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FILED

JUL 2 3 2013

RICHARD W. WIEKING CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

## UNITED STATES DISTRICT COURT

## NORTHERN DISTRICT OF CALIFORNIA

JOHN FALKENBERG and STEVEN INGARGIOLA, on behalf of themselves and all others similarly situated,

Plaintiffs,

ALERE HOME MONITORING, INC.,

Defendant.

Case No. 3:13-cv-00341-JST

**SED** ORDER CONTINUING THE HEARING ON ALERE HOME MONITORING, INC'S MOTION TO DISMISS AND MOTION TO STRIKE PORTIONS OF PLAINTIFFS' **COMPLAINT** 

Defendant Alere Home Monitoring, Inc.'s Motion to Dismiss [Docket No. 18] and Motion to Strike portions of Plaintiffs' Complaint [Docket No. 16] came regularly for hearing before the Court on June 27, 2013. Based upon the California Courts of Appeals' pending decisions in Regents of University of California v. Superior Court, No. B249148 and Sutter Health v. Superior Court, No. C072591,

## IT IS HEREBY ORDERED:

(1) The hearing on Alere Home Monitoring, Inc.'s Motion to Dismiss [Docket No. 18] and Motion to Strike portions of Plaintiffs' Complaint [Docket No. 16] is continued to October 3, 2013, at 2 pm;

Case No. 3:13-cv-00341-JST [PROPOSED] ORDER CONTINUING HEARING DATE AND FURTHER CASE ACTION

- (2) If panel decisions in both Court of Appeal cases are issued before September 18, 2013, then the parties shall simultaneously file a supplemental brief, not exceeding seven (7) pages within seven (7) days of the second appellate court's decision in either Regents of University of California v. Superior Court, No. B249148 and Sutter Health v. Superior Court, No. C072591;
- (3) If both decisions have not been issued by September 18, 2013, then the October 3, 2013 hearing will be further continued based upon stipulation of the parties, and the parties will submit a joint report to the Court by September 25, 2013 informing the Court of the status of the appellate proceedings;
- (4) All discovery and further actions in the case are stayed until October 3, 2013.

July 23, 2013

HONORABLE JON'S VIGAR

UNITED STATES DISTRICT COURT JUDGE