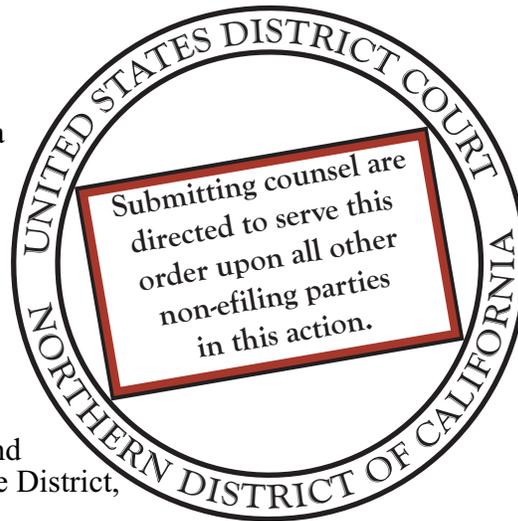


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 Division Five

8
 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION

12 **GEORGE A. McKRAY and ANTHONY**
 13 **LAMPERTI,**

14 Plaintiffs,

15 v.

16 **CALIFORNIA SUPREME COURT; CALIFORNIA**
 17 **COURT OF APPEAL, FIRST APPELLATE**
 18 **DISTRICT, DIVISION FIVE,**

19 Defendants.

CV 08-04079 SI

ADMINISTRATIVE MOTION
TO CONTINUE CASE
MANAGEMENT
CONFERENCE AND
POSSIBLE REASSIGNMENT
(Civil L.R. 7-11)

Date: December 19, 2008
 Time: 9:00 a.m.
 Courtroom: 10 - 19th Floor

20 DEFENDANTS, THE SUPREME COURT OF CALIFORNIA and the California Court of
 21 Appeal, First Appellate District, Division Five, respectfully request that the Case Management
 22 Conference be continued in the interest of judicial economy. The CMC is now set for hearing on
 23 December 19, 2008, the same day as the hearing of the Defendants' Motion to Dismiss.

24 The plaintiffs are an attorney in pro se and one of the clients he represented in the underlying
 25 state action. They seek an order invalidating certain state-court sanctions awarded against them and
 26 a determination that the California Rules of Court governing publication of cases are constitutionally
 27 infirm. The California Supreme Court and the Court of Appeal have filed a Motion to Dismiss that
 28 is currently set for hearing on December 19, 2008, the same day as the CMC.

1 The California appellate courts have also filed a notice that the instant case may be deemed
2 related to *Hild v. Supreme Court of California*, case No. C 07-05107 T EH (No. Dist. Cal.), which
3 is mentioned in the complaint and which espouses the same theory against the California Rules of
4 Court. The *Hild* case was dismissed by the Honorable Thelton E. Henderson of this Court on
5 February 26, 2008 and is now on appeal as *Hild v. Supreme Court of California*, case No. 08-15785
6 (9th Cir. 2008).

7 The undersigned attorney for the California Supreme Court and the California Court of Appeal
8 believes that the pending motion to dismiss will resolve the instant matter as a matter of law and
9 therefore respectfully requests that the Case Management Conference in this matter be continued
10 until a date after the hearing of that motion.

11 Dated: November 24, 2008

12 Respectfully submitted,

13 EDMUND G. BROWN JR.
14 Attorney General of the State of California

15 /s/ Tom Blake
16 TOM BLAKE
17 Deputy Attorney General

18 Attorneys for California Supreme Court and California Court of
19 Appeal, First Appellate District, Division Five

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **INTRODUCTION**

22 Moving defendants Are the Supreme Court of California and the California Court of Appeal,
23 First Appellate District, Division Five. The state appellate courts have filed a meritorious motion
24 under Rule 12(b), Federal Rules of Civil Procedure, moving for dismissal on grounds, inter alia, of
25 the *Rooker-Feldman*^{1/} doctrine, 11th Amendment immunity, the domestic relations exception to
26 federal jurisdiction, and lack of standing.

27 The undersigned respectfully submits that the interest of both state and federal judicial
28

1. *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *D.C. Court of Appeals v. Feldman*,
460 U.S. 462, 486-87 (1982).

1 economy will be best served by postponing the Case Management Conference until after the
2 Supreme Court's Motion to Dismiss is heard. The Rule 12(b) hearing is set for on December 19,
3 2008, the same day as the CMC.

4 Holding the CMC on the same day as the isopositive motion would, in this case, impose on
5 counsel for the California judiciary the not-inconsiderable expense of conferring with the pro se
6 counsel and preparing a formal CMC statement in a case that will in all likelihood be moot because
7 District Courts lack jurisdiction to review state court decisions, including sanctions, and because the
8 California publication rules are, as the courts have repeatedly found, not infirm.

9
10 **THE COURT MAY MODIFY THE CASE MANAGEMENT SCHEDULE**

11 The Court has the authority to modify the Case Management schedule. Civil L.R. 16-2(d).

12
13 **PROPOSED REVISED CASE MANAGEMENT SCHEDULE AND ADR PROCEDURES**

14 Pursuant to Civil L.R. 16-2(d)(3), the accompanying proposed revised Case Management
15 schedule is submitted:

16 12/19/2008 Hearing on the Rule 12(b) motion and the other pending motions (same as now set).
17 2/19/2009 Issuance of ruling on motion to dismiss as to Judge Robertson and other defendants.
18 3/20/2009 Case Management Conference for any parties remaining in the case.

19 As the matter before the Court turns on wholly legal issues, principally the question of whether
20 the District Court may redetermine State court litigation results, Alternative Dispute Resolution is
21 not appropriate. Accordingly, the undersigned does not suggest scheduling ADR.

22 **CONCLUSION**

23 As the Rule 12(b) motion is expected to be dispositive, certainly as to Judge Robertson and
24 most likely as to all defendants, the undersigned respectfully requests that the Case Management
25 Conference be postponed to a date after the Rule 12(b) motion so as to spare the judicial branch of
26
27
28

1 the State of California the expense of preparing for a CMC that is likely to be moot.

2 Dated: November 24, 2008

3 Respectfully submitted,

4 EDMUND G. BROWN JR.
Attorney General of the State of California

5
6 /s/ Tom Blake
TOM BLAKE
Deputy Attorney General

7
8 Attorneys for California Supreme Court and California Court of
Appeal, First Appellate District, Division Five

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10 **[Proposed] ORDER**

11 For good cause shown, the Case Management Conference is rescheduled to
12 1/30/09 @ 2:00 p., 2009 at ~~9:00 a.m.~~

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15 SUSAN ILSTON
United States District Judge

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