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9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 COUNTY OF SANTA CRUZ, COUNTY OF)
13 SONOMA, COUNTY OF SAN DIEGO,)
COUNTY OF MARIN, COUNTY OF SANTA)
14 BARBARA, COUNTY OF SAN LUIS)
OBISPO, COUNTY OF MONTEREY,)
15 THEODORE M. MAZER, M.D., WOLBERS)
AND POREE MEDICAL CORPORATION,)
16 on behalf of themselves and all others similarly)
situated,)

Case No. 3:07-cv-02888-JSW

STIPULATION AND ~~PROPOSED~~ SCHEDULING ORDER

Hon. Jeffrey S. White
Courtroom: 11

17 Plaintiffs,)

18 v.)

19 KATHLEEN SIBELIUS, SECRETARY OF)
20 THE UNITED STATES DEPARTMENT OF)
HEALTH AND HUMAN SERVICES,)
21

22 Defendant.)

1 **STIPULATION**

2 WHEREAS Defendant Kathleen Sibelius, Secretary of the United States Department of
3 Health and Human Services, timely filed a motion to dismiss Plaintiffs' First Amended Complaint
4 on June 16, 2011;

5 WHEREAS Plaintiffs' opposition to the motion is due to be filed on August 16, 2011;

6 WHEREAS Defendant's reply is due to be filed on September 16, 2011;

7 WHEREAS the hearing on the motion to dismiss is currently set for October 14, 2011;

8 WHEREAS the parties have been engaging in discussions relating to the proper scope and
9 contents of the administrative record and wish to continue those discussions; and

10 WHEREAS the parties have agreed to engage in direct settlement discussions of all issues
11 raised in the First Amended Complaint and to seek court approval to defer all currently pending
12 matters while those discussions are taking place;

13 THEREFORE, the parties hereby respectfully request by and through their counsel of record
14 that the Court order that the hearing on the motion to dismiss and all associated deadlines for the
15 opposition and reply be taken off calendar while they pursue settlement discussions. The parties
16 further respectfully request that the Court schedule a case management conference to take place,
17 pursuant to Local Civil Rule 16-10(a), with counsel for Defendant to appear by telephone, for late
18 September 2011, at which counsel will provide the Court with a status report on the progress of
19 settlement discussions.

20 Dated: July 5, 2011

21 /s/ Dario de Ghetaldi
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[PROPOSED] ORDER

Based on the stipulation of the parties and good cause appearing, it is hereby ordered that the hearing on Defendant's Motion to Dismiss the First Amended Complaint currently set for October 16, 2011, and all associated filing deadlines be taken off calendar. It is further ordered that the parties provide the court with a status report of their settlement discussions at a case management conference on September 30, 2011, at 1:30 p.m., at which counsel for Defendant may appear by telephone. The parties shall submit a joint case management statement by September 23, 2011.

Dated: July 5, 2011



Hon. Jeffrey S. White
District Judge