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5 Attorneys for Defendants  
 6 REGENTS OF THE UNIVERSITY OF  
 CALIFORNIA, HARRY LAMPIRIS, GARY A  
 7 JARVIS, and WALTER M. HOLLERAN

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

11 WEI-HSUN DIN, as Successor in Interest to	)	CASE NO. C 13-1935 NC
Richard Din, Deceased, and as Successor in	)	
12 Interest to Rey-Kung Din, Deceased,	)	<b>STIPULATION AND PROPOSED</b>
	)	<b>ORDER CONTINUING CASE</b>
13 Plaintiffs,	)	<b>MANAGEMENT CONFERENCE</b>
	)	
14 v.	)	
	)	
15 UNITED STATES OF AMERICA, REGENTS	)	
OF THE UNIVERSITY OF CALIFORNIA,	)	
16 HARRY LAMPIRIS, GARY A JARVIS,	)	
WALTER M. HOLLERAN and DOES 1 to 50,	)	
17 Defendants.	)	
	)	

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19 Pursuant to Local Rule 7 of the United States District Court, for the Northern District of  
 20 California, and this Court's Order dated May 7, 2013, plaintiff Wei-Hsun Din, as Successor in  
 21 Interest to Richard Din, Deceased, and as Successor in Interest to Rey-Kung Din, Deceased, on  
 22 the one hand, and defendants, the Regents of the University of California (the "Regents"), Harry  
 23 Lampiris, Gary A. Jarvis, and Walter M. Holleran (collectively, the "Individual Defendants"),  
 24 and the United States of America (the "USA"), on the other hand, through their respective  
 25 counsel, hereby stipulate as follows:

26 1. This action was filed on April 26, 2013. The Individual Defendants, the Regents  
 27 and the USA have been served or have accepted service of Summons and Complaint in this  
 28 matter.

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1           2.       The action involves the death of Richard Din, and allegations that the defendants  
2 acted wrongfully in causing that death. Defendants contend that the Individual Defendants in  
3 this matter may have been acting within the scope of their federal employment with respect to  
4 the activities alleged in the Complaint. Defendants contend that if such employment is properly  
5 certified, the fact of such federal employment is dispositive as to their individual liability in that,  
6 under the Federal Tort Claims Act and the Westfall Act, they can have no individual liability.  
7 The Regents contend that since this defense will be legally dispositive and that there is no other  
8 basis for liability against it under the Complaint, it too will have a legally dispositive defense.  
9 Plaintiff disagrees with these assertions, and contends that the Individual Defendants were acting  
10 in multiple capacities. All parties to this action agree that this legal issue should be determined,  
11 if possible, prior to an initial joint case management conference and any further case  
12 management order. The parties have further agreed that, in connection with this Stipulation to  
13 continue the currently scheduled Case Management Conference, defendants shall provide certain  
14 initial disclosures regarding the employment relationship as to the Individual Defendants and the  
15 Regents and the USA.

16           3.       In regards to the above matters, the parties have agreed to the following  
17 scheduling:

18           (a)       On or before August 2, 2013, the USA and/or the Individual Defendants shall file  
19 their Rule 12 Motion raising the above-referenced defense;

20           (b)       On or before August 9, 2013, the Regents shall file any supplemental, supporting  
21 or joinder papers relative to the Rule 12 Motion;

22           (c)       On or before August 9, 2013, subject to any Protective Order, the Regents and the  
23 USA shall produce any non-privileged or otherwise protected documents demonstrating the  
24 employment relationship during 4/28/11 to 4/28/12 between the Individual Defendants and the  
25 Regents and the USA, including, but not limited to, employment agreements (redacted of any  
26 personal financial information) between the Individual Defendants and the Veterans  
27 Administration (the "VA"), or between the Individual Defendants and the University of  
28 California San Francisco ("UCSF"), with respect to the operation of the laboratory mentioned in

1 the Complaint; documents establishing a "joint VA/UCSF appointment" on the part of any  
2 Individual Defendant; and any contracts between the VA and UCSF concerning the operation of  
3 the laboratory;

4 (d) On or before August 30, 2013, plaintiff shall file his opposition to the Rule 12  
5 Motion;

6 (e) On or before September 20, 2013, the defendants shall file any reply papers in  
7 support of the Rule 12 Motion;

8 (f) The parties request that on or before October 11, 2013, at 9:00 a.m., the Court  
9 shall hear the Rule 12 Motion; and

10 (g) The parties request that the currently scheduled August 9, 2013 Case Management  
11 Conference shall be re-scheduled to October 25, 2013 or a date that the Court finds appropriate.

12 IT IS SO STIPULATED

13 Dated: July 31, 2013

LAW OFFICE OF J. STEVEN KENNEDY

14 By: /S/  
15 J. STEVEN KENNEDY

16 Attorneys for Plaintiff WEI-HSUN DIN, as  
17 Successor in Interest to Richard Din, Deceased, and  
18 as Successor in Interest to Rey-Kung Din, Deceased

18 Dated: July 31, 2013

GORDON & REES LLP

19 By: /S/  
20 MICHAEL D. BRUNO  
21 JEROME SCHREIBSTEIN

22 Attorneys for Defendant  
23 REGENTS OF THE UNIVERSITY OF  
24 CALIFORNIA, HARRY LAMPIRIS, GARY A  
25 JARVIS, and WALTER M. HOLLERAN

24 Dated: July 31, 2013

Office of the United States Attorney

25 By: /S/  
26 ABRAHAM SIMMONS

27 Attorneys for Defendant  
28 UNITED STATES OF AMERICA

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ORDER

**PURSUANT TO STIPULATION AND GOOD CAUSE OTHERWISE**

**APPEARING, the Court Orders as follows:**

(a) On or before August 2, 2013, the USA and/or the Individual Defendants shall file their Rule 12 Motion;

(b) On or before August 9, 2013, the Regents shall file any supplemental, supporting or joinder papers relative to the Rule 12 Motion;

(c) On or before August 9, 2013, subject to any Protective Order, the Regents and the USA shall produce any non-privileged or otherwise protected documents demonstrating the employment relationship during 4/28/11 to 4/28/12 between the Individual Defendants and the Regents and the USA, including, but not limited to, employment agreements (redacted of any personal financial information) between the Individual Defendants and the Veterans Administration (the "VA"), or between the Individual Defendants and the University of California San Francisco ("UCSF"), with respect to the operation of the laboratory mentioned in the Complaint; documents establishing a "joint VA/UCSF appointment" on the part of any Individual Defendant; and any contracts between the VA and UCSF concerning the operation of the laboratory

(d) On or before August 30, 2013, plaintiff shall file his opposition to the Rule 12 Motion;

(e) On or before September 20, 2013, the defendants shall file any reply papers in support of the Rule 12 Motion;

(f) The Court shall hear the Rule 12 Motion on [October 11, 2013], at 9:00 a.m.; and

(g) The Case Management Conference is re-scheduled from August 9, 2013 to ~~October 25, 2013~~ November 8, 2013 at 1:30 p.m.

Dated: August 5, 2013

  
JEFFREY S. WHITE  
UNITED STATES DISTRICT COURT JUDGE

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