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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JEANNIE ALDERSON, *et al.*,  
Plaintiffs,  
v.  
UNITED STATES OF AMERICA, *et al.*,  
Defendants.

Case No. 14-cv-03564-SI  
**ORDER RE: HEARING ON  
DEFENDANT'S MOTION TO DISMISS**  
Re: Dkt. No. 36

On February 2, 2015, defendant Kenneth Susman, M.D. filed a motion to dismiss the complaint on statute of limitations grounds. A hearing on defendant's motion to dismiss is scheduled for March 31, 2015, at 2 p.m.

Defendant's motion argues that plaintiff's medical negligence claim against him is barred by the statute of limitations under California Code of Civil Procedure § 340.5 and that the limitation period has not been tolled. Defendant also argues that plaintiff's claims against him are not saved by the relation back doctrine because, *inter alia*, that doctrine would only apply to the 2014 complaint in this case, and the 2014 complaint was filed after the expiration of the statute of limitations. *See* Dkt. 36 at 10:11-27. Plaintiff's opposition addresses equitable tolling and also argues that defendant should be estopped from invoking the statute of limitations, but does not address the relation back arguments.

It is the Court's tentative view that equitable tolling and estoppel do not apply here and thus that plaintiff's claims against defendant Susman are untimely unless those claims relate back

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to the filing of the 2013 complaint in 13-4663 SI. Accordingly, the Court directs plaintiff's counsel to be prepared to address the relation back doctrine at the March 31, 2015 hearing. Counsel may submit additional authority on this issue either by letter brief prior to the hearing or at the hearing.

**IT IS SO ORDERED.**

Dated: March 25, 2015



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SUSAN ILLSTON  
United States District Judge