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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MALINDA DOTSON,
Plaintiff,

No. C 08-04291 SI

v.

**ORDER DENYING REQUEST TO
DISMISS AND REMAND; RESETTING
DATE FOR PENDING MOTION**

UNITED STATES OF AMERICA, et al.,
Defendants.

United States District Court
For the Northern District of California

Plaintiff filed this medical malpractice case on September 11, 2008. The defendants included the United States (who operated a health center), and four physicians who treated or were involved in the treatment of plaintiff. On February 25, 2011, defendant United States filed a motion for summary judgment. Docket No. 68. On March 3, 2011, plaintiff settled her claims with the United States. *See* Docket No. 78 at 2. The motion for summary judgment, therefore, is DENIED as moot.

On March 4, 2011, the individual defendants filed a motion for judgment as a matter of law. Defendants' motion for judgment as a matter of law is currently pending and set for hearing on April 8, 2011. Plaintiff did not file an opposition to the pending motion for judgment as a matter of law. Instead, on March 18, 2011, plaintiff filed a motion to dismiss and remand this case to the Superior Court for Humboldt County. Docket No. 78. The defendants oppose that request, arguing that it would be fundamentally unfair to require them to return to state court to restart this case where defendants have already complied with Rule 26 expert discovery requirements and have briefed their motion for judgment as a matter of law.

The Court has considered the arguments and finds that the balance of equities weighs in favor of the Court retaining supplemental jurisdiction over the remaining state law claims. This case has been

1 pending in this Court since September 2008. The parties have been required to comply with all of the
2 Rule 26 discovery requirements. Fact discovery closed on September 1, 2010 and expert discovery
3 closed on March 18, 2011. In these circumstances, the Court believes that allowing the case to continue
4 in this Court serves judicial economy and fairness to the parties and denies the motion to dismiss and
5 remand.¹

6 For the foregoing reasons, plaintiff's motion to dismiss and remand is DENIED. The pending
7 motion for judgment as a matter of law is hereby reset for hearing on **May 6, 2011**. Any opposition to
8 that motion must be filed on or before **April 15, 2011**.

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10 **IT IS SO ORDERED.**

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12 Dated: March 23, 2011



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SUSAN ILLSTON
United States District Judge

¹ It is also unclear whether the Court could remand this case to Humboldt County as the complaint in this case was filed in this Court in the first instance. While a prior case was filed in state court and then removed to this Court, that case was dismissed for failure to exhaust. *See* Case No. 08-1861 JCS.