LEWIS BRISBOIS BISGAARD & SMITH LLP
MARILYN R. MORIARTY, SB# 89818
E-mail: Marilyn.moriarty@lewisbrisbois.com
JULIE R. DANN, SB# 206650
E-Mail: Julie.Dann@lewisbrisbois.com
701 B Street, Suite 1900
San Diego, California 92101
Telephone: 619.233.1006
Facsimile: 619.233.8627

Attorneys for Rady Children's Hospital - San Diego

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

KATHARINE PRESCOTT, an individual, and KATHARINE PRESCOTT, on behalf of KYLER PRESCOTT, a deceased minor, Plaintiffs, vs. RADY CHILDREN'S HOSPITAL – SAN DIEGO Defendant.	CASE NO. 16-cv-02408-BTM (JMA) Honorable Barry Ted Moskowitz **STIPULATED REQUEST TO CONTINUE THE HEARING DATE ON DEFENDANT RADY CHILDREN'S HOSPITAL – SAN DIEGO'S MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(1) AND 12(b)(6)** PER CHAMBER RULES: NO APPEARANCE OR ORAL ARGUMENT UNLESS REQUESTED BY THE COURT Action Filed: September 26, 2016 Trial Date: None Set

Plaintiffs KATHARINE PRESCOTT, an individual, and KATHARINE PRESCOTT, on behalf of KYLER PRESCOTT, a deceased minor ("Plaintiffs"), and Defendant RADY CHILDREN'S HOSPITAL – SAN DIEGO ("Defendant"), by and through their representative counsel, hereby stipulate to a continuance of the

hearing on Defendant's Motion to Dismiss from December 30, 2016 to February 24, 2017, at 11:00 a.m., and respectfully request that the Court enter the parties' Proposed Order, filed concurrently herewith.

RECITALS

WHEREAS, Plaintiffs filed their Complaint in this action on September 26, 2016;

WHEREAS, Defendant filed a Motion to Dismiss on November 7, 2016;

WHEREAS, the hearing for the Motion to Dismiss is scheduled for December 30, 2016, at 11:00 a.m.;

WHEREAS, the parties have met and conferred regarding the current hearing date and their mutual desire to engage in early settlement discussions;

WHEREAS, the parties acknowledge that the requested February 24, 2017 hearing date is further in the future than the Court ordinarily sets hearings on motions to dismiss;

WHEREAS, the parties are nevertheless making the instant request with a good faith belief that a February 24, 2017 hearing date will allow the parties to engage in meaningful settlement discussions with the aim of working towards a resolution of this action prior to the Motion to Dismiss hearing;

WHEREAS, the parties desire the requested continuance in order to diligently pursue a resolution of the action and advance settlement discussions, not for the purpose of delay; and

WHEREAS, the parties believe that such a continuance will be helpful in conserving judicial and litigant resources.

STIPULATION

THEREFORE, IT IS STIPULATED AND AGREED, by and between Plaintiffs and Defendant, through their respective counsel, as follows:

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With the Court's approval, the hearing on Defendant's Motion to Dismiss shall be continued from December 30, 2016 to February 24, 2017 at 11:00 a.m.

DATED: December 5, 2016 **FOLEY & LARDNER, LLP**

By: /s/
Eileen R. Ridley
Attorneys for Katharine Prescott

DATED: December 5, 2016 **LEWIS BRISBOIS BISGAARD & SMITH LLP**

By: /s/
Marilyn R. Moriarty
Attorneys for Rady Children's Hospital - San Diego

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

CASE NO. 16-CV-02408

Katharine Prescott, et al. v. Rady Children's Hospital – San Diego

At the time of service, I was over 18 years of age and not a party to the action. My business address is 701 B Street, Suite 1900, San Diego, CA 92101. I am employed in the office of a member of the bar of this Court at whose direction the service was made. On December 5, 2016, I served the following document(s): **STIPULATED REQUEST TO CONTINUE THE HEARING DATE ON DEFENDANT RADY CHILDREN'S HOSPITAL – SAN DIEGO'S MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(1) AND 12(b)(6).** I served the documents on the following persons at the following addresses (including fax numbers and e-mail addresses, if applicable):

SEE ATTACHED SERVICE LIST

The documents were served by the following means:

☒ (BY E-MAIL OR ELECTRONIC TRANSMISSION) Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ (BY COURT'S CM/ECF SYSTEM) Pursuant to Local Rule, I electronically filed the documents with the Clerk of the Court using the CM/ECF system, which sent notification of that filing to the persons listed above.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on December 5, 2016, at San Diego, California.

Kathie Richmond

Kathie Richmond

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

CASE NO. 16-CV-02408

Katharine Prescott, et al. v. Rady Children's Hospital – San Diego

SERVICE LIST

Attorneys for Katharine Prescott, an individual and Katharine Prescott, on behalf of Kyler Prescott, a deceased minor

Eileen R. Ridley, Esq.
Alan R. Ouellette, Esq.
Foley & Lardner
555 California Street, Suite 1700
San Francisco, CA 94104-1520
Tel: 415-434-4484 Fax: 415-434-4507
eridley@foley.com
aouellette@foley.com

Kathryn A. Shoemaker, Esq.
Foley & Lardner
555 S. Flower Street, suite 3500
Los Angeles, CA 90071-2411
Tel: 213-972-2500 Fax: 213-486-0065
kshoemaker@foley.com

Attorneys for Katharine Prescott, an individual and Katharine Prescott, on behalf of Kyler Prescott, a deceased minor

Amy Whelan, Esq.
Asaf Orr, Esq.
National Center for Lesbian Rights
870 Market Street, Suite 370
San Diego, CA 94102
Tel: 415-365-1338
awhelan@nclrights.org

Alison Pennington, Esq.
Ilona Turner, Esq.
Transgender Law Center
1629 Telegraph Avenue, Suite 400
Tel: 415-865-0176
alison@transgenderlawcenter.org
ilona@transgenderlawcenter.org