 Tel: (916) 449-9551 ccaraway@thecarawaylawfirm.com 5 UNITED STATES DISTRICT COURT 6 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION 8 LEWIS MUIR. Case No.: 2:14-CV-02716-MCE-CKD 10 Plaintiff, 11 VS. **STIPULATION** TO **DISMISS** DEFENDANTS THE REGENTS OF THE 12 UC DAVIS; ELIZABETH DAVID M.D.; PAUL UNIVERSITY OF CALIFORNIA'S, PAUL PERYY, M.D.; MEGAN DALY, M.D.; and 13 PERVY, M.D.'S AND MEGAN DALY, DOES 1-100. M.D.'S **DISMISS** MOTION 14 PLAINTIFF'S COMPLAINT Defendants. 15 16 PLEASE TAKE NOTICE that, the parties herein, by and through their respective attorneys, agree 17 and stipulate to immediately dismiss Defendants The Regents of the University of California, Paul Pervy, 18 M.D.'s and Megan Daly, M.D.'s Motion to Dismiss Plaintiff's Complaint. 19 WHEREAS this case involves multiple parties, the death of the original Plaintiff, and the recent 20 discovery that the United States of America is a party; the parties have had difficulty in meeting and 21 conferring with regard to amending the Complaint to include Plaintiff's estate in place of Plaintiff John 22 Muir subsequent to his death. As such, Defendants original extension on filing a responsive pleading was 23 24 about to lapse prior to an agreement amongst parties on how they were to proceed in this matter. Thus, 25 Defendants filed the aforementioned dispositive motion as a responsive pleading to Plaintiff's complaint, 26 addressing the need for an Amended Complaint. Plaintiff's counsel is in agreement with Defendants that the 27 original complaint requires an amendment, and thus parties stipulate to the following: 28

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1		AND AMONG THE PARTIES, THROUGH THEIR
2	COUNSEL, AS FOLLOWS:	
3	That Plaintiff file an Amended Comp	plaint substituting Plaintiff John Muir, with his estate or
4	successor in interest. The Amended Complaint i	s to be filed no later than January 16, 2015. In consideration
5	for the filing of this Amended Complaint, Det	fendants The Regents of the University of California, Paul
6	Pervy, M.D.'s and Megan Daly, M.D.'s wil	l immediately dismiss their pending Motion to Dismiss
7	Plaintiff's Complaint.	
8	It is so stipulated.	
9	Dated: 12/18/2014	WILKE, FLEURY, HOFFELT, GOULD & BIRNEY, LLP
10 11		By: /s/ BIANCA S. WATTS
12		BIANCA S. WATTS Attorney for Defendants The Regents of the
13		University of California, Paul Pervy, M.D. and Megan Daly, M.D.
14	Dated: 12/18/2014	THE CARAWAY LAW FIRM
15	<b>2400</b> 12/13/2011	
16		CHARLES D. CARAWAY
17		Attorney for Plaintiffs
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1	ORDER
2	Having reviewed the stipulation, signed by all parties, IT IS ORDERED THAT the Motion to
3	Dismiss Plaintiff's Complaint in this matter (ECF No. 5) previously calendared to be heard by the
4	Honorable Morrison C. England, Jr. on January 8, 2015 at 2:00 p.m. in Courtroom 7, is DENIED as moot
5	and the hearing is VACATED. It is also ordered that Plaintiff file an amended Complaint substituting the
6	estate or successors in in interest of Plaintiff John Muir on or before January 16, 2015.
7	IT IS SO ORDERED.
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9	Dated: January 5, 2015
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12	MORRISON C. ENGLAND, JR., CHIEF JUDGE
13	UNITED STATES DISTRICT COURT
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