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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

DAVID JOHN BERG,

Plaintiff,

v.

JOHN DOES; DEPUTY KAZALEC;  
DEPUTY ISLAS; DEPUTY YOUNGBERG;  
DEPUTY TUCKER; DEPUTY KENDRICK;  
DEPUTY CATOR; DEPUTY MROZINSKI;  
DEPUTY TODD; DEPUTY ROSALES,

Defendants.

No. 2:09-CV-01492 MCE KJN

**SECOND STIPULATION FOR  
CONTINUANCE OF HEARING;  
[PROPOSED] ORDER**

~~Date: December 8, 2011~~  
Date: February 23, 2012  
Time: 10:00 A.M.  
Courtroom: 25, 8th Floor  
Judge: The Hon. Kendall J. Newman

WHEREAS the hearing on the motion to dismiss and to sever the First Amended Complaint (hereinafter referred to as "Motion to Dismiss/Sever"), brought by defendants DEPUTY TODD, DEPUTY TUCKER, DEPUTY YOUNGBERG, DEPUTY ROSALES, DEPUTY CATER, DEPUTY MROZINSKI and DEPUTY KACALEK, is currently set for December 8, 2011;

WHEREAS the Motion to Dismiss/Sever was originally set for November 10, 2011;

WHEREAS the parties Stipulated to continue the Motion to Dismiss/Sever in order to continue settlement negotiations;

WHEREAS the Stipulation subsequently became an Order entered by this Court on

1 October 28, 2011;

2 WHEREAS PLAINTIFF DAVID JOHN BERG was recently transferred to a new facility  
3 on or about October 27, 2011, thereby interrupting his ability to communicate with his counsel of  
4 record and, in turn, participate in settlement negotiations;

5 WHEREAS a result of PLAINTIFF's relocation, the parties settlement negotiations were  
6 put on hold;

7 WHEREAS PLAINTIFF is now able to communicate with his counsel and the parties  
8 continue to engage in settlement negotiations that may fully resolve this case in the next few  
9 weeks; and

10 WHEREAS the parties seek to reduce litigation costs and the expenditure of Court  
11 resources by abating all motions practice that would be mooted by settlement;

12 THEREFORE, the parties now hereby stipulate through their counsel of record, as  
13 follows:

14 1. Subject to Court approval, the parties agree to continue the hearing date on the  
15 currently pending Motion to Dismiss/Sever from December 8, 2011, to February 23, 2012, at  
16 10:00 a.m.;

17 2. The deadlines for Plaintiff's opposition and Defendant's reply for the Motion to  
18 Dismiss/Sever will be based off the new hearing date of February 23, 2012;

19 3. The parties further agree that the newly named defendant, SACRAMENTO  
20 COUNTY SHERIFF'S DEPARTMENT, shall have until January 26, 2012, to file its initial  
21 responsive pleading or motion, which is presently due on November 29, 2011.

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STIPULATION FOR CONTINUANCE; [PROPOSED]

ORDER

Case No. 2:09-cv-01492 MCE KJN

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IT IS SO STIPULATED.

DATE: November 22, 2011

DOWNEY BRAND LLP

\_\_\_\_\_/s/ Julianne R. Kay\_\_\_\_\_

Frank E. Noey  
Julianne R. Kay  
Attorneys for Plaintiff

DATE: November 22, 2011

RANDOLPH CREGGER & CHALFANT LLP

\_\_\_\_\_/s/ Robert L. Chalfant\_\_\_\_\_

Robert L. Chalfant  
Wendy Motooka  
Attorneys for Defendants

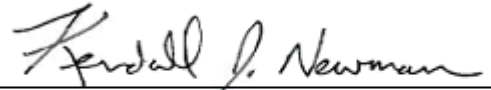
**[PROPOSED] ORDER**

After considering the Stipulation by and between the parties through their counsel of record, **IT IS HEREBY ORDERED THAT:**

1. The hearing on defendants' pending Motion to Dismiss/Sever, previously set for December 8, 2011, shall be continued to **February 23, 2012, at 10:00 a.m.**;
2. The deadlines for Plaintiff's opposition and Defendant's reply for the Motion to Dismiss/Sever shall be based off the new hearing date of February 23, 2012; and
3. Defendant Sacramento County Sheriff's Department shall have an extension of time to file its initial responsive pleading or motion in this action. The County's responsive pleading or motion is now due on January 26, 2012.

**IT IS SO ORDERED.**

DATED: November 30, 2011



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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE