

1 XAVIER BECERRA, State Bar No. 118517
Attorney General of California
2 DAVID J. NEILL, State Bar No. 186997
Supervising Deputy Attorney General
3 MATTHEW T. BESMER, State Bar No. 269138
Deputy Attorney General
4 2550 Mariposa Mall, Room 5090
Fresno, CA 93721
5 Telephone: (559) 477-1680
Fax: (559) 445-5106
6 E-mail: Matthew.Besmer@doj.ca.gov
Attorneys for Defendants
7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 **MAURICE C. MOCK,**

12 Plaintiff,

13 v.

14 **CALIFORNIA DEPARTMENT OF**
15 **CORRECTIONS AND**
16 **REHABILITATION; PLEASANT**
17 **VALLEY STATE PRISON; JEFFREY A**
18 **BEARD, in official capacity; JOHN KEITH,**
in his individual and official capacities; and
DOES 1 through 50, inclusive,

19 Defendants.
20

1:15-cv-01104-MJS

**STIPULATION FOR LEAVE TO FILE A
FIRST AMENDED ANSWER TO FIRST
AMENDED COMPLAINT;**

AND ORDER

Trial Date: October 24, 2017

Action Filed: June 15, 2015

21 Defendants filed their answer to Plaintiff's complaint on March 10, 2016. *See* ECF No.
22 33. Since then, through discovery and the investigation of the case, Defendants have represented
23 to Plaintiff that they have identified an additional affirmative defense to Plaintiff's claims. To
24 avoid litigation expense and in the furtherance of judicial economy, Defendants and Plaintiff
25 stipulate as follows:

26 1. Defendants may have leave to file an amended answer to assert an after-acquired
27 evidence defense which is numbered affirmative defense twenty-three in Defendants' First
28

1 Amended Answer to First Amended Complaint. A true and correct copy of the First Amended
2 Answer to First Amended Complaint is attached hereto as Exhibit A.

3 2. Defendants may file their First Amended Answer to First Amended Complaint
4 concurrently with this stipulation, and it shall be deemed filed and served effective the date the
5 Court approves this stipulation.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: February 6, 2017

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
DAVID J. NEILL
Supervising Deputy Attorney General
Matthew T. Besmer
MATTHEW T. BESMER
Deputy Attorney General
Attorneys for Defendants

Dated: February 6, 2017

KAHN, SOARES & CONWAY, LLP
Robert B. Zumwalt

Robert B. Zumwalt
Attorneys for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

Based on the parties' Stipulation for Leave to File A First Amended Answer to First Amended Complaint, and with good cause appearing, it is hereby ORDERED that:

1. Defendants shall have leave to file an amended answer to assert an after-acquired evidence defense which is numbered affirmative defense twenty-three in the First Amended Answer to First Amended Complaint.

2. The First Amended Answer to First Amended Complaint that was filed concurrently with this stipulation is deemed filed and served effective the date that this stipulation is approved by the Court.

IT IS SO ORDERED.

Dated: February 7, 2017

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

SA2015104075
95212119.doc