1 PHILLIP A. TALBERT United States Attorney 2 CHI SOO KIM Assistant United States Attorney 3 501 I Street, Suite 10-100 Sacramento, CA 95814 Telephone: (916) 554-2700 4 Facsimile: (916) 554-2900 5 Attorneys for Defendants United States and United States Department of Agriculture 6 7 IN THE UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 11 21ST CENTURY INSURANCE COMPANY, CASE NO. 2:16-cv-01524 TLN-KJN 12 Plaintiff, STIPULATION AND ORDER TO 13 SUBSTITUTE THE UNITED STATES IN PLACE OF DEFENDANT UNITED STATES V. 14 DEPARTMENT OF AGRICULTURE UNITED STATES OF AMERICA: and 15 UNITED STATES DEPARTMENT OF AGRICULTURE, 16 Defendants. 17 18 Defendant United States, Defendant United States Department of Agriculture, and Plaintiff 21st 19 Century Insurance Co., by and through their respective counsel, stipulate to substitute the United States 20 as Defendant in place of Defendant United States Department of Agriculture. The United States is the 21 only proper party defendant for claims under the Federal Tort Claims Act. 28 U.S.C. §§ 1346(b)(1) and 22 3679(a); FDIC v. Craft, 157 F.3d 697, 706 (9th Cir. 1998) ("The FTCA is the exclusive remedy for 23 tortious conduct by the United States, and it only allows claims against the United States. Although 24 such claims can arise from the acts or omissions of United States Agencies (28 U.S.C. § 2671), an 25 agency itself cannot be sued under the FTCA."). 26 /// 27 28 STIPULATION AND JORDER TO SUBSTITUTE THE UNITED STATES IN PLACE OF DEF. U.S. DEPARTMENT OF AGRICULTURE 1 21ST Century Insurance Co. v. United States, et al., Case No. 2:16-cv-01524 TLN-KJN

1		Respectfully submitted,
2	DATED: December 16, 2016	PHILLIP A. TALBERT
3		United States Attorney
4		<u>/s/ Chi Soo Kim</u> CHI SOO KIM
5		Assistant United States Attorney
6		Attorneys for United States and United States Department of Agriculture
7		
8		
9	DATED: December 16, 2016	BENSON LEGAL, APC
10		/s/ Susan M. Renson
11		/s/ Susan M. Benson SUSAN M. BENSON Attorneys for Plaintiff 21 st Century Insurance Co.
12		Attorneys for Plaintiff 21 Century insurance Co.
13		
14	О	RDER
15	IT IS SO ORDERED.	
16		
17	Dated: December 22, 2016	
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