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8 Attorneys for Plaintiff  
 Edward T. Furnace

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 10 **UNITED STATES DISTRICT COURT**  
 11 **NORTHERN DISTRICT OF CALIFORNIA**  
 12 **SAN FRANCISCO**

13 Edward T. Furnace,  
 14  
 Plaintiff,  
 15  
 v.  
 16 K. Nuckles et al.,  
 17  
 Defendants.

Case No. C 09-6075 MMC

**JOINT STIPULATION AND  
~~PROPOSED~~ ORDER TO MODIFY  
 STAY FOR THE LIMITED PURPOSES  
 OF RESOLVING DISCOVERY  
 DISPUTES**

Judge: Hon. Maxine M. Chesney

Date of Filing: December 30, 2009  
 Trial Date: None

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 21 Plaintiff Edward T. Furnace ("Plaintiff") and Defendants K. Nuckles, J.J. Rodriguez, W.  
 22 Rasley, D. Bittner, J. Celaya, J. Rodriguez, A. Butt, R. Lipps, M. Kircher, J. Sensel, M. Atchley,  
 23 J. Mora, O. Ponce, and J. Delaney (collectively, "Defendants"), by and through their respective  
 24 counsel of record, do hereby stipulate and agree to the filing of this Joint Stipulation and  
 25 [Proposed] Order Modifying the Stay for the Limited Purpose of Resolving Discovery Disputes  
 26 under Local Rule 7-12.

27 WHEREAS, Plaintiff Edward Furnace ("Plaintiff") filed his Complaint in the above-  
 28 entitled action on December 30, 2009;

JOINT STIP. & ~~PROPOSED~~ ORDER TO  
 MODIFY STAY C 09-6075 MMC

1           WHEREAS, on May 10, 2013, in connection with its summary judgment ruling, this  
2 Court referred the case to Magistrate Judge Vadas for settlement talks and entered a stay of  
3 further proceedings;

4           WHEREAS, the parties participated in settlement conferences in November 2013 and  
5 March 2014, but the case did not settle;

6           WHEREAS, in November 2013, Judge Vadas authorized limited discovery in order to  
7 enable parties to better evaluate the strength of their cases;

8           WHEREAS, between December 2013 and April 2014, Plaintiff served certain defendants  
9 and the California Department of Corrections and Rehabilitation (“CDCR”) with discovery  
10 requests;

11           WHEREAS, the parties have met and conferred telephonically multiple times to discuss  
12 defendants’ and CDCR’s discovery responses without reaching a resolution;

13           WHEREAS, both parties have agreed to modify the current stay to allow Mr. Furnace to  
14 file a Motion to Compel in order to resolve the discovery disputes.

15           THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the  
16 Parties, through their respective undersigned counsel of record, to modify the current stay to  
17 allow Mr. Furnace to file a motion to compel to resolve discovery disputes.

18           IT IS SO STIPULATED.

19  
20 Dated: September 16, 2014

KATHERINE L. WAWRZYNIAK  
O’MELVENY & MYERS LLP

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23 By:           /s/ Katherine L. Wawrzyniak            
24           Katherine L. Wawrzyniak  
25           Attorney for Plaintiff  
26           Edward T. Furnace  
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1 Dated: September 16, 2014

KAMALA D. HARRIS  
Attorney General of California  
MARISA Y. KIRSCHENBAUER  
Supervising Deputy Attorney General

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By: /s/ Michael J. Quinn  
Michael J. Quinn  
Deputy Attorney General  
*Attorneys for Defendants*

**ATTESTATION OF FILING**

Pursuant to L.R. 5-1(i)(3), I, Katherine L. Wawrzyniak, hereby attest that concurrence in the filing of this Joint Stipulation and [Proposed] Order Modifying the Stay for the Limited Purpose of Resolving Discovery Disputes under L.R. 7-12 has been obtained from Defendant’s counsel, Michael Quinn.

Dated: September 16, 2014

KATHERINE L. WAWRZYNIAK  
O’MELVENY & MYERS LLP

By:           /s/ Katherine L. Wawrzyniak            
  Katherine L. Wawrzyniak

Attorney for Plaintiff  
Edward T. Furnace

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**~~PROPOSED~~ ORDER**

The Court, having considered the Joint Stipulation and [Proposed] Order to Modify the Stay for the Limited Purpose of Resolving Discovery Disputes submitted by the parties, and good cause appearing:

1. The Stipulation is approved;
2. The Stay is modified to allow Plaintiff to file a Motion to Compel.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: September 17, 2014

By:   
Hon. Maxine M. Chesney  
District Court Judge