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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MICHAEL ANGELO MORALES,

Plaintiffs,

v.

**RALPH DIAZ, Secretary of the California
Department of Corrections and
Rehabilitation, et al.,**

Defendants.

3:06-cv-00219-RS

**STIPULATION TO SETTLEMENT
CONFERENCE AND ~~PROPOSED~~
ORDER**

Judge: The Honorable Richard G. Seeborg
Trial Date: None set
Action Filed: January 5, 2006

The named parties in this matter hereby stipulate as follows:

1. The parties previously stipulated to the following (ECF No. 716): Plaintiffs' Fifth Amended Complaint, which is the operative pleading in this case, was filed on February 27, 2019. (ECF No. 710.) On March 13, 2019, Governor Gavin Newsom issued Executive Order N-09-19, in which he declared an executive moratorium on the death penalty and ordered that the lethal injection regulations be repealed, and that execution facilities at San Quentin State Prison be

1 immediately closed. (See also ECF No. 720-1, Ex. A., Defs.’ Request for Judicial Notice (RJN),
2 Ex. A.) The Governor also ordered an indefinite “reprieve for all people sentenced to death in
3 California.” (See also *id.*) In the Executive Order, the Governor stated that he “will not oversee
4 execution of any person while Governor.” (See also *id.*)

5 2. The lethal injection regulations were formally repealed on March 18, 2019. (See also
6 ECF No. 720-1, Ex. B.)

7 3. On June 28, 2019, Defendants filed a motion to dismiss, asserting this Court lacks
8 jurisdiction over this case. (ECF No. 720.)

9 4. On August 13, 2019, the parties stipulated to extend the time for Plaintiffs to file an
10 opposition to Defendants’ motion to dismiss to allow time for the parties to discuss a resolution of
11 this case. (ECF No. 721.) The Court granted this stipulation, setting the new opposition deadline
12 for October 14, 2019, a reply deadline for November 4, 2019, and stated it will set a hearing date
13 after briefing is completed. (ECF No. 722.)

14 5. On September 11, 2019, Plaintiffs filed a motion for summary judgment. (ECF No.
15 723.) Defendants’ current date to oppose the motion is September 25, 2019, and the hearing date
16 is set for November 7, 2019.

17 6. On September 13, 2019, Defendants agreed to participate in a settlement conference
18 before a federal magistrate, but only on two preconditions: (1) that the briefing schedules and
19 hearing date for the parties’ respective motions were temporarily vacated, and (2) the parties
20 would meet and confer and propose new briefing schedules and hearing dates in the event the
21 case was not resolved at the settlement conference.

22 7. On September 13, 2019, Plaintiffs filed an administrative motion requesting the Court
23 set a settlement conference, but made no mention of vacating or postponing briefing deadlines or
24 a hearing date for the parties pending dispositive motions. (ECF No. 725.)

25 THEREFORE, the parties stipulate that this Court refer this matter to a settlement
26 conference before a magistrate judge, that it temporarily vacate the briefing and hearing dates for
27 their respective dispositive motions, and that the parties will meet and confer, and submit a
28

1 proposed new schedule for briefing and hearing dates for their respective motions, should this
2 matter not be resolved at a settlement conference.

3 **SO STIPULATED AND AGREED.**

4
5 Dated: September 17, 2019

By: s/ R. Lawrence Bragg
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Supervising Deputy Attorney General
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Gavin Newsom, Ronald Davis, and Ralph
Diaz

9
10 Dated: September 17, 2019

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22 Dated: September 17, 2019

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6 Dated: September 17, 2019

By: s/ Norm C. Hile

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ORRICK HERRINGTON & SUTCLIFFE
LLP

Attorneys for Plaintiff

Kevin Cooper

10 **CIVIL LOCAL RULE 5-1(A) ATTESTATION**

11 As required by Local Rule 5-1, I, R. Lawrence Bragg, attest that I obtained
12 concurrence in the filing of this document from all signatories and that I have maintained
13 records to support this concurrence.
14

15 Dated: September 17, 2019

s/ R. Lawrence Bragg

R. Lawrence Bragg

~~[PROPOSED]~~ ORDER

Pursuant to the parties' stipulation, it is hereby ORDERED that this matter is referred to a settlement conference before a magistrate judge, that all pending briefing and hearing dates regarding the parties' respective dispositive motions (ECF Nos. 720 and 723) are temporarily vacated, and that, if this case is not resolved at a settlement conference, the parties will meet and confer, and then propose to the Court new briefing and hearing dates for their responsive motions.

IT IS SO ORDERED.

DATED: September 17, 2019


Hon. Richard Seeborg
United States District Court Judge

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