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 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA
 11 SACRAMENTO DIVISION

12
 13 **WILLIAM ROUSER,**

2:93-cv-0767-LKK-GGH (PC)

14 Plaintiff,

**STIPULATION RE: PRELIMINARY
 INJUNCTION**

15 v.

16 **THEO WHITE, et al.,**

17 Defendants.
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19 The parties, by their attorneys of record, agree and stipulate as follows:

- 20 1. On April 15, 2010, the Court issued an order for a preliminary injunction. (CR 509.)
- 21 2. Defendants will appeal that order to the Court of Appeal for the Ninth Circuit.
- 22 3. Defendants will file that appeal on or before May 7, 2010.
- 23 4. The parties have conferred with the Chief Circuit Mediator and have agreed to
- 24 participate in the mediation of the case in its entirety, including, but not limited to the preliminary
- 25 injunction order, the appeal of this Court's order denying qualified immunity for defendants
- 26 Gomez and White, and any additional cases or matters which they agree to mediate.
- 27 5. The parties are considering mediation dates in late May or early June of 2010.

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1 6. The Chief Circuit Mediator has advised the parties that a stay of the appeal will be
2 issued pending mediation, when defendants' appeal is filed.

3 7. Because of those facts, the parties agree that defendants are not required to first seek a
4 stay of enforcement of the preliminary injunction in the district court.

5 8. If the parties are unable to mediate the dispute, and the stay of the appeal pending
6 mediation is lifted, the parties agree that plaintiff can move the district court for enforcement of
7 the preliminary injunction, and defendants can oppose that motion or move for a stay in the Ninth
8 Circuit Court of Appeal.

9 9. In the event the parties are unable to mediate the dispute, and the stay of appeal is lifted,
10 the parties agree that the preliminary injunction will take effect as if entered by the Court on the
11 date the stay of appeal is lifted.

12 Dated: April 28, 2010

OFFICE OF THE ATTORNEY GENERAL
OF THE STATE OF CALIFORNIA

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16 By: /s/ James E. Flynn

JAMES E. FLYNN, State Bar No. 61139
Deputy Attorney General
Attorneys for Defendants

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19 Dated: April 28, 2010

JONES DAY

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22 By: /s/ Lin Wang [Original On File]

LIN WANG, State Bar No. 261387
Attorney At Law
Attorneys for Plaintiff

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25 **IT IS SO ORDERED**

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27 Dated: April 28, 2010


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT