1 DAYLE ELIESON United States Attorney 2 District of Nevada TROY K. FLAKE 3 Assistant United States Attorney 501 Las Vegas Blvd. South, Suite 1100 Las Vegas, Nevada 89101 4 702-388-6336 Troy.Flake@usdoj.gov 5 Attorneys for the United States 6

UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

MICHELLE WILSON, et al.,

Plaintiffs.

v.

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THE UNITED STATES OF AMERICA,

Defendant.

Case No. 2:17-cv-02863-APG-VCF

UNOPPOSED MOTION TO CONTINUE SETTLEMENT CONFERENCE DUE TO LAPSE OF APPROPRIATIONS

The United States respectfully requests that the Court continue the settlement conference scheduled in this matter on **January 11, 2019**, due to the lapse in appropriations (partial government shutdown) and respectfully requests that it be re-scheduled after the partial government shutdown is resolved. Plaintiffs do not oppose this request. The reasons for this request are as follows:

- 1. At midnight on December 21, 2018, the continuing resolution that had been funding the Department of Justice expired and appropriations to the Department lapsed.

 The Department does not know when funding will be restored by Congress.
- 2. Absent an appropriation or continuing resolution, Executive Branch employees are prohibited from working, even on a voluntary basis, except in very limited circumstances, including "emergencies involving the safety of human life or the protection of property." 31 U.S.C. § 1342. The instant lawsuit does not appear to meet such criteria because it is a tort claim arising out of alleged medical malpractice. The lapse in appropriations also prevents the United States Attorney's Office from consulting with agency and Department officials who have authority settle in this case.

1	3.	On September 25, 2018, tl	he Court stayed this case so the parties could	
2	participate in a settlement conference. ECF No. 15.			
3	4.	This Court scheduled a settlement conference on January 11, 2019. ECF		
4	No. 23. However, due to the partial government shutdown, Department employees cannot			
5	meaningfully participate in the settlement conference.			
6	5.	Accordingly, the United States respectfully requests that the Court continue		
7	the settlemen	the settlement conference until after the partial government shutdown concludes.		
8	6. Defendant will notify Plaintiff and the Court as soon as Congress has			
9	appropriated funds for the Department or enacted another continuing resolution and			
10	undersigned counsel can resume usual civil litigation duties.			
11	There	Therefore, although we greatly regret any disruption caused to the Court and the		
12	other litigants, Defendant hereby moves to continue the settlement conference until			
13	Department employees are permitted to resume their usual civil litigation functions.			
14	Respectfully submitted this 4th day of January 2019.			
15			DAYLE ELIESON	
16	United States Attorney /s/ Troy K. Flake TROY K. FLAKE Assistant United States Attorney			
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22	IT IS HEREBY ORDERED		IT IS SO ORDERED:	
23	that the settlement conference scheduled for January 11, 2019, is	Contacto		
24		UNITED STATES MAGISTRATE JUDGE		
25	VACATED and will be rescheduled at a later date.		DATED: 1-4-2019	
26			DATED.	
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Certificate of Service I hereby certify that on January 4, 2019, I electronically filed and served the foregoing UNOPPOSED MOTION TO CONTINUE SETTLEMENT CONFERENCE with the Clerk of the Court for the United States District Court for the District of Nevada using the CM/ECF system. /s/ Troy K. Flake Assistant United States Attorney