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 6 HUD Secretary Donovan

7 UNITED STATES DISTRICT COURT  
 8 NORTHERN DISTRICT OF CALIFORNIA  
 9 SAN FRANCISCO DIVISION

10 VICTOR WILSON,	)	No. 09-3135 JSW
	)	
11 Plaintiff,	)	<b>APPLICATION UNDER CIVIL LOCAL</b>
	)	<b>RULE 7-11 FOR MISCELLANEOUS</b>
12 v.	)	<b>RELIEF; DECLARATION OF</b>
	)	<b>JONATHAN U. LEE; <del>PROPOSED</del></b>
13 SHAUN DONOVAN, SECRETARY OF	)	<b>ORDER</b>
14 THE DEPARTMENT OF HOUSING AND	)	
URBAN DEVELOPMENT,	)	<i>Date: December 18, 2009</i>
	)	<i>Time: 1:30 p.m.</i>
15 Defendant.	)	<i>Ctrlm: 11, 19<sup>th</sup> Floor</i>
16	)	

17 **NOTICE AND RELIEF REQUESTED**

18 PLEASE TAKE NOTICE that under Civil Local Rule 7-11, Counsel for Defendant Donovan  
 19 hereby moves the Court for an order accommodating Assistant U.S. Attorney Lee’s potential  
 20 conflict for tomorrow’s Case Management Conference as explained below. This motion seeks  
 21 permission to have tomorrow’s Case Management Conference called first on the Court’s  
 22 calendar, to allow AUSA Lee to attend a further Settlement Conference before Magistrate  
 23 Laporte set to begin at 2:00 p.m. tomorrow in Courtroom E.

24 In the alternative, in light of the Court’s possible need to call other matters before *Wilson v.*  
 25 *Donovan*, this motion seeks permission for AUSA Lee to attend the settlement conference,  
 26 beginning at 2:00 p.m., until the Case Management Conference is called on this Court’s calendar,  
 27 at which time AUSA Lee can be notified by telephone and return from Courtroom E  
 28 immediately.

**FACTUAL BACKGROUND**

1 This matter was filed on July 10, 2009. Docket #1. The Court’s initial scheduling order set  
2 the Case Management Conference for October 23, 2009. Dkt. #4. By clerk’s notice filed  
3 October 19, 2009, the Court continued the Case Management Conference until December 18,  
4 2009. Dkt. #6. The Federal Defendant filed its Answer on December 3, 2009. Dkt. #7. The  
5 parties filed separate CMC statements on December 11, 2009. Dkt. #s 9, 12.

6 *Hernandez v. USA* is a medical malpractice case that went to trial in May and June 2009.  
7 Action 06-3350 SBA Docket #s 232-234, 240. The trial resulted in a judgment for plaintiff.  
8 Dkt. #256. The Court set a Settlement Conference with Magistrate Laporte for November 13,  
9 2009. Dkt. #s269-270. Due to Magistrate Laporte’s schedule, at the time, November 13, 2009  
10 was the only available date for the remainder of 2009. Lee Declaration, ¶3. The matter did not  
11 settle, but there was progress in subsequent communications between counsel, which resulted in  
12 a further settlement conference being scheduled with Magistrate Laporte. *Id.* The only available  
13 slot for this conference, due to Magistrate Laporte’s schedule, was December 18, 2009. *Id.* The  
14 parties confirmed this date with Magistrate Laporte on December 11, 2009. *Id.*

**ARGUMENT**

15  
16 This motion seeks permission for AUSA Lee to attend the Case Management Conference and  
17 the further Settlement Conference, both scheduled for tomorrow. If this Court calls the Case  
18 Management Conference in this case first on its calendar, the matter would most likely be  
19 concluded before 2:00 p.m. Given the Court’s calendar needs, this may not be preferable for the  
20 Court. In that event, AUSA Lee seeks permission to leave for the further Settlement Conference  
21 shortly before 2:00 p.m., to be notified by telephone when this matter is called.

**CONCLUSION**

22  
23 Defendant respectfully requests that its request be granted.

24 Respectfully submitted,  
25 JOSEPH P. RUSSONIELLO  
26 United States Attorney

27 Dated: December 17, 2009

28 \_\_\_\_\_  
/s/  
JONATHAN U. LEE  
Assistant United States Attorney  
Attorney for Federal Defendant  
HUD Secretary Donovan

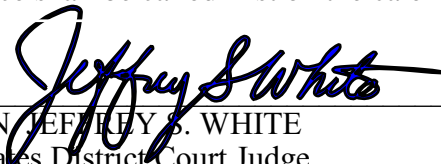


**PROPOSED ORDER**

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The motion is granted. The case management conference shall be called first on the calendar.

DATED: December 17, 2009

  
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THE HON. JEFFREY S. WHITE  
United States District Court Judge