

1 ZUZANA S. IKELS (CABN 208671)
 2 POLSINELLI LLP
 3 Three Embarcadero Center, Suite 1350
 4 San Francisco, California 94111
 Telephone: (415) 248-2100
 Facsimile: (415) 248-2101
 Email: zikels@polsinelli.com

5 Attorney for Plaintiff
 6 Santa Rosa Memorial Hospital

7 Additional Counsel on following page

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

11
 12 SANTA ROSA MEMORIAL HOSPITAL,

13 Plaintiff,

14 vs.

15 SYLVIA MATHEWS BURWELL, IN HER
 OFFICIAL CAPACITY AS SECRETARY OF
 16 HEALTH AND HUMAN SERVICES,

17 Defendant.

Case No. 3:14CV1345 SC

JOINT STIPULATION AND
~~PROPOSED~~ ORDER REGARDING
FILING OF AMENDED COMPLAINT
AND CASE MANAGEMENT
CONFERENCE

Judge: Hon. Samuel Conti
 Complaint Filed: March 24, 2014
 Trial Date: None Set

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1 JASON T. LUNDY (Pro Hac Vice)
2 POLSINELLI PC
3 1515 Wynkoop Street, Suite 600
4 Denver, Colorado 80202
5 Telephone: (303) 572-9300
6 Facsimile: (303) 572-7883
7 Email: jlundy@polsinelli.com

8 ANTHONY W. BONUCHI (Pro Hac Vice)
9 POLSINELLI PC
10 900 W. 48th Place, Suite 900
11 Kansas City, Missouri 64112
12 Telephone: (816) 753-1000
13 Facsimile: (816) 753-1536
14 Email: abonuchi@polsinelli

15 Attorneys for Plaintiff
16 Santa Rosa Memorial Hospital

17 MELINDA HAAG (CABN 132612)
18 United States Attorney

19 ALEX G. TSE (CABN 152348)
20 Chief, Civil Division

21 ERICA BLACHMAN HITCHINGS (MABN 669825)
22 Assistant United States Attorney
23 450 Golden Gate Avenue, Box 36055
24 San Francisco, California 94102-3495
25 Telephone: (415) 436-7015
26 Facsimile: (415) 436-6927
27 Email: Erica.hitchings@usdoj.gov

28 Attorneys for Defendant
Sylvia Mathews Burwell

1 Pursuant to Civil Local Rules 6-2 and 7-12 of the Northern District of California, Federal
2 Defendant and Plaintiff Santa Rosa Memorial Hospital hereby stipulate to the following:

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4 1. The Plaintiff's Complaint was filed on March 24, 2014.

5 2. While Plaintiff and Defendant engaged in initial settlement discussions the parties
6 stipulated to extend the time Defendant had to answer or respond to the Complaint until October
7 30, 2014.

8 3. In light of that stipulation, the Court sua sponte continued the initial case management
9 conference to November 21, 2014, with a joint statement due November 14, 2014.¹

10 4. On October 30, 2014 Defendant filed a motion to dismiss under Fed. R. Civ. P.
11 12(b)(2) and (b)(6).

12 5. Defendant noticed the hearing on the motion for December 5, 2014.

13 6. Under Local Rule 7-3, Plaintiff has 14 days, or to November 13, 2014, to file an
14 opposition to the motion to dismiss.

15 7. Alternatively, under Fed. R. Civ. P. 15(a)(1)(B), Plaintiff has 21 days from the date
16 the motion to dismiss was filed, or to and including November 20, 2014, to amend its Complaint
17 as a matter of course.

18 8. Plaintiff intends to file an Amended Complaint as provide under Fed. R. Civ. P.
19 15(a)(1)(B) on or before November 20, 2014.

20 9. Though Plaintiff does not intend to file an opposition to the motion to dismiss, the
21 parties are filing this Stipulation out of an abundance of caution to reconcile the two, seemingly
22 conflicting deadlines and notify the Court so that it does not rule on the motion while the
23 Amended Complaint is being prepared.

24 10. Meanwhile, the parties have also re-engaged in settlement negotiations.

25 11. To provide time for those negotiations, and to avoid potentially unnecessary
26

27
28 ¹ The initial case management conference was continued by stipulation from June 8, 2014 to August 8, 2014 because the Defendant's initial deadline to file a responsive pleading or motion fell before the case management conference. *See* Doc. 24.

1 litigation, the parties have stipulated that the 14 days Defendant would ordinarily have to
2 respond to Plaintiff's Amended Complaint under Rule 15(a)(3) should be extended until January
3 30, 2015.

4 12. For the same reason, the parties have stipulated and suggest that the Court reschedule
5 the initial case management conference for February 20, 2015 at 10:00 am.

6 THEREFORE, the parties respectfully request the Court enter an order (1)
7 acknowledging that Plaintiff will file an Amended Complaint under Fed. R. Civ. P. 15(a) on or
8 before November 20, 2014; (2) that Defendant's responsive pleading or motion to the Amended
9 Complaint is due January 30, 2015; and (3) continuing the case management conference until
10 Friday February 20, 2015 at 10:00 am.

11 Respectfully submitted,

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13 DATED: November 13, 2014

POLSINELLI LLP

14 By: /s/ Anthony W. Bonuchi
15 ANTHONY W. BONUCHI
16 (Pro Hac Vice)
17 Attorneys for Plaintiff
18 Santa Rosa Memorial Hospital

19 DATED: November 13, 2014

MELINDA HAAG
United States Attorney

20 By: /s/ Erica Blachman Hitchings
21 ERICA BLACHMAN HITCHINGS
22 MABN (#669825)
23 Attorneys for Defendant
24 Sylvia Mathews Burwell
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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

On or before November 20, 2014, Plaintiff will file its Amended Complaint in lieu of filing an opposition to Defendant's motion to dismiss;

Defendant's responsive pleading or motion is due on or before January 30, 2015;

The initial case management conference is continued to February 20, 2015 at 10:00 am.

DATED: _____ 11/14 _____, 2014

