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

11 RYAN SHANKAR, a Conserved Adult, by  
12 and through his father and Conservator,  
13 VISHNU SHANKAR,

14 Plaintiff,

15 v.

16 UNITED STATES DEPARTMENT OF  
17 HOMELAND SECURITY, et al.,

18 Defendants.

Case No. 13-cv-01490 NC

**ORDER RE: STIPULATED  
REQUEST FOR DISMISSAL OF  
THE FEDERAL DEFENDANTS**

Re: Dkt. No. 57

19 On February 6, 2014, the Court issued an order granting in part and denying in part  
20 the federal defendants' motion to dismiss the first amended complaint. Dkt. No. 56. The  
21 Court gave plaintiff leave to amend the complaint by March 5, 2014. *Id.*

22 Additionally, the order noted that there is a question about whether plaintiff is  
23 competent and could adequately protect his interests and that it appears that the limited  
24 conservatorship currently in place does not empower plaintiff's father to make all decisions  
25 related to this action. *Id.* The Court ordered that, by March 5, 2014, plaintiff's counsel (1)  
26 must explain to plaintiff the purpose and effect of a guardian ad litem appointment; (2)  
27 must file a statement informing the Court and the other parties about whether or not  
28 plaintiff consents to the appointment of a guardian ad litem; and (3) if plaintiff consents to

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1 the appointment, plaintiff's counsel must file a request to appoint a guardian ad litem,  
2 identifying the person who is proposed to serve as a guardian ad litem and explaining why  
3 that person would be a suitable guardian ad litem. *Id.* The Court further noted that, if  
4 plaintiff does not consent to the appointment of a guardian ad litem, the Court will set  
5 deadlines for briefing and a hearing on the issue of whether plaintiff is incompetent within  
6 the meaning of Federal Rule of Civil Procedure 17(c) and whether plaintiff's interests in  
7 this action are adequately protected.

8 On February 24, 2014, plaintiff and the federal defendants filed a stipulated request  
9 to dismiss the federal defendants with prejudice from this action. Dkt. No. 57. On  
10 February 26, 2014, the Court held a status conference to address the request for dismissal,  
11 and the issue of plaintiff's capacity and his conservator's authority to (1) compromise and  
12 dismiss the claims against any of the defendants; and (2) to pursue the litigation against any  
13 remaining defendants.

14 As the Court noted at the hearing, the limited conservatorship gives plaintiff's father  
15 "full powers to collect and compromise the claim of the Conservatee which pertains to [this  
16 action]." Dkt. No. 40 at 11. The order of appointment requires the conservator to petition  
17 the issuing court for approval of any settlement or compromise of this litigation. *Id.* At the  
18 hearing, plaintiff's counsel took the position that the stipulated request for dismissal is  
19 within the powers given to the conservator "to collect and compromise" and indicated that  
20 she intends to file a petition for approval of the settlement in state court, as required by the  
21 order of appointment. While this Court does not make a determination at this time as to the  
22 effect of the state court's decision on the petition for approval of settlement, that decision  
23 will provide a better record and allow the Court to make a more informed determination on  
24 the stipulated request for dismissal of the federal defendants. Accordingly, the stipulated  
25 request for dismissal is taken under submission pending the state court's decision on  
26 plaintiff's petition for approval of the settlement. By March 19, 2014, plaintiff's counsel  
27 must file a report informing the Court about the status of the state court approval process.  
28 At the time of filing of the petition for settlement approval in state court, plaintiff's counsel

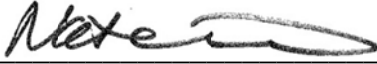
1 must also file a notice of the filing in this Court, attaching a copy of the petition. In light of  
2 the pending stipulated request for dismissal of the federal defendants, plaintiff does not  
3 need to file an amended complaint as directed by the Court's February 6 order, Dkt. No.  
4 56.

5 Additionally, at the status hearing counsel for United Airlines and for plaintiff  
6 informed the Court that they are in the process of discussing a potential settlement with  
7 United Airlines. By March 19, 2014, plaintiff and United Airlines must file a notice of  
8 settlement, a joint request for additional time to negotiate a settlement supported by good  
9 cause, or a notice that the attempts to reach a settlement have not been successful and no  
10 further discussions are anticipated at this time. If no settlement is reached, the Court will  
11 issue a further order addressing plaintiff's capacity to litigate this case against United  
12 Airlines. As plaintiff's counsel informed the Court at the status hearing that plaintiff is  
13 unable to consent to the appointment of a guardian ad litem, she does not need to file any  
14 further statement on this issue to comply with the Court's February 6 order, Dkt. No. 56.

15 The settlement conference with Judge Maria-Elena James, currently set for March  
16 28, 2014, remains on calendar. The Court will consider whether it is appropriate to  
17 continue the settlement conference after reviewing the parties' submissions due by March  
18 19, 2014.

19 IT IS SO ORDERED.

20 Date: March 4, 2014

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23 Nathanael M. Cousins  
24 United States Magistrate Judge  
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