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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD M. GILMAN, et al.,

NO. CIV. S-05-830 LKK/GGH

Plaintiffs,

v.

O R D E R

EDMUND J. BROWN, et al.,

Defendants.

_____ /

On August 31, 2011 this court issued an order appointing Professor Richard Berk as a neutral expert witness pursuant to FRE 706. ECF No. 365. The order also required plaintiffs to submit to the court, within fourteen days of the issuance of the order, an electronic version of "all evidence presented in the evidentiary hearing, all data underlying the summaries and other analyses presented at the hearing, and all data obtained to date from the Rutherford class action and concerning implementation of the advanced hearing process." August 31, 2011 Order 4:10-14.

On September 12, 2011, plaintiffs submitted a response to the August 31, 2011 order. ECF No. 368. In their response, plaintiffs

1 stated that the evidence presented at the evidentiary hearing has
2 already been submitted to the court, obviating, according to
3 plaintiffs, the need to comply with this court's August 31, 2011
4 order which specified that plaintiffs submit to the court, in
5 electronic format, the evidence presented at the evidentiary
6 hearing. Plaintiffs submitted a disk containing Executive Reports
7 on Parol Review Decisions, which Ms. Knox relied on in preparing
8 her charts and summaries. Plaintiffs stated that the submission of
9 the raw data was "complicated." Plaintiffs requested that their
10 September 12 submission be deemed to comply with the August 31,
11 2011 order.

12 At a telephone conference with the parties, the court granted
13 plaintiffs an additional three weeks to obtain the raw "Rutherford"
14 data. ECF No. 370. Upon further consultation with Professor Berk
15 and with the parties, the court orders as follows:

16 [1] The court's order granting plaintiffs three additional
17 weeks to submit the Rutherford data, ECF No. 370 is VACATED.

18 [2] Plaintiffs SHALL, within seven (7) days of the issuance
19 of this order, submit to the court a disk containing the
20 evidence presented at the evidentiary hearing.

21 [3] Plaintiffs are not required to submit the raw Rutherford
22 data. Instead, Professor Berk SHALL contact Thomas Master
23 directly to obtain the data. Upon obtaining the data,
24 Professor Berk will submit a declaration to the court
25 describing the data set that he obtains from Mr. Master, or
26 any searches that he requests Mr. Master to perform.

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IT IS SO ORDERED.

DATED: September 26, 2011.



LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT