

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

GARY L. KAISER and VERLENE D. KAISER;)
COMMUNITY HOME HEALTH, INC.;)
GARY S. KAISER; SHAWN EXLINE; and)
SHARIE MONTEFERRANTE, EXLINE; and)
SHARIE MONTEFERRANTE,)

Plaintiffs,)

v.)

BLUE CROSS OF CALIFORNIA, a California)
corporation; and THE UNITED STATES OF)
AMERICA, DEPARTMENT OF HEALTH)
AND SOCIAL SERVICES, HEALTH CARE)
FINANCING AGENCY; MIKE LEAVITT,)
Secretary, UNITED STATES DEPARTMENT)
OF HEALTH AND SOCIAL SERVICES,)

Defendants.)
_____)

Case No. CV 05-235-S-LMB

NOTICE OF HEARING

The Court has twice scheduled a hearing on Defendants' Motion to Dismiss or for Judgment on the Pleadings (Docket Nos. 9, 10), but each time the matter has been set over to determine whether all parties had consented to the jurisdiction of a United States Magistrate Judge as required by 28 U.S.C. § 636. The Court has been informed that the Plaintiffs and all Defendants who have been served in this matter have now consented to magistrate judge jurisdiction. There are several named Defendants who have not been served and, thus, have not consented to magistrate judge jurisdiction, but their consent is not required for the Court to determine and rule upon Defendants' Motion. *See, e.g., United States v. Real Property*, 135 F.3d

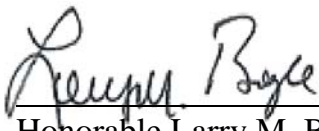
1312, 1317 (9th Cir. 1998); *Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995) (explaining that because the named individuals had not been served, they were not parties to the action).

Moreover, the time for service of the Complaint has now passed. *See* Fed. R. Civ. P. 4(i)(1), (2) & (m). Thus, the Court has the consent necessary to exercise jurisdiction.

Accordingly, the hearing on Defendants' Motion to Dismiss or for Judgment on the Pleadings (Docket Nos. 9, 10) is hereby set for **July 20, 2006 at 2:00 p.m.** (MST) at the United States District Courthouse in Boise, Idaho.



DATED: **June 15, 2006.**



Honorable Larry M. Boyle
Chief U. S. Magistrate Judge