

1 MELINDA HAAG (CABN 132612)
 United States Attorney
 2 JOANN M. SWANSON (CABN 88143)
 Chief, Civil Division
 3 JULIE A. ARBUCKLE (CABN 193425)
 Assistant United States Attorney
 4 450 Golden Gate Avenue, Box 36055
 San Francisco, California 94102-3495
 5 Telephone: (415) 436-7102
 Fax: (415) 436-6748
 6 E-mail: julie.arbuckle@usdoj.gov

7 U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
 OFFICE OF THE GENERAL COUNSEL
 8 JONATHAN C. BRUMER
 330 Independence Ave., S.W., Room 5344
 9 Washington, D.C. 20201
 Telephone: (202) 205-8703

10 LAW OFFICES OF GARY E. GLEICHER
 11 GARY E. GLEICHER
 433 N. Camden Dr., Ste. 515
 12 Beverly Hills, CA. 90210
 Telephone: (310) 277-3696
 13 Fax: (310) 278-2991

14 HONIGMAN MILLER SCHWARTZ AND COHN LLP
 KENNETH R. MARCUS
 15 660 Woodward Avenue
 2290 First National Building
 16 Detroit, MI 48226-3506
 Telephone: (313) 465-7470

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA
 19 SAN FRANCISCO DIVISION

20	ST. FRANCIS MEMORIAL HOSPITAL)	No. CV 08-1440 MMC
21	AND FRANKLIN BENEVOLENT)	
22	CORPORATION f/k/a DAVIES MEDICAL)	JOINT STATUS REPORT
	CENTER,)	
23	Plaintiffs,)	AND ORDER THEREON
24	v.)	
25	KATHLEEN SEBELIUS, Secretary,)	
26	U.S. Department of Health and Human)	
	Services,)	
27	Defendant.)	
28	_____)	

1 The Court's Order entered on December 2, 2011 (docket entry no. 38) directed the parties to
2 file a Joint Status Report no later than January 17, 2012. The parties, by and through their
3 undersigned counsel, respectfully submit this Joint Status Report.

4 1. In their previous Joint Status Reports, the parties have advised this Court that:

5 (a) The Provider Reimbursement Review Board ("PRRB") had issued its decision dated
6 January 26, 2009 in the case of Quality 89-92 Hospital Based SNF, Group Appeal No. 98-1376G
7 (the "Group Appeal"). See Docket Entry Nos. 30, 31, 33, 34, 35, 36, 37 (all advising this Court
8 of this development).

9 (b) In a decision dated March 20, 2009, the Administrator of the Centers for Medicare and
10 Medicaid Services reversed the decision of the PRRB. The March 20, 2009 decision of the
11 Administrator of the Centers for Medicare and Medicaid Services constituted the final decision
12 of the Secretary regarding the Group Appeal. See 42 U.S.C. § 1395oo(f). See Docket Entry Nos.
13 31, 33, 34, 35, 36, 37 (advising the Court of this development).

14 (c) The hospitals participating in the Group Appeal, which include the Plaintiffs in the
15 instant case (but for different fiscal years than in the instant case), filed a Complaint in the United
16 States District Court for the District of Columbia on April 6, 2009, as amended on April 9, 2009.
17 Glendale Memorial Hospital and Health Center et al. v Sebelius, Case No. 1:09-cv-637 (D.D.C.
18 2009) ("Glendale Memorial Hospital"). See Docket Entry Nos. 31, 33, 34, 35, 36, 37 (advising
19 the Court of this development).

20 (d) The parties ultimately settled the Glendale Memorial Hospital District of Columbia case
21 and on September 15, 2011, they filed a Stipulation of Settlement and Dismissal which was
22 incorporated into an Order the Court entered on October 11, 2011. See Glendale Mem'l Hosp.
23 and Health Ctr., et al., v. Sebelius, Case No. 1:09CV00637 (D.D.C. 2009), Docket Entry Nos. 43
24 and 44.

25 (e) On or about November 15, 2011, the settlement agreement in the Glendale Memorial
26 Hospital action was fully implemented. See Docket Entry No. 37.

27 2. On November 23, 2011, the parties to this action filed a Joint Status Report in which they
28 reminded the Court of all of these developments. See Docket Entry No. 37. The parties however
requested "the opportunity to confer further, which may include exploring potential settlement,

1 and to file a further Joint Status Report with the Court no later than January 15, 2012, informing
2 the Court of their proposed case management plan.” Id. at 4, ¶ 5.

3 3. In an order dated December 2, 2011, the Court granted the parties’ request that they be
4 given an opportunity to confer further and to thereafter file another Joint Status Report, and
5 directed the parties to file a Joint Status Report no later than January 17, 2012. See Docket Entry
6 No. 38.

7 4. The Plaintiffs have submitted a settlement proposal to the Defendant. The Defendant
8 requires additional time to complete its review and to respond to the Plaintiffs regarding the
9 settlement proposal. Accordingly, the parties jointly request that they be given an additional
10 thirty one (31) days, through February 17, 2012, within which time the Defendant can complete
11 its review of and respond to the Plaintiffs regarding the settlement proposal. At the conclusion of
12 that 31-day period, the parties are prepared to submit a Joint Status Report advising the Court of
13 the status of their settlement negotiations. If, before February 17, 2012, either party reasonably
14 believes that settlement will not be achieved, it shall notify the other party and within the earlier
15 of five days thereafter or February 17, 2012 the parties shall file a Joint Status Report advising
16 the Court of that fact and submit a proposed case management plan.

17 The filer of this document, attests that concurrence in the filing of this document has
18 been obtained from each of the other signatories.

19
20 Respectfully submitted,

21 LAW OFFICES OF GARY E. GLEICHER

MELINDA HAAG
United States Attorney

22
23 /s/
Gary E. Gleicher
433 N. Camden Dr., Ste. 515
24 Beverly Hills, CA. 90210
Tel.: (310) 277-3696
25 Fax: (310) 278-2991

/s/
Julie A. Arbuckle
Assistant United States Attorney
450 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Tel.: (415) 436-7102
Fax: (415) 436-6748

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

/s/

Kenneth R. Marcus
Honigman Miller Schwartz and Cohn LLP
660 Woodward Avenue
2290 First National Building
Detroit, MI 48226-3506
Tel.: (313) 465-7470

Attorneys for Plaintiffs

Dated: January 17, 2012

/s/

Jonathan C. Brumer
U.S. Department of Health and Human
Services
Office of the General Counsel
Centers for Medicare and Medicaid Services
Division
330 Independence Ave., S.W., Room 5344
Washington, D.C. 20201
Tel.: (202) 205-8703

Attorneys for Federal Defendant

Dated: January 17, 2012

ORDER

Good cause appearing, the Court hereby GRANTS the parties' joint request that they be given an additional thirty-one (31) days, through February 17, 2012, to file a Joint Status Report.

IT IS SO ORDERED.

Dated: January 23, 2012



United States District Judge