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28IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIABOARD OF TRUSTEES FOR THE  
LABORERS HEALTH AND  
WELFARE TRUST FUND FOR  
NORTHERN CALIFORNIA,

Plaintiff,

v.

BAY AREA SURGICAL GROUP,  
INC. and BAY AREA SURGICAL  
MANAGEMENT, LLC,

Defendants.

NO. C10-3291 TEH

SCHEDULING ORDER AND  
ORDER OF REFERENCE

Defendants' motion to set aside entry of default is currently pending before the Court and is scheduled to be heard on November 22, 2010. While the parties have divergent positions on whether default should be set aside, there is no dispute that Defendants have paid Plaintiff \$149,432.50, the principal amount at issue in the complaint. Plaintiff has further agreed to waive its right to any interest on this principal amount. Thus, the only substantive dispute between the parties is whether Defendants should be obligated to pay attorneys' fees and costs to Plaintiff. This issue would need to be litigated or otherwise resolved regardless of whether this Court were to set aside entry of default.

The parties have both expressed a willingness to conclude this litigation, and the amount of attorneys' fees at issue is not extraordinarily high. In addition, further proceedings would necessarily increase the amount of attorneys' fees and costs at issue. Consequently, the Court finds that it would be an inefficient use of judicial resources to decide the pending motion when it appears to the Court that reasonable persons acting in good faith should be able to resolve the outstanding dispute without further litigation.

1           Accordingly, IT IS HEREBY ORDERED that the November 22, 2010 motion hearing  
2 and November 29, 2010 case management conference are VACATED. IT IS FURTHER  
3 ORDERED that this matter is hereby referred to a magistrate judge for a mandatory  
4 settlement conference.

5           The Court will schedule a case management conference for **March 7, 2011, at**  
6 **1:30 PM**, as a control date, with a joint case management conference statement due on  
7 **February 28, 2011**. The Court will consider continuing these dates if the assigned  
8 magistrate judge is unable to accommodate the parties for a settlement conference prior to  
9 that time.

10           If the parties settle this case prior to the settlement conference, they shall immediately  
11 file a notice of settlement with the Court. If the parties are unable to resolve this dispute  
12 even with the assistance of a magistrate judge, the Court will place Defendants' motion to set  
13 aside entry of default back on calendar and consider what further proceedings would be  
14 appropriate.

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16 **IT IS SO ORDERED.**

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18 Dated: 11/15/10

  
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THELTON E. HENDERSON, JUDGE  
UNITED STATES DISTRICT COURT

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