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

WILLIAM ROUSER,

Plaintiff,

No. CIV S-93-0767 LKK GGH P

vs.

THEO WHITE, et al.,

Defendants.

O R D E R

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On May 17, 2010, thirteen members of the Spotted Eagle Circle at Lancaster State Prison filed a motion to intervene in the above captioned case and a motion for reconsideration of this court's order granting, in part, plaintiff's motion for a preliminary injunction. On May 24, 2010, the court granted the motion to intervene and requested representation of the interveners by attorneys from California Indian Legal Services ("CILS"). On June 23, 2010, CILS attorneys agreed to represent the interveners "subject to their acceptance of our representation." The May 24, 2010 order also instructed the interveners to inform the court within thirty (30) days whether

1 they did not consent to representation by CILS or other volunteer  
2 counsel. The court recently learned that this order was never  
3 served upon the interveners.

4 On April 28, 2010, plaintiff and defendants filed a  
5 stipulation indicating that they are engaged in mediation of this  
6 case. This stipulation also indicated that defendants will  
7 shortly appeal this court's order granting, in part, plaintiff's  
8 motion for a preliminary injunction. On May 4, 2010, defendants  
9 filed a notice of appeal. The appeal was processed on May 7,  
10 2010. Accordingly, this court no longer has jurisdiction over the  
11 order granting, in part, plaintiff's motion for a preliminary  
12 injunction.

13 For the foregoing reasons, the court orders as follows:

14 (1) The interveners shall inform the court within fourteen  
15 (14) days if they accept representation by CILS. A  
16 failure to respond will be deemed acceptance of CILS.

17 (2) The court currently lacks jurisdiction over its order  
18 granting, in part, plaintiff's motion for a preliminary  
19 injunction. Accordingly, it cannot hear the motion to  
20 reconsider the order at this time. Because the parties  
21 have represented that they are actively engaged in  
22 mediation, the court declines at this time to request  
23 that the Ninth Circuit Court of Appeals allow this  
24 court to reconsider its order granting, in part,  
25 plaintiff's motion for a preliminary injunction. If  
26 mediation is unsuccessful, the parties are ORDERED to

1 inform the court within seven (7) days of the end of  
2 mediation. It is the court's understanding that the  
3 interveners may participate in the mediation. Attorneys  
4 from CILS may only participate in the mediation if the  
5 interveners consent to representation by them.

6 (3) The Clerk of Court is instructed to serve this order  
7 and the May 24, 2010 order, Dkt. No. 519, upon the  
8 intervening members of the Spotted Eagle Circle.

9 IT IS SO ORDERED.

10 DATED: June 30, 2010.

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13 LAWRENCE K. KARLTON  
14 SENIOR JUDGE  
15 UNITED STATES DISTRICT COURT  
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