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9 Attorneys for Plaintiffs

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

13 Estate of RODNEY LOUIS BOCK, deceased,
 by and through CYNDIE DENNY BOCK, as
 14 Administrator; KIMBERLY BOCK; KELLIE
 BOCK; HILLARY BOCK; MORGEN BOCK;
 15 LAURA LYNN BOCK; and Estate of
 ROBERT BOCK,

16 Plaintiffs,

17 v.

18 COUNTY OF SUTTER; COUNTY OF YUBA;
 19 J. PAUL PARKER, Sutter County Sheriff's
 Department Sheriff; DAVID SAMSON, Sutter
 20 County Jail Division Commander; NORMAN
 BIDWELL, Sutter County Jail Corrections
 21 Lieutenant; JOHN S. ZIL; CHRISTOPHER
 BARNETT; BOBBY JOE LITTLE; DAVID
 22 CALAPINI; SHAUN FLIEHMAN; RAINBOW
 CRANE; KATY MULLIN; DONICE
 23 MCGINNIS; LEWIS MCELFRISH;
 BALJINDER RAI; and Does I through XL,
 24 inclusive,

25 Defendants.

Case No. 2:11-cv-00536-MCE-KJN

**STIPULATION AND ORDER FOR
 FILING OF FIFTH AMENDED
 COMPLAINT**

Judge: Hon. Morrison C. England, Jr.

1 STIPULATION

2 IT IS HEREBY STIPULATED, pursuant to Federal Rules of Civil Procedure
3 15(a)(2) and 16, and Eastern District Local Rule 220, by and between the parties hereto
4 through their respective attorneys of record, that Plaintiffs may file the Fifth Amended
5 Complaint, a copy of which is attached hereto as **Exhibit A**;

6 Federal Rule of Civil Procedure 16 requires the district court to enter a scheduling
7 order in each case that, *inter alia*, “limit[s] the time to . . . amend the pleadings.” Fed. R.
8 Civ. P. 16(b)(3)(A). The operative scheduling order for this case, which was entered on
9 March 28, 2013, authorized further future amendment of the pleadings with leave of Court
10 where good cause is shown. *See* Pretrial Scheduling Order, Dkt. No. 69 at 2; *accord* Fed.
11 R. Civ. P. 16(b)(4). “Rule 16(b)’s ‘good cause’ standard primarily considers the diligence
12 of the party seeking the amendment,” and permits the district court to modify the
13 scheduling order “if it cannot reasonably be met despite the diligence of the party seeking
14 the extension.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)
15 (quoting Fed. R. Civ. P. 16 Advisory Committee’s notes (1983 amendment)). Rule
16 15(a)(2) of the Federal Rules of Civil Procedure permits amendments to a pleading before
17 trial with the opposing party’s written consent or leave of the court, and instructs that
18 “[t]he court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2).

19 IT IS STIPULATED that good cause exists to amend the complaint to conform the
20 pleadings to proof and evidence developed in discovery, and for purposes of efficiency and
21 clarity in reaching a final disposition in this matter. By entering into this stipulation,
22 Defendants do not admit any of the allegations in the Fifth Amended Complaint.

23 IT IS FURTHER STIPULATED that each and every one of the defendants named
24 in the Fifth Amended Complaint (collectively, “Defendants”) waive notice and service of
25 the Fifth Amended Complaint and shall not be required to answer the amendment.

26 IT IS FURTHER STIPULATED that Defendants’ denials, responses, and
27 affirmative defenses contained in each respective Answer to the Fourth Amended
28 Complaint shall be deemed responsive to the Fifth Amended Complaint.

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DATED: March 26, 2014

PORTER SCOTT

By: /s/ John R. Whitefleet (authorized on 3/24/14)
John R. Whitefleet


Attorneys for Defendants

ORDER

The Court, having reviewed the above stipulation of the parties and in the interests of justice and good cause appearing, hereby GRANTS the Stipulation and GRANTS Plaintiffs leave to file a Fifth Amended Complaint. The Fifth Amended Complaint, attached as Exhibit A to ECF No. 93, shall be deemed filed and served as of the date of the entry of this Order.

IT IS SO ORDERED.

Dated: March 27, 2014



MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT