

E-Filed 11/3/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

David A. Senior (# 108579)
MCBREEN & SENIOR
2029 Century Park East, Third Floor
Los Angeles, CA 90067
Phone: (310) 552-5300
Fax: (310) 552-1205
dsenior@mcbreensenior.com

John R. Grele (# 167080)
LAW OFFICES OF JOHN R. GRELE
149 Natoma Street, Third Floor
San Francisco, CA 94105
Phone: (415) 348-9300
Fax: (415) 348-0364
jgrele@earthlink.net

Richard P. Steinken (admitted pro hac vice)
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654-3456
Phone: 312-222-9350
Fax: 312-527-0484
rsteinken@jenner.com

Attorneys for Plaintiffs
ALBERT G. BROWN and
MICHAEL A. MORALES

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

MICHAEL ANGELO MORALES,)	CASE NO. C 06 0219 RS
ALBERT G. BROWN,)	C 06 0926 RS
Plaintiffs,)	
v.)	
)	JOINT PROPOSED SCHEDULE FOR
MATTHEW CATE, Secretary of the California)	COMPLETING DISCOVERY;
Department of Corrections and Rehabilitation,)	PROPOSED ORDER;
et al.,)	GENERAL ORDER 45 ATTESTATION
Defendants.)	
_____)	
)	
PACIFIC NEWS SERVICE,)	
Plaintiff)	CASE NO. C 06 01793 RS
v.)	
)	
MATTHEW CATE, Secretary of the California)	
Department of Corrections and Rehabilitation,)	
et al.,)	
Defendants.)	

1 and Defendants will meet and confer to attempt to resolve this dispute during the week of
2 November 7, 2011.

3 Upon review of the email documents produced by Defendants, Plaintiffs have
4 noticed that numerous attachments to emails have not been produced. Plaintiffs have
5 requested the immediate production of these documents. Plaintiffs also are awaiting
6 additional discovery responses concerning the new team's selection and training or
7 changes to the execution team personnel. Defendants will notify Plaintiffs of the creation
8 of additional documents concerning the team's training (and produce such
9 documentation) and any changes to the team personnel in a timely manner as required by
10 Rule 26(e), and in any event, within 14 days following the creation of the document or
11 the change to the team personnel, unless modified by agreement of the parties.
12

13 Defendants intend to request that Plaintiffs meet and confer with them, in an
14 effort by Defendants to obtain what Defendants view as responsive answers to written
15 discovery propounded by Defendants in February 2011 to Plaintiffs Morales, Brown,
16 Sims, and Fields, and to obtain production of responsive documents from Plaintiffs.
17 Defendants will attempt to amicably resolve all discovery disputes without bringing them
18 to the Court.
19

20 Plaintiffs have begun to review the documents and information received on a
21 rolling basis, in order to, *inter alia*, identify witnesses for depositions. Depositions will
22 be scheduled upon the completion of this review, and upon completion of review of any
23 other documents and information to be produced by Defendants. At this point, Plaintiffs
24 anticipate deposing witnesses with knowledge of the regulations and execution team
25 documents, document custodians, and present and former execution team managers and
26 participants. In this regard, Plaintiffs' counsel have conferred with Defendants' counsel
27
28

1 generally about the scheduling of the depositions (*see* L.R. 30-1), and counsel are aware
2 of and understand that counsel have other professional obligations, including trials, that
3 previously have been calendared. The parties will work together to schedule depositions
4 on dates certain when the witnesses and counsel are available. L.R. 30-1.

5
6 If a dispute arises during a deposition regarding a party's assertion of a privilege,
7 objection, or instruction to a witness that cannot be resolved by conferring in good faith,
8 counsel will contact Judge Seeborg's chambers pursuant to Local Rule 37-1(b) to ask if
9 the Court is available to address the problem through a telephone conference during the
10 deposition, or whether counsel can be directed to a Magistrate Judge to resolve the
11 matter. Counsel will advise the Court of the deposition schedule via e-mail to Mr.
12 Kolombatovich when the depositions are set.

13
14 Based upon counsel for Plaintiffs' review of certain documentation produced by
15 Defendants to date, Plaintiffs believe that it may be incomplete. Plaintiffs believe that
16 these issues can be clarified during depositions. If the production of such records is in
17 fact incomplete, additional time will be required for Defendants to make complete
18 productions, for Plaintiffs' counsel to review the records, and for the parties to complete
19 the depositions.

20
21 Once Defendants complete their discovery obligations set forth in the Court's
22 March 11, 2011 order and all supplements thereto, and Plaintiffs complete all non-expert
23 depositions, Plaintiffs will supplement their responses to Defendants' contention
24 interrogatories in a timely manner, and in any event within 14 days, unless modified by
25 agreement of the parties. After the foregoing discovery has been completed, the parties
26 will identify expert information as required by Rule 26(a)(2), and present their experts for
27 depositions thereafter.
28

