

1 XAVIER BECERRA
 Attorney General of California
 2 JAY M. GOLDMAN
 Supervising Deputy Attorney General
 3 R. LAWRENCE BRAGG
 Supervising Deputy Attorney General
 4 State Bar No. 119194
 JOANNA B. HOOD
 5 Deputy Attorney General
 MICHAEL J. QUINN
 6 Deputy Attorney General
 1300 I St., Suite 125
 7 Sacramento, CA 94244-2550
 Telephone: (916) 210-7334
 8 Fax: (916) 324-5205
 E-mail: Lawrence.Bragg@doj.ca.gov
 9 *Attorneys for Defendants*
Gavin Newsom, Ron Davis, and Ralph Diaz

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

15 **MICHAEL ANGELO MORALES,**
 16
 Plaintiffs,
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 v.
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 19 **RALPH DIAZ, Secretary of the California**
Department of Corrections and
 20 **Rehabilitation, et al.,**
 21 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

23 The named parties in this matter hereby stipulate as follows:

24 1. The parties previously stipulated to the following (ECF No. 716): Plaintiffs' Fifth
 25 Amended Complaint, which is the operative pleading in this case, was filed on February 27, 2019.
 26 (ECF No. 710.) On March 13, 2019, Governor Gavin Newsom issued Executive Order N-09-19,
 27 in which he declared an executive moratorium on the death penalty and ordered that the lethal
 28 injection regulations be repealed, and that execution facilities at San Quentin State Prison be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 The lethal injection regulations were formally repealed on March 18, 2019.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.**

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5 Dated: September 17, 2019

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

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10 Dated: September 17, 2019

By: s/ David A. Senior
DAVID A. SENIOR
SARA M. COHBRA
ANN K. TRIA

Richard P. Steinken
JENNER & BLOCK

John R. Grele
LAW OFFICE OF JOHN R. GRELE

Attorneys for Plaintiffs
Hector Ayala, Ron Aldo Ayala,
Albert Brown, Richard Boyer,
Tiequon Cox, Albert Cunningham,
Ronald Deere, Harvey Heishman,
Douglas Mickey, Michael Morales,
David Raley, Guy Rowland, Richard
Samayoa, Ricardo Sanders, Anthony
Sully, and Conrad Zapien

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22 Dated: September 17, 2019

By: s/ Susan Elizabeth Garvey
Susan Elizabeth Garvey
HABEAS CORPUS RESOURCE
CENTER
Attorneys for Plaintiff
Mitchell Sims

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Dated: September 17, 2019

By: s/ Margo Ann Rocconi
Margo Ann Rocconi
DEPUTY FEDERAL PUBLIC
DEFENDER
Attorneys for Plaintiffs
Tracy Cain, Raynard Cummings, Robert
Fairbank, William Payton, Scott
Pinholster, and John Visciotti

Dated: September 17, 2019

By: s/ Norm C. Hile
Norm C. Hile
ORRICK HERRINGTON & SUTCLIFFE
LLP
Attorneys for Plaintiff
Kevin Cooper

CIVIL LOCAL RULE 5-1(A) ATTESTATION

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

Dated: September 17, 2019

s/ R. Lawrence Bragg
R. Lawrence Bragg

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~~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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