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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

LARRY D. THOMAS,

CASE NO. 1:09-cv-00443-LJO-BAM PC

Plaintiff,

ORDER DIRECTING DEFENDANT TO  
PROVIDE PROOF OF SERVICE BY THE END  
OF THE DAY

v.

HECTOR ROBLES, et al.,

Defendants.

\_\_\_\_\_ /

The Court has received and reviewed the Defendant's Trial Brief on the issue of the timing of the filing of the complaint pursuant to the requirements of the California Tort Claims Act.

The Court will issue a more detailed order when appropriate prior to the start of trial to allow all parties to know which claims will go to the jury. The issue is whether or not the notice provided pursuant to Government Code section 945.6, dated August 29, 2008, was actually mailed on that date. If it was, then the complaint as to the state causes of action are untimely, in that the 5 day mailing rule does not apply to extend the time for the filing of the complaint. (Citations to follow in the more detailed order that will be issued once the defense provides the requested declaration.)

Therefore, IT IS HEREBY ORDERED that no later than the end of the day TODAY, the defense is required to provide a proof of service to show when the 945.6 notice was in fact mailed, and such proof shall be filed with this court by electronic filing AND FAX at 559-499-5959.

IT IS SO ORDERED.

**Dated: December 9, 2011**

**/s/ Lawrence J. O'Neill**  
UNITED STATES DISTRICT JUDGE