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JIMENEZ  
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12 UNITED STATES DISTRICT COURT  
13 EASTERN DISTRICT OF CALIFORNIA  
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15 RYAN COUCH and KENNETH JIMENEZ,

16 Plaintiff,

17 v.  
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19 TOMMY WAN, KIMBERLI BONCORE, and  
RALPH DIAZ,

20 Defendants.  
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Case No. 1:08-CV-01621-LJO-DLB

**JOINT STIPULATION AND  
ORDER REGARDING  
AUTHENTICITY**

Judge: Hon. Dennis L. Beck

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2 WHEREAS, Ryan Couch and Kenneth Jimenez (collectively, "Plaintiffs") commenced  
3 the above-captioned action (the "Litigation") against on Tommy Wan, Kimberli Boncore, and  
4 Ralph Diaz (collectively, "Defendants," and together with Plaintiffs, "the Parties" and  
5 individually each a "Party"), on July 7, 2008;

6 WHEREAS, in the course of discovery the Parties have exchanged documents, and  
7 Plaintiffs have sought and obtained documents from third party California Department of  
8 Corrections and Rehabilitation ("CDCR");

9 WHEREAS, the Parties have determined that it is in their mutual interest and CDCR's  
10 interest as a third party to avoid the significant and unnecessary burden and expense associated  
11 with the document-by-document authentication of documents, and that stipulating to the  
12 authenticity of documents will promote the orderly and efficient progress of the Litigation;

13 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties as  
14 follows:

15 1. Subject to the exceptions stated below, and absent affirmative evidence  
16 (including evidence relating to the completeness of a document, such as missing or  
17 incomplete pages, or any conditions in the actual document or the manner in which it was  
18 produced that brings into question whether the document was actually generated by the  
19 relevant party or third party) that a document or thing is not what it purports to be, Plaintiffs  
20 agrees that, for purposes of Rule 901 of the Federal Rules of Evidence, Plaintiffs will not  
21 contest the authenticity of any document or thing produced by Plaintiffs in connection with  
22 the Litigation provided that the document or thing is offered in connection with the testimony  
23 of a witness (including for the purpose of cross-examining a witness) or in connection with a  
24 motion for summary judgment.

25 2. Subject to the exceptions stated below, and absent affirmative evidence  
26 (including evidence relating to the completeness of a document, such as missing or  
27 incomplete pages, or any conditions in the actual document or the manner in which it was  
28 produced that brings into question whether the document was actually generated by the

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2 relevant party or third party) that a document or thing is not what it purports to be,  
3 Defendants agree that, for purposes of Rule 901 of the Federal Rules of Evidence,  
4 Defendants will not contest the authenticity of any document or thing produced by  
5 Defendants or CDCR in connection with the Litigation provided that the document or thing is  
6 being offered in connection with the testimony of a witness (including for the purpose of  
7 cross-examining a witness) or in connection with a motion for summary judgment.

8         3.       Except as provided in Paragraph 4, the Parties' agreements in Paragraphs 1  
9 and 2 of this stipulation do not apply to handwritten documents or notes. If a document or  
10 thing produced by a Party bears handwritten notes, the Parties' agreements do not apply to  
11 the handwritten notes portion of the document, but do apply to the remainder of the  
12 document or thing. The Parties agree, however, that where a typed document references and  
13 includes or attaches handwritten notes, such as notes that purport to be written by an inmate,  
14 the included or attached notes are the notes referenced by the document.

15         4.       The Parties' agreements in Paragraphs 1 and 2 apply to the following pages:  
16 CDCR001212-1228, CDCR001254, CDCR003180-3188, CDCR002041, CDCR002585,  
17 CDCR002598-2600, CDCR002705-2707, CDCR002749-2754, CDCR007746-7747,  
18 CDCR007817-7821, CDCR011048-11050.

19         5.       The Parties' agreements in paragraphs 1 and 2 of this stipulation do not apply  
20 to documents and things produced after the date of this stipulation if: (1) within 15 days  
21 following production of the document or thing, the producing Party sends written notice to  
22 the receiving Party that it does not stipulate to the authenticity of the document or thing (with  
23 each such document or thing identified with specificity, such as by specific beginning and  
24 ending Bates numbers for a document) and provides a reasonable explanation for its position;  
25 or (2) there is affirmative evidence that the document or thing is not what it purports to be.  
26 To the extent either of the exceptions identified in this Paragraph 4 applies, the Parties agree  
27 that, at a mutually agreed upon time prior to trial, each Party may identify to the other Party a  
28 reasonable amount of documents and things produced after the date of this stipulation as to

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2 which that Party still wishes a stipulation of authenticity. The Parties further agree that such  
3 stipulation will not be unreasonably withheld.

4         6.       The Parties agree that, at a mutually agreed upon time prior to trial, each Party  
5 may identify to the other Party a reasonable amount of documents and things produced in this  
6 litigation by third-parties (other than CDCR) as to which that Party wishes a stipulation of  
7 authenticity. The Parties further agree that such stipulation will not be unreasonably  
8 withheld.

9         7.       This stipulation does not affect either (1) Plaintiffs' ability to contest the  
10 authenticity of any document or thing produced by Defendants or CDCR, or (2) Defendants'  
11 ability to contest the authenticity of any document or thing produced by Plaintiffs.

12         8.       In the event that a dispute arises regarding the authenticity of a document after  
13 the close of fact discovery, the Parties agree that the Party seeking to establish the  
14 authenticity of a document may take additional limited discovery (such as a deposition or  
15 request for admission), on an expedited basis, for the sole purpose of authenticating such  
16 document(s).

17         9.       Nothing in this stipulation shall be construed as an agreement that the proper  
18 foundation has been laid for any documents or things that are subject to this stipulation, or  
19 that they are admissible into evidence by any Party. The Parties hereby expressly reserve the  
20 right to object to the admissibility of any document or thing under any grounds permitted by  
21 law and not expressly addressed herein.  
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Dated: October 15, 2012

MORRISON & FOERSTER LLP  
BROOKS M. BEARD  
DANIEL A. ZLATNIK

By: /s/ Daniel A. Zlatnik  
Daniel A. Zlatnik

Attorneys for Plaintiffs RYAN COUCH and  
KENNETH JIMENEZ

Dated: October 15, 2012

EDWARD J. CADEN  
LAW OFFICE OF EDWARD J. CADEN

By: /s/ Edward J. Caden (as authorized on  
October 12, 2012)  
Edward J. Caden

Attorney for Plaintiffs RYAN COUCH and  
KENNETH JIMENEZ

Dated: October 15, 2012

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By: /s/ Scott H. Wyckoff (as authorized on  
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Scott H. Wyckoff

Attorneys for Defendants TOMMY WAN,  
KIMBERLI BONCORE, AND RALPH DIAZ

IT IS SO ORDERED.

Dated: October 16, 2012

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE