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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

MICHAEL J. BRODHEIM,	2:02-cv-0573 FCD KJN (PC)
Plaintiff,	
v.	**STIPULATION AND ORDER**
	TO CONTINUE HEARING
MICHAEL CRY, et al.,	**ON MOTION TO DISMISS**
Defendants.	

Counsel for Plaintiff and Defendants stipulate to a continuance of the hearing on

Defendants' Motion to Dismiss the Complaint currently scheduled for April 7, 2011, until

May 19, 2011, at 10:00 a.m. Plaintiff has not yet filed an opposition and Defendants have not

filed their reply. Thus, further briefing is anticipated.

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1   The continuance is requested due to Plaintiff's recent grant of a parole date by the

2   California Board of Prison Terms. However, after the parole hearing was held, the U. S. Supreme

3   Court issued its ruling in *Swarthout v. Cooke,* ___ U.S. ___, 131 S.Ct. 859 (2011), making it

4   unclear whether the grant of parole is still in effect. Additional time is necessary to determine

5   whether the District Court can, or will, order Plaintiff's release. Should Plaintiff be released on

6   parole, the parties agree that this matter may become moot, and no further briefing will likely be

7   necessary. Accordingly, the parties request a continuance of the hearing on Defendants' Motion

8   to Dismiss until May 19, 2011.

9   Dated: March 30, 2011   By: */s/ Kelli M. Hammond*_____
                                              KELLI M. HAMMOND
10   Deputy Attorney General
                                              Attorney for Defendants
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         Dated: March 30, 2011   By: */s/ Joseph D. Elford*_____
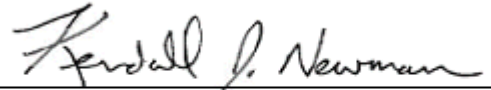13   JOSEPH D. ELFORD
                                              Attorney for Plaintiff
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16   **IT IS SO ORDERED.**

17   DATED: April 1, 2011

18   _____
                                                KENDALL J. NEWMAN
19   UNITED STATES MAGISTRATE JUDGE

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