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8 *Attorneys for Defendants DiNinni, Kenneally,*
Moore, Perez, Schwarzenegger, and their successors
9 *in office*

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

13
14 **MICHAEL BRODHEIM,**

15 Plaintiff,

16 v.

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18 **LOUIE DININNI, et al.,**

19 Defendants.

No. 2:05-cv-1512-LKK-GGH (PC)

**STIPULATION AND ORDER FOR
PLAINTIFF TO FILE A FIFTH
AMENDED COMPLAINT AND FOR
DEFENDANTS TO RESPOND TO THE
COMPLAINT THIRTY DAYS
THEREAFTER**

Action Filed: August 30, 2005

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22 Under Federal Rule of Civil Procedure 15(a)(2) and Local Rules 143 and 144, the parties,
23 through their respective counsel of record, agree that Plaintiff will file a fifth amended complaint
24 by August 30, 2013, and Defendants will file their response to the fifth amended complaint by
25 September 30, 2013. The parties further agree that Defendants need not respond to the fourth
26 amended complaint filed on July 1, 2013. (ECF No. 70.) Good cause exists to grant this request
27 because Plaintiff seeks to correct and clarify various facts and claims in the complaint, and
28 Defendants require more time to respond to the complaint.

1 Plaintiff filed his fourth amended complaint on July 1, 2013. (ECF No. 70.) The complaint
2 named nine Defendants, several of which are the successors to Defendants previously named and
3 served in this action. Plaintiff seeks to amend the complaint to clarify who the newly named
4 Defendants are intended to replace as permitted under Federal Rule of Civil Procedure 25(d).
5 Plaintiff also wishes to clarify other facts asserted in the complaint.

6 Defense counsel will require an extension to respond to the fifth amended complaint (or
7 fourth amended complaint if the Court denies this request) because of her trial calendar. She is
8 currently preparing for trial in the matters *Fields v. Junious* (E.D. Cal. No. 1:09-cv-1771 DLB)
9 and *Coston-Moore v. Medina* (E.D. Cal. No. 1:06-cv-01183 RC), which are scheduled to start on
10 August 5 and 12, respectively. These trials are expected to go forward on the scheduled dates
11 because *Fields* was continued to August 5, so Magistrate Judge Beck could preside over the trial,
12 and Judge Collins is coming from Arizona to try *Coston-Moore*.

13 On June 7, when the parties stipulated to the July 31 deadline for Defendants to respond to
14 the fourth amended complaint, defense counsel was unaware that she would be in trial on August
15 5. *Fields* was reassigned to Magistrate Beck, and the August 5 trial date was set on June 26. (*See*
16 *Fields* ECF Nos. 137, 138.) After the *Fields* and *Coston-Moore* trials, defense counsel will start
17 preparing for trial in *McDonald v. Yates* (E.D. Cal. No. 1:09-cv-00730 SKO), which is scheduled

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1 to start on September 17, 2013, in addition to meeting deadlines in her other cases. For these
2 reasons, Defendants will require more time than that permitted under Rule 15 to prepare their
3 response to the fifth amended complaint.

4 IT IS SO STIPULATED.

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6 Dated: July 31, 2013

Respectfully submitted,

7 KAMALA D. HARRIS
8 Attorney General of California
9 CHRISTOPHER J. BECKER
Supervising Deputy Attorney General

10 */s/ Diana Esquivel*

11 DIANA ESQUIVEL
12 Deputy Attorney General
Attorneys for Defendants

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14 Dated: July 31, 2013

/s/ Joseph D. Elford

15 JOSEPH D. ELFORD
16 *Attorneys for Plaintiff*

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ORDER

Based on the parties' stipulation and good cause appearing, Defendants need not respond to the fourth amended and supplemental complaint, filed on July 1, 2013. (*See* ECF No. 70.) Plaintiff shall file his fifth amended complaint by no later than August 30, 2013. Defendants shall respond to the fifth amended complaint by no later than September 30, 2013.

IT IS SO ORDERED.

DATED: August 13, 2013 /s/ Gregory G. Hollows

Gregory G. Hollows
United States Magistrate Judge

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