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26 Attorney for Defendant  
27 Windsor Gardens Care Center of Hayward,  
28 Erroneously sued as "Windsor-Gardens"

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

21	MERRY KALAFATICH,	)	CASE NO. CV 10 2030 SI
		)	STIPULATION AND ORDER
22	Plaintiff,	)	FOR DISMISSAL WITH
		)	PREJUDICE PURSUANT
23	V.	)	TO FRCP 41(A) (1)
		)	
24	BENEFIT & RISK MANAGEMENT	)	
	SERVICES, INC., TERRY BOYLE,	)	
25	WINDSOR GARDENS AND DOES 1-50	)	
	INCLUSIVE	)	
26		)	
	Defendants,	)	
27		)	

28 STIPULATION AND ORDER FOR DISMISSAL FRCP 41(A) (1)

1 IT IS HEREBY STIPULATED by the parties to this action,  
2 through their designated counsel, that the above-captioned action  
3 be dismissed in its entirety with prejudice pursuant to FRCP 41  
4 (a)(1), each party to bear its own fees and costs. The dismissal  
5 of this action with prejudice shall not preclude Plaintiff Merry  
6 Kalfatich from asserting as an affirmative defense in any  
7 collection action brought by Windsor Gardens, its successors or  
8 assigns for recovery of hospitalization fees from Plaintiff that  
9 Windsor Gardens by its agents represented to and agreed with  
10 Plaintiff that all fees for her hospitalization were to be paid by  
11 Plaintiff Merry Kalafatich's health care benefit provider and did  
12 enter an express agreement with the health care benefit provider  
13 for payment of Merry Kalfatich's hospitalization at Windsor.

14 In the event of the assertion of the aforesaid affirmative  
15 defense Windsor Gardens shall not assert or contend the same is  
16 barred by the doctrine of res judicata or collateral estoppel

17 Dated: June 28, 2010 FRANK E. MAYO, ESQ.

18  
19 /S/ Frank E. Mayo  
20 Attorney for  
21 Plaintiff Merry Kalafatich

22 Dated: June , 2010 THE DAVIS LAW FIRM, APC

23 BY: /S/ Timothy C. Davis, Esq.  
24 Timothy C. Davis, Esq.

25 Dated: June , 2010 LAW OFFICE OF CHARLES P. TEIXEIRA

26 BY: /S/ Charles P. Teixeira  
27 Charles P. Teixeira

28 ATTORNEYS FOR BENEFIT & RISK  
MANAGEMENT SERVICES, INC. and

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TERRY BOYLE

Dated: June , 2010

DE CASTRO LAW GROUP, P.C.

/S/ Jose-Manuel A. de Castro  
Jose-Manuel A. de Castro  
Attorney for Windsor Gardens Care  
Center of Hayward,  
Erroneously sued as "Windsor Gardens"

IT IS SO ORDERED:



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JUDGE OF THE US DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA