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11
                       UNITED STATES DISTRICT COURT
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                      CENTRAL DISTRICT OF CALIFORNIA
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                              WESTERN DIVISION
14
                                         NO. CV 08-8462 DDP (Ex)
   ANNABELLA ALVAREZ, et al.,
                                       )
15
         Plaintiffs,
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                                         DATE: March 16, 2009
                                          TIME: 10:00 a.m.
              V.
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                                          CTRM: 3
   LUCIEN O. COX, M.D., et al.,
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         Defendants.
                                         Hon. Dean D. Pregerson
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        STIPULATION TO WITHDRAW MOTION AND TO DISMISS CASE; AND;
23
                              [PROPOSED] ORDER
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## WHEREAS:

- 1. On February 23, 2009, Defendant United States of America filed a motion to dismiss it as a defendant on the ground that the Plaintiffs had not exhausted their administrative remedies, thereby depriving this Court of subject-matter jurisdiction;
- 2. Subsequent to the filing of the motion, Plaintiffs' counsel stated a willingness to dismiss the United States without prejudice;
- 3. On March 5, 2009, Defendant filed on Plaintiffs' behalf a Notice of Dismissal;
- 4. On that same date, counsel received a Notice to Filer of Deficiencies, pointing out that, because a motion to dismiss was pending, a court order would be required to dismiss the United States as a party defendant.

Accordingly, the parties, by and through their undersigned counsel, and subject to Court approval, stipulate as follows:

The motion to dismiss filed by the United States is taken off calendar and the United States is dismissed as a party defendant without prejudice.

DATED: March 10, 2009 LAW OFFICES OF CARL A. McMAHAN

/s/
ROBERT J. OUNJIAN
Attorneys for Plaintiffs

DATED: March 10, 2009 THOMAS P. O'BRIEN United States Attorney

/s/
DAVID A. DeJUTE
Assistant United States Attorney
Attorneys for the United States