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

CARLOS CASTRO,

Plaintiff,

v.

ROBERT A. HOREL, et al.,

Defendants.

C 09-4902 WHA

~~PROPOSED~~ JOINT STIPULATION TO
STAY CASE

Judge: The Honorable William Alsup
Trial Date: June 6, 2011
Action Filed: October 14, 2009

Counsel from Orrick, Herrington, and Sutcliffe are counsel for Plaintiff Carlos Castro in both the above-captioned matter ("*Horel*") and the related matter, *Castro v. Terhune, et al.*, Case No. 3:98-CV-04877 WHA ("*Terhune*"). Kenneth Roost and Brendan Kenny are counsel for Defendants in both matters.

On May 21, 2010, the Court set trial, pretrial, and discovery deadlines in the *Horel* matter. (Docket No. 26.) The discovery cut-off is currently set for February 28, 2011. The parties, however, have not conducted discovery in *Horel* because they believe that *Terhune* will ultimately moot the action. Specifically, the outcome of the pending Court-ordered validation

1 procedure in *Terhune* will likely supersede the 2006 inactive-status review that Castro challenges
2 in *Horel*. See October 29, 2010 Remedial Order to Conduct New Validation Procedure in *Castro*
3 v. *Terhune* [Docket No. 376]. The pending validation procedure will determine whether Castro is
4 a prison "gang associate now." *Id.* at 2 (emphasis in original).

5 Because the *Horel* action will likely be mooted by the outcome of *Terhune*, the parties
6 jointly request that the Court:

- 7 1. Stay the *Horel* action pending completion of the Court-ordered validation procedure in
8 *Terhune* and all resulting litigation; and
9 2. Vacate all pending deadlines in *Horel*.

10 SO STIPULATED:

11 DATED: February 24, 2011

/s/ James E. Thompson
12 JAMES E. THOMPSON
13 Attorneys for Plaintiff Carlos Castro


14 DATED: February 24, 2011

/s/ Brendan M. Kenny
15 BRENDAN M. KENNY
16 Attorneys for Defendants Fischer, et al.

17
18 Good cause appearing, the case is stayed, pending the outcome of the *Terhune* matter.
19 Nevertheless, a case management conference is set in this matter for May 26, 2011, at 3:00 p.m.

20 APPROVED AND SO ORDERED:

21
22 DATED: February 28, 2011.


23 HON. WILLIAM ALSUP
24 United States District Court Judge