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14 Attorneys for Plaintiffs

16 IN THE UNITED STATES DISTRICT COURT  
 17 FOR THE EASTERN DISTRICT OF CALIFORNIA

18 RALPH COLEMAN, et al.,  
 19 Plaintiffs,  
 20 v.  
 21 ARNOLD SCHWARZENEGGER, et al.,  
 22 Defendants.  
 23  
 24  
 25  
 26  
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Case No. CIV S 90-520 LKK-JFM

**STIPULATION AND ORDER TO PAY  
 PLAINTIFFS INTERIM FEES AND TO  
 STAY PLAINTIFFS' MOTION TO  
 COMPEL PAYMENT OF REASONABLE  
 FEES FOR WORK PERFORMED BY  
 NONPARALEGALS DURING 2009 UNTIL  
 THE RESOLUTION OF PEREZ V. CATE,  
 APPEAL 09-17185**

1                   **STIPULATION TO PAY PLAINTIFFS INTERIM FEES AND TO STAY**  
2                   **PLAINTIFFS' MOTION TO COMPEL PAYMENT OF REASONABLE**  
3                   **FEES FOR WORK PERFORMED BY NONPARALEGALS DURING 2009**  
4                   **UNTIL THE RESOLUTION OF *PEREZ V. CATE*, APPEAL 09-17185**

5                   Plaintiffs and Defendants STIPULATE as follows:

6                   1.       Pursuant to the *Coleman* Periodic Fees Order, "Plaintiffs will file a yearly motion  
7 to compel payment of disputed items, if necessary, not later than sixty (60) days after the parties  
8 meet and confer with respect to the statement covering the fourth quarter of each year." March  
9 19, 1996 Stipulation and Order for Periodic Collection of Attorneys' Fees and Costs (attached as  
10 Appendix A). The parties have already stipulated to stay all attorneys' fees, costs and expense  
11 matters related to the Three-Judge Panel and related appeals until October 1, 2010. *Coleman*  
12 Docket 3801. The only remaining, disputed issues from 2009 are: (1) Defendants' refusal to pay  
13 for any work performed by staff who are not "paralegals" as defined by California Business &  
14 Professions Code § 6450, and; (2) Defendants' refusal to pay more than \$135 per hour or \$82.50  
per hour for paralegal work on the case.

15                  2.       On May 26, 2010, this Court issued an order adopting the parties' stipulation to  
16 stay plaintiffs' motion to compel regarding the rate to be paid to paralegals pending final  
17 resolution of *Perez, et al. v. Cate, et al.*, Court of Appeals Docket No. 09-17185, United States  
18 Court of Appeals for the Ninth Circuit, including any petitions for panel or en banc rehearing, or  
19 final resolution in the United States Supreme Court (hereinafter "*Perez* appeal"). *Coleman*  
20 Docket 3851. The parties agreed, however, that plaintiffs would move to compel based on  
21 defendants' refusal to pay any fees for work performed by nonparalegal litigation assistants. *Id.*

22                  3.       Plaintiffs now withdraw their motion to compel payment for work performed by  
23 nonparalegal litigation assistants (*Coleman* Docket Nos. 3871-3877), as defendants agree to pay  
24 these fees at a reduced rate. The parties agree to stay plaintiffs' motion regarding the final rate  
25 defendants will pay nonparalegal litigation assistants pending final resolution of the *Perez*  
26 appeal, including any petitions for panel or en banc rehearing, or final resolution in the United  
27 States Supreme Court.

28                  4.       In the interim, defendants agree to pay nonparalegal litigation assistant fees at the

1 hourly rate of \$82.50. For 2009, defendants will pay plaintiffs, within 30 days of the passage of  
2 the California state budget for 2010/2011, \$8,728.50 for 105.8 hours that defendants previously  
3 refused to compensate. In so doing, plaintiffs do not waive and will enforce their right to interest  
4 in accordance with the provisions set forth in the *Coleman* Periodic Fees order. Nothing in this  
5 Stipulation may be deemed a waiver or concession of any party's legal arguments regarding this  
6 issue.

7 5. If the Ninth Circuit rules in the *Perez* appeal that the Prison Litigation Reform Act  
8 governs paralegal fees, then the PLRA also governs nonparalegal litigation assistant fees.

9 6. If the requested stay is granted, the parties will meet and confer regarding the  
10 nonparalegal rate issue, as well as the paralegal rate issue, within 10 days after the mandate  
11 issues in the *Perez* appeal. If the parties are still unable to resolve this issue, plaintiffs will re-file  
12 a motion to compel within 60 days of the completion of the meet and confer.

13 **IT IS SO STIPULATED.**

14  
15 Dated: August 30, 2010

Respectfully submitted,

16 ROSEN, BIEN & GALVAN, LLP

17 By: /s/ Amy Whelan

Amy Whelan

18 Attorney for *Coleman* Plaintiffs

19 Dated: August 30, 2010

Office of the Attorney General

20 By: \_\_\_\_\_

Debbie Vorous, Deputy Attorney General

21 Attorney for *Coleman* Defendants

22  
23 **IT IS SO ORDERED.**

24  
25 Dated: September 1, 2010



LAWRENCE K. KARLTON

26 SENIOR JUDGE

27 UNITED STATES DISTRICT COURT