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EAST BAY PRISONER SUPPORT

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LONG HAUL, INC. and EAST BAY
PRISONER SUPPORT,

Plaintiffs,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA, VICTORIA HARRISON;
KAREN ALBERTS; WILLIAM KASISKE;
WADE MACADAM; TIMOTHY J. ZUNIGA;
BRUCE BAUER, et al.,

Defendants.

Case No.: 09-00168-JSW

**STIPULATION AND PROPOSED
ORDER RE: PENDING MOTIONS TO
DISMISS AND AMENDMENT OF
COMPLAINT**

1 Plaintiffs Long Haul, Inc. and East Bay Prisoner Support and Defendants Regents of the University
2 of California, Victoria Harrison, Karen Alberts, William Kasiske, Wade Macadam, Timothy J.
3 Zuniga, Bruce Bauer, Federal Bureau of Investigation (“FBI”), Lisa Shaffer and Mike Hart, by and
4 through their counsel of record, stipulate as follows:

5 1. Plaintiffs filed the complaint in this matter on January 14, 2009. (Dkt. No. 1.)
6 Plaintiffs have subsequently filed no amended complaints, whether as a matter of course, with the
7 Defendants’ written consent, or by the Court’s leave.

8 2. On March 23, 2009, Defendants Regents of the University of California, Victoria
9 Harrison, Karen Alberts, William Kasiske, Wade Macadam, Timothy J. Zuniga, Bruce Bauer filed
10 a motion to dismiss certain claims. (Dkt. No. 15.)

11 3. On April 10, 2009, Defendants Federal Bureau of Investigation (“FBI”) and Lisa
12 Shaffer filed a motion to dismiss certain claims. (Dkt. No. 24.)

13 4. On May 1, 2009, Defendants FBI and Mike Hart filed a motion to dismiss certain
14 claims. (Dkt. No. 31.)

15 5. Plaintiffs’ opposition to the March 23rd and April 10th motions is due May 8, 2009
16 and Defendants’ reply is due May 5th. Plaintiffs’ opposition to the May 1 motion is due May 15,
17 2009 and the Defendant’s reply is due May 22nd.

18 6. Since the filing of the January 14, 2009 complaint, Plaintiffs have learned certain
19 facts through informal discovery and communications with Defendants’ counsel that indicate an
20 amended complaint would better conform to the evidence and help the parties narrow the issues at
21 dispute in this case, which in turn would serve judicial economy.

22 7. Furthermore, facts have come to light indicating that certain parties should be
23 voluntarily dismissed from the case, and the United States should replace the FBI as a named
24 defendant.

25 8. Plaintiffs and defendants have met and conferred on dismissal of some of the parties
26 and claims, and have agreed to continue to meet and confer with regard to the liability of at least
27 one additional party. We further agree we can narrow issues to be decided on motion to dismiss if
28 Plaintiffs amend the complaint in light of the above facts and circumstances.

1 9. The parties stipulate pursuant to Fed. R. Civ. P. 15(a)(2) that Plaintiffs may amend
2 their complaint by May 29, 2009.

3 10. The parties further stipulate that Defendants shall respond to the amended complaint
4 no later than July 2, 2009; Plaintiffs shall oppose any motions to dismiss the amended complaint by
5 July 24, 2009; and Defendants shall file any replies in support of motions to dismiss by July 31,
6 2009. The Court may hear Defendants' motions to dismiss at its earliest convenience thereafter.
7 Attorney for the federal defendants is not available during the month of August so the parties
8 respectfully request that the hearing occur in September or as soon thereafter as the Court's
9 schedule allows.

10 11. In consideration of the above, Defendants hereby withdraw their pending March
11 23rd, April 1st and May 10th motions to dismiss, currently scheduled for hearings on May 29, 2009,
12 and June 19, 2009, and ask that those matters be taken off calendar.

13
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15 DATED: May 7, 2009

16 JOSEPH RUSSONIELLO
17 United States Attorney

/s/ Jennifer Granick
Jennifer Stisa Granick (State Bar No. 168423)
Matt Zimmerman (State Bar No. 212423)
Marcia Hofmann (State Bar No. 250087)
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18 /s/ Jonathan U. Lee
19 JONATHAN U. LEE
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Attorneys for Plaintiffs

22 /s/ William J. Carroll
23 WILLIAM J. CARROLL
24 SCHIFF HARDLIN LLP

25 Attorney for Defendants the Regents of the
26 University of California, Victoria Harrison,
27 Karen Alberts, William Kasiske, Wade
28 McAdam, Timothy J. Zuniga, and Bruce
Baur

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GENERAL ORDER NO. 45(X) CERTIFICATION

I attest that I have obtained the concurrence of Jonathan U. Lee and William J. Carroll in the filing of this document.

/s/ Jennifer Granick
Jennifer Granick

* * *

PURSUANT TO STIPULATION, IT IS HEREBY ORDERED THAT:

The briefing schedule previously set by court order is vacated in light of the fact that Defendants have withdrawn their motions to dismiss.

Plaintiffs have leave of Court to file an amended complaint and shall do so by May 29, 2009.

Defendants shall respond to the amended complaint no later than July 2, 2009; Plaintiffs shall oppose any motions to dismiss the amended complaint by July 24, 2009; and Defendants shall file any replies in support of motions to dismiss by July 31, 2009.

Hearing on any motions to dismiss shall be set for September 4, 2009.

Dated: May 8, 2009


Hon. Jeffrey White
United States District Judge