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6 Attorneys for Plaintiff  
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8 IN THE UNITED STATES DISTRICT COURT  
 9 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,  
 12 Plaintiff,

13 v.

14 SUWONNEE PONGNORSING; AND  
 WESTSIDE PLAZA PHARMACY aka WEST  
 15 MODESTO PHARMACY,  
 16 Defendants and Judgment Debtors.

17 HUMANA INSURANCE COMPANY,  
 (and its Successors and Assignees),  
 18 Garnishee.  
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CASE NO. 2:17-MC-00061-MCE-CKD

**STIPULATION ADDING HUMANA  
 PHARMACY SOLUTIONS, INC. AS  
 GARNISHEE AND DROPPING  
 GARNISHEE HUMANA INSURANCE  
 COMPANY; ORDER**

[No hearing requested]

20 Counsel for plaintiff United States and counsel for garnishee Humana Insurance Company  
 21 (Humana) and proposed garnishee Humana Pharmacy Solutions, Inc. (the Stipulating Entities) hereby  
 22 stipulate as follows:

23 1. Garnishee Humana filed its Acknowledgement of Service and Answer (the Answer) to  
 24 the United States’ writ of garnishment on May 22, 2017. ECF No. 8. Humana disclosed in its Answer  
 25 that it utilizes Humana Pharmacy Solutions, Inc. as Humana’s pharmacy benefits manager (PBM) to  
 26 negotiate and contract prescription reimbursement rates with retail pharmacies such as defendants  
 27 Westside Plaza Pharmacy aka West Modesto Pharmacy. *Id.*, at paragraphs 1 – 3. As Humana’s PBM,  
 28 Humana Pharmacy Solutions, Inc. is authorized to, and responsible for contracting, processing, and

1 paying the defendant pharmacies for pharmacy and drug services Defendants provide to Humana’s  
2 enrollees and members. *Id.*, at paragraph 3.

3         2.         Humana does not hold any property in which the Defendants maintain an interest subject  
4 to this writ because it uses Humana Pharmacy Solutions, Inc. as its PBM. *Id.*, at paragraph 6. Humana  
5 Pharmacy Solutions, Inc. reimburses Defendants for the prescription drug claims Defendants submit for  
6 reimbursement. Accordingly, Humana Pharmacy Solutions, Inc. is the proper garnishee in this case.  
7 *Id.*, at paragraph 4.

8         3.         Humana Pharmacy Solutions, Inc. filed an Answer to the United States’ writ of  
9 garnishment on May 22, 2017. ECF No. 9. Its Answer states it is holding property (prescription drug  
10 reimbursement payments) in which the Defendants maintain an interest subject to this garnishment  
11 action. *Id.*, at paragraph 6. Humana Pharmacy Solutions, Inc.’s Answer further states it anticipates  
12 owing Defendants drug reimbursement payments in the future. *Id.*, at paragraph 7.

13         4.         Based on the foregoing, the Stipulating Entities agree that the Court can and should enter  
14 an order adding Humana Pharmacy Solutions, Inc. as the garnishee and dropping Humana as the original  
15 garnishee. The Court may add or drop a party in the case “at any time, on just terms.” Fed. R. Civ. P.  
16 Rule 21. Granting the requested relief will ensure that the Court can issue an effective decree should it  
17 grant the United States’ application for a final order of garnishment directing the payment of funds  
18 Humana Pharmacy Solutions, Inc. is currently withholding. The requested order will not prejudice  
19 Defendants; they are already aware that the United States seeks to garnish drug reimbursements  
20 Defendants transmitted on behalf of patients enrolled in Humana’s medical insurance program. ECF  
21 No. 7. ECF filing No. 7 includes a notice and instructions to Defendants concerning their rights to  
22 oppose this proceeding, as well as the opportunity to object to the Answers filed in this case and request

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1 a hearing thereon. Accordingly, the Stipulating Entities request that the Court enter an order as follows:

2 A. Adding Humana Pharmacy Solutions, Inc. as the garnishee in this case; and

3 B. Dropping Humana Insurance Company as the garnishee in this case.

4 Respectfully submitted,

5 FOR THE UNITED STATES:

6 PHILLIP A. TALBERT  
United States Attorney

8 Dated: June 5, 2017

9 By: /s/ Kurt A. Didier  
KURT A. DIDIER  
Assistant United States Attorney

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11 FOR GARNISHEE HUMANA INS. CO.  
AND HUMANA PHARMACY SOLUTIONS, INC.:

13 Dated: June 5, 2017

14 By: Alexander Nowinski  
ALEXANDER L. NOWINSKI  
DAPONDE, SZABO, ROWE


1 **ORDER**

2 The Court, having reviewed the court files and the Stipulation Adding Humana Pharmacy  
3 Solutions, Inc. as Garnishee and Dropping Garnishee Humana Insurance Company (the "Stipulation"),  
4 and good cause appearing therefrom, hereby APPROVES the Stipulation. Accordingly, it is hereby  
5 ordered that:

- 6 1. Humana Pharmacy Solutions, Inc. is ADDED as garnishee in this case.  
7 2. Humana Insurance Company is DROPPED as garnishee in this case.  
8 3. All future filings in this case shall IDENTIFY Humana Pharmacy Solutions, Inc. as the  
9 sole garnishee.  
10 4. The Defendants and the United States' time to OBJECT to the Answers filed in this case  
11 is as stated in 28 U.S.C. § 3205(c)(5).

12 IT IS SO ORDERED.

13 Dated: June 16, 2017

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15 MORRISON C. ENGLAND, JR.  
16 UNITED STATES DISTRICT JUDGE  
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