

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 RICHARD M. GILMAN, et al,

11 Plaintiff,

No. CIV S-05-0830 LKK GGH

12 vs.

13 ARNOLD SCHWARZENEGGER, et al.,

14 Defendants,

ORDER

15 _____/
16 Plaintiffs' motion to compel, filed on December 23, 2009, came on for hearing on
17 March 4, 2010, before the undersigned. The court, by Order, filed on March 5, 2010, directed
18 defendants to produce a designated percentage of parole hearing transcripts for lifer inmates
19 within thirty days as well as a list of such inmates to plaintiffs. In addition, the parties were
20 ordered to file, as set forth therein, a joint supplemental statement by March 15, 2010.
21 Thereafter, pursuant to a stipulation, the parties were permitted until March 19, 2010, to file the
22 supplemental joint statement. See Order, filed on March 22, 2010.

23 In the supplemental joint statement re: discovery disagreements, filed on March
24 19, 2010, plaintiffs and defendants jointly proposed that the undersigned not rule on plaintiff's
25 motion to compel production of the lifer packets at that time, averring that once the parties
26 obtained needed information and consulted with their statisticians, the number of lifer packets

1 that needed to be reviewed would be determined. See Supplemental Joint Statement, filed on
2 March 19, 2010. The parties also stated that if the parties were unable to reach an agreement,
3 they would file a status report setting forth their respective positions for the court to rule on the
4 motion at some undefined point in the future. As more than three months have passed since the
5 filing of the supplemental joint statement with no status report forthcoming, it may be that the
6 parties have reached an agreement. In any case, the court is unwilling to hold this matter in
7 abeyance indefinitely. By Order, filed on October 15, 2009, Judge Karlton stated that the parties
8 in this class action could commence discovery. No deadline for discovery set by the District
9 Judge appears in the case docket. Therefore, should the matter at issue not be resolved, plaintiff
10 is free to renew the motion to compel by filing a new one.

11 Accordingly, IT IS ORDERED that plaintiffs' motion to compel discovery
12 responses, filed on December 23, 2010 (docket # 213), is hereby VACATED without prejudice.

13 DATED: June 28, 2010

14 /s/ Gregory G. Hollows

15 _____
16 GREGORY G. HOLLOWES
17 UNITED STATES MAGISTRATE JUDGE

18 GGH:009
19 gilm0830.vac
20
21
22
23
24
25
26