1 2 3 4 5 UNITED STATES DISTRICT COURT 6 EASTERN DISTRICT OF CALIFORNIA 7 ANTHONY CEASAR HERNANDEZ, Case No.: 1:17-cv-00468-LJO-BAM (PC) 8 Plaintiff, 9 ORDER REGARDING DEFENDANTS' STATUS REPORT v. 10 ORDER REQUIRING SECOND STATUS BALLAM, et al., 11 REPORT BY DEFENDANTS WITHIN NINETY (90) DAYS Defendants. 12 13 [Doc No. 64] 14 Plaintiff Anthony Ceasar Hernandez is a state prisoner proceeding pro se and in forma 15 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This case proceeds on 16 Plaintiff's second amended complaint alleging excessive force in violation of the Eighth 17 Amendment against Defendants Perez and Duran, and for the failure to intervene in the use of 18 excessive force against Defendant Ballam. 19 On July 9, 2018, the Court stayed this matter pending the resolution of Plaintiff's ongoing 20 criminal case that concerns the same events at issue in this case. (Doc. No. 56.) The Court 21 further ordered Defendants to file a status report, within ninety (90) days of that order, setting 22 forth the status of Plaintiff's criminal case. (*Id.* at 6.) 23 On October 8, 2018, Defendants timely submitted a status report. (Doc. No. 64.)¹ The 24 status report reflects that a trial setting hearing was held on September 21, 2018 in Plaintiff's 25 26 27

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¹ October 8, 2018 was a federal legal holiday, and therefore the Court was closed, which extended the deadline for Defendants' compliance with the Court's order. *See* Fed. R. Civ. P. 6(a)(1)(C). Nevertheless, the Court's CM/ECF electronic filing system accepted filings on October 8, 2018.

criminal case, People v. Hernandez, Madera County Superior Court Case No. MCR055598. (Id. at 4.) A trial date was set for December 11, 2018 at that hearing, with pretrial and final pretrial confirmation dates of October 19, 2018 and December 7, 2018, respectively. (Id.) Accordingly, the Court finds it is not yet appropriate to lift the stay in this matter. Defendants are HEREBY ORDERED to file a second status report within ninety (90) days of the date of this order, updating the Court as to the status of Plaintiff's criminal case, if it is not resolved by the end of that period. IT IS SO ORDERED. /s/Barbara A. McAuliffe Dated: October 9, 2018