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9  
 10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 12 OAKLAND DIVISION

13  
 14 **ESTHER DARLING; RONALD BELL by**  
**his guardian ad litem Rozene Dilworth;**  
 15 **GILDA GARCIA; WENDY HELFRICH by**  
**her guardian ad litem Dennis Arnett;**  
 16 **JESSIE JONES; RAIF NASSYROV by his**  
**guardian ad litem Sofiya Nasyrova; ALLIE**  
 17 **JO WOODARD, by her guardian ad litem**  
**Linda Gaspard-Berry; individually and on**  
 18 **behalf of all others similarly situated,**

19 Plaintiffs,

20 v.

21 **TOBY DOUGLAS, Director of the**  
 22 **Department of Health Care Services, State**  
 23 **of California, DEPARTMENT OF**  
**HEALTH CARE SERVICES,**

24 Defendants.

C09-03798 SBA (NC/JSC)

**CLASS ACTION**

**STIPULATION AND [PROPOSED]  
ORDER RE ADDENDUM TO  
SETTLEMENT AGREEMENT**

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1 In order to resolve all issues raised by plaintiffs' Motion for Enforcement of Stipulated  
2 Judgment and for Civil Contempt Sanctions [Docket No. 448], the parties hereby stipulate that  
3 Exhibit A attached hereto shall be an Addendum to the Settlement Agreement approved by this  
4 Court on January 25, 2012 [Docket No. No. 438-1].

5  
6 Respectfully submitted,

7 DISABILITY RIGHTS CALIFORNIA  
8 AARP FOUNDATION LITIGATION  
9 NATIONAL SENIOR CITIZENS LAW CENTER  
10 NATIONAL HEALTH LAW PROGRAM  
11 MORRISON & FOERSTER LLP

12  
13 Dated: April 3, 2012 By: /s/  
14 Elissa Gershon  
15 Attorneys for Plaintiffs

16 KAMALA D. HARRIS  
17 Attorney General of California  
18 SUSAN M. CARSON  
19 Supervising Deputy Attorney General

20 Dated: April 3, 2012 By: /s/  
21 Susan M. Carson  
22 Attorneys for Defendants

23 Filer's Attestation: Pursuant to General Order No. 45, § X(B), I attest under penalty of  
24 perjury that concurrence in the filing of the document has been obtained from each of its  
25 signatories.

26 Dated: April 3, 2012 By: /s/  
27 Susan M. Carson

28 PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: \_\_\_\_\_  
HONORABLE SAUNDRA BROWN ARMSTRONG  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

# **EXHIBIT A**

***Darling v. Douglas (C-09-03798-SBA) Settlement Addendum***

1. Pursuant to this Addendum among the parties to this action, plaintiffs' Motion for Enforcement of Stipulated Judgment and for Civil Contempt and Sanctions (ECF No. 448) (Motion), which was set to be heard on March 29, 2012, will be taken off calendar. This is an Addendum to the Settlement Agreement that was approved by this Court on January 25, 2012 (ECF No. 444).
  
2. Presumptive Eligibility/Fair Hearings
  - a. The parties agree that DHCS will not be required to conduct further Presumptive Eligibility reviews.
  - b. The parties agree that a denial of Presumptive Eligibility is not appealable at a fair hearing.
  - c. The parties agree that Class Members who were determined ineligible for CBAS prior to April 1, 2012, who were not eligible to receive CBAS-pending, but who prevail at their respective fair hearings, will be deemed eligible for CBAS retroactive to the date of CBAS implementation, April 1, 2012.
  - d. The Department of Health Care Services will coordinate with Disability Rights California and the California Department of Social Services State Hearings Division to offer optional telephonic hearings for Class Members.
  
3. Eligibility Determination/QA Review and Process
  - a. A workgroup of DHCS and ADHC representatives will convene the week of April 2, 2012 (or shortly thereafter, if the work group members are unavailable to meet or absent that week), to reach agreement on the standards of the Eligibility Determination/Quality Assurance (QA) review and process.

- b. The QA review and process will be conducted for no more than 315 eligibility determinations from the 13 ADHC centers specified below. These determinations comprise the complete list of determinations statewide that will be reviewed by this QA review and process. No determinations from any other center regarding any other ADHC or CBAS participant will be subject to this or similar review. The 13 ADHC centers involved in this QA review and process are limited to the following:
  - i. Hong Fook (2 centers)
  - ii. Golden Castle
  - iii. Stepping Stones (4 centers)
  - iv. Lifelong Oakland
  - v. Self Help for the Elderly
  - vi. Bayview Hunter's Point
  - vii. Senior Focus
  - viii. Bedford
  - ix. Mt. Diablo
- c. No member of the workgroup (as set forth in part 3.a., above) shall be affiliated with any of the ADHC centers listed in part 3.b, above, or their respective participants.
- d. If the workgroup is able to agree to the standards of review and process by April 13, 2012, Plaintiffs will notify the court that the motion will remain off calendar. It is the parties' intent that the review will begin no later than the week of April 16, 2012, and will be completed by April 30, 2012.
- e. Only if the workgroup is unable to agree on the standards and review process by April 13, 2012 (unless the workgroup is unable to convene due to absent or

unavailable members, at which time the deadline will become a date mutually agreeable to the parties), will Plaintiffs be permitted to proceed to have the motion heard on April 27, 2012 at 9:00 a.m. which the court reset as a holding date should the parties not be able to finalize this Addendum. The motion will be limited to the QA review and process issue only, as defined by Section 3 of this Addendum. No other matter raised in plaintiffs' motion (ECF No. 448) may be raised or pursued if this motion is reset.