

1 C. Brooks Cutter (SBN 121407)  
 2 Todd A. Walburg (SBN 213063)  
 3 Margot P. Cutter (SBN 306789)  
 4 **CUTTER LAW, P.C.**  
 5 401 Watt Avenue  
 6 Sacramento, CA 95864  
 7 Telephone: (916) 29-09400  
 8 Facsimile: (916) 588-9330  
 9 Emails: *bcutter@cutterlaw.com*;  
 10 *twalburg@cutterlaw.com*;  
 11 *mcutter@cutterlaw.com*

7 Attorneys for Plaintiff TONY COX

8 UNITED STATES DISTRICT COURT  
 9 EASTERN DISTRICT OF CALIFORNIA

11 TONY COX,  
 12  
 13 Plaintiff,  
 14  
 15 v.  
 16 CALIFORNIA DEPARTMENT OF  
 17 CORRECTIONS AND  
 18 REHABILITATION; FOLSOM STATE  
 19 PRISON WARDEN RON RACKLEY,  
 20 in his official and individual capacities;  
 21 COUNTY OF SAN JOAQUIN dba SAN  
 22 JOAQUIN GENERAL HOSPITAL; and  
 23 DOES 1 through 10, inclusive,  
 24  
 25 Defendants.

Case No. 2:17-cv-00989-MCE-CKD

**ORDER TO VACATE HEARING AND  
 ALLOW PLAINTIFF TO FILE A SECOND  
 AMENDED COMPLAINT**

21 **TO ALL PARTIES AND THEIR ATTORNES OF RECORD:**

22 Plaintiff TONY COX, Defendant COUNTY OF SAN JOAQUIN dba SAN JOAQUIN  
 23 GENERAL HOSPITAL, and Defendant CALIFORNIA DEPARTMENT OF CORRECTIONS  
 24 AND REHABILITATION jointly submitted a Stipulation to Vacate Hearing and Allow Plaintiff  
 25 to file a Second Amended Complaint.

26 After consideration of the Stipulation and proposed Second Amended Complaint, and no  
 27 opposition having been made:

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IT IS HEREBY ORDERED that Plaintiff shall file a Second Amended Complaint within twenty-one (21) days. Defendant's Motion to Dismiss the First Amended Complaint (ECF No. 9), presently set for hearing on September 21, 2017, is accordingly vacated.

IT IS SO ORDERED.

Dated: September 11, 2017

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE

2 **PROOF OF SERVICE**

3 I am employed in the County of Sacramento. I am over the age of eighteen years and not  
4 a party to the within entitle action; my business address is Cutter Law P.C., 401 Watt Avenue,  
5 Sacramento, California 95864.

6 On the date below, I served a copy of the following document(s) described as **[Proposed]**  
**Order to Vacate Hearing and Allow Plaintiff to File a Second Amended Complaint per**  
7 **Stipulation** on the interested party(ies) in this action as follows: SEE ATTACHED SERVICE  
LIST.

8 <b>X</b>	<b>BY MAIL:</b> By placing a true copy thereof enclosed in a sealed envelope(s) addresses 9 as above or on the service list, and placing each for collection and mailing on that date 10 following ordinary business practices. I am "readily familiar" with the business' 11 practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service in Sacramento, California, in a sealed envelope with postage fully prepaid
	<b>BY OVERNIGHT DELIVERY:</b> I enclosed the document(s) in an envelope or 12 package provided by an overnight delivery carrier and addressed as above or on the 13 service list. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
	<b>BY FACSIMILE:</b> Based on an agreement of the parties to accept service by fax 14 transmission, I faxed the document(s) to the person(s) at the fax number(s) listed above 15 or on the service list on the date above at approximately _____ a.m./p.m. The 16 telephone number of the sending facsimile machine was (916) 669-4499. The sending facsimile machine issued a transmission reporting confirming that the transmission was complete and without error. A copy of that report is attached.
17 <b>X</b>	<b>BY E-MAIL OR ELECTRONIC TRANSMISSION:</b> Based on a court order or an 18 agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from <i>amendoza@cutterlaw.com</i> to the person(s) at the e- mail address(es) listed above or on the service list.
	<b>BY PERSONAL SERVICE:</b> I <i>caused</i> the above documents to be hand delivered to 19 the party(ies) listed above or on the service list.
	<b>STATE:</b> I declare under penalty of perjury under the laws of the State of California 20 that the foregoing is true and correct.
21 <b>X</b>	<b>FEDERAL:</b> I declare that I am employed in the office of a member of the bar of this 22 Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United State of America that the foregoing is true and correct.

23 Executed on September 7, 2017, at Sacramento, California.

24  
25 Ashley Mendoza  
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3 **SERVICE LIST**

4 Xavier Becerra  
5 Tracy S. Hendrickson  
6 Joseph R. Wheeler  
7 CALIFORNIA DEPARTMENT  
8 OF JUSTICE  
9 1300 I Street, Suite 125  
10 P.O. Box 944255  
11 Sacramento, CA 94244  
12 Tel: (916) 210-7315  
13 Fax: (916) 324-5205  
14 Email: joseph.wheeler@doj.ca.gov  
15 *Attorneys for California Department of*  
16 *Corrections and Rehabilitation and Ron*  
17 *Rackley in Official Capacity*

Michael R. Mordaunt  
Jamil R. Ghannam  
RIGGIO MORDAUNT & KELLY, APC  
2509 West March Lane, Suite 200  
Stockton, CA 95207  
Tel: (209) 473-8732  
*Attorneys for County of San Joaquin dba*  
*San Joaquin General Hospital*