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10 Attorneys for Plaintiff Fireman's Fund
 Insurance Company

11
 12 UNITED STATES DISTRICT COURT
 13 DISTRICT OF NEVADA

14 FIREMAN'S FUND INSURANCE
 COMPANY, a corporation,
 15
 Plaintiff,
 16
 v.
 17 JOHN BERRY, an individual; KATHLEEN
 18 SEBELIUS in her capacity as Secretary of
 Health and Human Services, United States of
 19 America,
 20
 Defendants.
 21
 22 AND RELATED COUNTERCLAIM.

Case No.: 2:11-cv-1029-LDG-CWH

23 **STIPULATION AND ORDER FOR DISBURSEMENT OF FUNDS, DISMISSAL OF**
 24 **COUNTER-CLAIM AND CLOSURE OF CASE**

25 Plaintiff and counterdefendant Fireman’s Fund Insurance Company, defendant and
 26 counterclaimant John Berry and defendant Kathleen Sebelius in her capacity as Secretary of
 27 Health and Human Services, United States of America, stipulate as follows:
 28

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1 1. The funds currently on deposit in the Registry of the Court, including all interest
2 earned on those funds while on deposit, shall be disbursed as follows:

3 (a) To the Center for Medicare Services on behalf of the United States of
4 America, the sum of \$15,456.40. The Clerk’s check shall be made payable to “United States
5 Department of Justice.”

6 (b) To defendant and counterclaimant John Berry, \$461,408.79 plus all
7 interest earned. The Clerk’s check shall be made payable to “John Berry and Ganz & Hauf, his
8 attorneys.”

9 2. The counterclaim of John Berry filed July 18, 2011 (Docket #8) shall be
10 dismissed with prejudice, with each party to bear its own fees and costs.

11 3. Pursuant to 28 U.S.C. § 2361, plaintiff Fireman’s Fund Insurance Company is
12 discharged from further liability to defendants John Berry and Kathleen Sebelius for the
13 payment of any portion of the Judgment in Case No. A-06-526936-C in the Eighth Judicial
14 District Court of the State of Nevada for Clark County entitled ”*John Berry v. Moshe Elazar, et*
15 *al.*” This discharge from liability shall not extend to any extra-contractual claims presently held
16 by non-party Moshe Elazar, nor to any claims which defendant John Berry may later acquire as
17 assignee of Moshe Elazar or by execution upon Moshe Elazar.

18 4. It is the intention of the parties to this Stipulation that nothing in it or shall extend
19 to any extra-contractual claims presently held by non-party Moshe Elazar, nor to any claims
20 which defendant John Berry may later acquire as assignee of Moshe Elazar or by execution
21 upon Moshe Elazar.

22 5. Berry, shall no later than ten court days after disbursement pursuant to paragraph
23 1(b), file an Acknowledgement of Partial Satisfaction of Judgment in an amount equal to the full
24 amount disbursed pursuant to paragraphs 1(a) and 1(b) in Case No. A-06-526936-C in the
25 Eighth Judicial District Court of the State of Nevada, for Clark County, entitled “*John Berry v.*
26 *Moshe Elazar, et al.*” The court will retain jurisdiction for purposes of enforcing Berry’s
27 obligation to file that Acknowledgement of Partial Satisfaction of Judgment.
28

1 DATED: September 28, 2011

2 BULLIVANT HOUSER BAILEY PC

3
4 By /s/ Andrew B. Downs

5 Andrew B. Downs
6 Nevada Bar No. 8052
7 Kristol Bradley Ginapp
8 Nevada Bar No. 8468

9 Attorneys for Plaintiff and Counterdefendant
10 Fireman's Fund Insurance Company

11 DATED: September 28, 2011

12 GANZ & HAUF

13 By /s/ Marjorie Hauf (by e-mail authorization)

14 Adam Ganz
15 Nevada Bar No. 6650
16 Marjorie Hauf
17 Nevada Bar No. 8111
18 Ida M. Ybarra
19 Nevada Bar No. 11327

20 Attorneys for Defendant and Counterclaimant John
21 Berry

22 DATED: September 28, 2011

23 DANIEL G. BOGDEN
24 United States Attorney, District of Nevada
25 ROGER W. WENTHE
26 Assistant United States Attorney

27 By /s/ Roger W. Wenthe (by e-mail authorization)

28 Roger W. Wenthe
Nevada Bar No. 8920

Attorneys for Defendant Kathleen Sebelius

ORDER

The parties having stipulated and good cause appearing,

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IT IS HEREBY ORDERED that the Clerk of the Court shall disburse the funds on deposit in the Court's Registry (Docket # 11) including all interest earned on those funds as follows:

(a) To the United States Department of Justice on behalf of defendant Kathleen Sebelius, the sum of \$15,456.40.

(b) To John Berry and Ganz & Hauf, his attorneys, the sum of \$461,408.79 plus all interest earned while those funds were on deposit.

IT IS FURTHER ORDERED that plaintiff Fireman's Fund Insurance Company is discharged from further liability to defendants John Berry and Kathleen Sebelius for the payment of any portion of the Judgment in Case No. A-06-526936-C in the Eighth Judicial District Court of the State of Nevada for Clark County entitled "*John Berry v. Moshe Elazar, et al.*" This discharge from liability shall not extend to any extra-contractual claims presently held by non-party Moshe Elazar, nor to any claims which defendant John Berry may later acquire as assignee of Moshe Elazar or by execution upon Moshe Elazar.

The Court retains and reserves jurisdiction over the parties for purposes of enforcing Berry's obligation to file that Acknowledgement of Partial Satisfaction of Judgment in the underlying state court action.

The Clerk is directed to close this matter.

DATED: 29 Sept 2011


United States District Judge

13548267.1
