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21 Attorneys for Defendants
22 Corrections Corporation of America and
23 CCA of Tennessee, LLC

24 **UNITED STATES DISTRICT COURT**
25 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

26 TERRY SANDRES, an individual,
27
28 Plaintiff,

vs.

CORRECTIONS CORPORATION OF
AMERICA, a Maryland corporation; and Does 1
through 50, inclusive,

Defendants.

CASE NO. 1:09-cv-01609 OWW-JLT

Assigned to: Hon. Oliver W. Wanger/Room
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**STIPULATION AND ORDER FOR A
TELEPHONIC CONFERENCE WITH
THE COURT TO CONTINUE TRIAL
AND RELATED DATES**

District Judge: Oliver W. Wanger
Magistrate Judge: Jennifer L. Thurston
Action filed: July 24, 2009
Trial Date: May 24, 2011

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1 THE PARTIES TO THE ABOVE-CAPTIONED MATTER, by and through their
2 respective attorneys of record, hereby enter into this stipulation to continue trial and all related
3 dates, based on the following:

4 WHEREAS, the Court issued a Scheduling Conference Order on February 3, 2010;

5 WHEREAS, thereafter the parties commenced discovery and the scheduling of depositions;

6 WHEREAS, Plaintiff had his first day of deposition taken June 2, 2010 during which
7 Plaintiff testified that he had previously filed for bankruptcy on December 5, 2008;

8 WHEREAS, Defendants take the position that Plaintiff's claims in the instant lawsuit
9 belong to the bankruptcy estate because his claims arose prior to the filing of his bankruptcy
10 petition and Defendants contend that Plaintiff did not disclose his claims on his schedules in
11 Bankruptcy Court with sufficient specificity;

12 WHEREAS, Defendants also take the position that Plaintiff does not have standing to
13 proceed in this case since the United States Trustee is the real party in interest in this matter;

14 WHEREAS, it is Defendants' position that the parties cannot proceed with discovery until
15 the bankruptcy issue is resolved;

16 WHEREAS, on June 2, 2010, Defendants advised the United States Trustee assigned to
17 administer Plaintiff's bankruptcy estate of the existence of this case to give the Trustee the
18 opportunity to re-open Plaintiff's bankruptcy file;

19 WHEREAS, the United States Trustee, through his Trustee Administrator, has informed
20 Defendants' counsel that they do not intend to take action on Plaintiff's claims;

21 WHEREAS, it is Defendants' position that there is no order from the Bankruptcy court that
22 the United States Trustee has abandoned the claims in this lawsuit;

23 WHEREAS, Defendants have filed a motion to dismiss Plaintiff's claims in the Third
24 Amended Complaint, set for hearing on October 25, 2010 at 10:00 a.m., on the grounds that
25 Plaintiff lacks standing and is judicially stopped from pursuing the claims based on Plaintiff's
26 failure to disclose them with sufficient specificity in his bankruptcy petition;

27 WHEREAS, on August 24, 2010, this Court signed the order on the parties' previous
28 stipulation to continue trial and all related dates for at least 90 days (the "Order");

1 WHEREAS, the Order continued the deadlines for Plaintiff's expert disclosures and
2 completion of all non-expert discovery to occur before the hearing of October 25, 2010 on
3 Defendants' motion to dismiss Plaintiff's claims in the Third Amended Complaint;

4 WHEREAS, the parties have met and conferred and believe that the deadline for Plaintiff's
5 expert disclosures and completion of all non-expert discovery should be continued until after the
6 October 25, 2010 hearing date to resolve Plaintiff's bankruptcy issue;

7 WHEREAS, the parties have met and conferred in good faith but have been unable to agree
8 to a stipulation on new dates, and thus jointly seek the Court's assistance in issuing a new
9 scheduling order;

10 WHEREAS, the parties request that the Court schedule a telephonic conference with the
11 parties on September 17, 2010 at 11:00am to address this issue.

12 THEREFORE, THE PARTIES IN THE ABOVE-ENTITLED ACTION HEREBY
13 STIPULATE and agree, and request that this Court make the following orders:

- 14 1. That the Court set a telephonic conference with the parties on September 17, 2010 at
15 11:00am to address scheduling issues.

16
17
18 Dated: September 14, 2010

APPELL | HILAIRE | BENARDO LLP

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20 By _____/s/ BARRY APPELL_____
Barry Appell
Attorney for Plaintiff

21
22 Dated: September 14, 2010

GLEASON & FAVAROTE, LLP

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24 By _____/s/ RICHARD CHEN_____
Richard Chen
Attorney for Defendants

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ORDER

Pursuant to the parties' stipulation and good cause being shown therefore, the Court hereby makes the following orders:

1. The parties shall participate in a telephonic conference with the Court to discuss scheduling issues on September 17, 2010 at 11:00AM.

IT IS SO ORDERED.

Dated: September 15, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE