

1 BENJAMIN B. WAGNER
 United States Attorney
 2 LYNN TRINKA ERNCE
 Assistant United States Attorney
 3 501 I Street Suite 10-100
 Sacramento, CA 95814
 4 Telephone: (916) 554-2720
 Facsimile: (916) 554-2900
 5

6 Attorneys for United States of America
 7

8 IN THE UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA

10

11 S. M., a minor by and through his guardian
 ad litem, TIMOTHY MARTIN,

12 Plaintiff,

13 v.

14 UNITED STATES OF AMERICA;
 CHRISTOPHER LOUISELL, M.D.;
 15 MORGAN GAURA, P.A.; MERCY
 MEDICAL CENTER REDDING dba
 16 DIGNITY HEALTH; and DOES 1 through
 100 inclusive,

17 Defendants.
 18

Case No. 2:15-cv-01097 MCE CMK

**STIPULATION OF DISMISSAL OF
 PLAINTIFF’S CLAIMS AGAINST THE UNITED
 STATES OF AMERICA FOR LACK OF
 JURISDICTION; ORDER**

[Fed. R. Civ. P. 41(a)(1)(A)(ii)]

19 The parties to this action, through their respective counsel, hereby enter into the following
 20 stipulation of dismissal of plaintiff=s claims against the United States for lack of jurisdiction.

21 **STIPULATION**

22 1. On December 16, 2014, plaintiff filed a medical malpractice complaint in Shasta County
 23 Superior Court in Shasta County Superior Court.

24 2. On May 20, 2015, the United States removed the state court action to this Court. The
 25 United States filed a Certification of Scope of Federal Employment as to defendants Shasta Community
 26 Health Center (SCHC) and Deepika Saini, M.D., and a Notice of Substitution by which the United
 27 States was substituted as proper party defendant in place of SCHC and Dr. Saini.

28 3. Plaintiff did not present an administrative claim to the United States Department of

1 Health and Human Services (“HHS”) prior to filing his lawsuit, as required by 28 U.S.C. § 2675(a).
2 He subsequently presented administrative claim to HHS on April 21, 2015.

3 4. Based on the foregoing, the parties hereby stipulate that plaintiff=s claims against the
4 United States shall be dismissed for lack of subject matter jurisdiction, and that such dismissal shall
5 bewithout prejudice, each party to bear her or its own costs.

6 DATED: June 11, 2015

BENJAMIN B. WAGNER
United States Attorney

7
8 By: /s/ Lynn Trinka Ernce
LYNN TRINKA ERNCE
Assistant United States Attorney

9 DATED: May 28, 2015

LAW OFFICE OF STEVEN H. SCHULTZ

10
11 By: /s/ Steven H. Schultz
STEVEN H. SCHULTZ
Attorney for Plaintiff

12 DATED: June 11, 2015

KENNY, SNOWDEN & NORINE

13
14 By: /s/ Kelly J. Snowden
KELLY J. SNOWDEN
LINDA R. SCHAAP
Attorneys for Defendant
Dignity Health, dba Mercy Medical Center Redding

15 DATED: June 6, 2015

WASHINGTON & HEITHECKER


16
17 By: /s/ George E. Washington
GEORGE E. WASHINGTON
Attorneys for Defendants
Christopher Louisell, M.D. and Morgan Gaura, P.A.

18
19
20 **ORDER**

21
22 In accordance with the foregoing stipulation, the above referenced matter is hereby dismissed,
23 without prejudice. The Clerk of Court is directed to close the file.

24 **IT IS SO ORDERED.**

25 Dated: June 16, 2015

26
27 
28 MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT