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16 IN THE UNITED STATES DISTRICT COURT
 17 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 18 OAKLAND DIVISION
 19

20
 21 RUSSELL MARTIN,
 22 Plaintiff,
 23 v.
 24 M. S. EVANS, et al.,
 25 Defendants.
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 27
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C 08-4067 YGR
**STIPULATION AND [PROPOSED]
 ORDER DISMISSING ACTION WITH
 PREJUDICE**
[Fed. R. Civ. P. 41(a)(2)]
 Judge: The Honorable Yvonne
 Gonzalez Rogers
 Action Filed: August 26, 2008

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Plaintiff Russell Martin ("Plaintiff") filed a Complaint commencing this action on or about August 26, 2008, which Complaint was later ordered served on Defendants R. Boccella and D. Beatty (collectively, "Defendants").

Plaintiff and Defendants have settled and resolved this case in its entirety, which settlement is memorialized in a written agreement between Plaintiff, on the one hand, and Defendants and the California Department of Corrections and Rehabilitation, on the other hand (the "Settlement Agreement").

The Settlement Agreement provides that the Parties shall enter into this Stipulation and [Proposed] Order dismissing this action with prejudice, provided, however, that the Court shall retain jurisdiction to enforce the Settlement Agreement.

THEREFORE, the parties stipulate, and respectfully request that the Court enter an order, as follows:

1. This action is hereby DISMISSED WITH PREJUDICE pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.
2. If any party to this cause shall certify to this Court, with proof of service of a copy thereon on opposing counsel, that the agreed consideration for the settlement has not been delivered within 180 days from dismissal, this dismissal shall be vacated, and this cause shall be restored to the Court's calendar for further proceedings, including without limitation proceedings to enforce the parties' Settlement Agreement.

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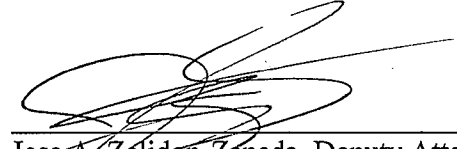
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3. Each party shall bear its own litigation costs and attorney's fees.

IT IS SO STIPULATED.

Dated: 12/11/12

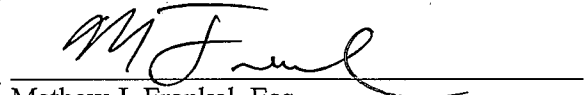
By:



Jose A. Zelidon-Zepeda, Deputy Attorney General
Counsel for Defendants R. Boccella and D. Beatty

Dated: 11/29/12


By:



Mathew J. Frankel, Esq.
Nixon Peabody LLP
Counsel for Plaintiff Russell Martin

PURSUANT TO STIPULATION, AND GOOD CAUSE APPEARING, IT IS SO ORDERED.

Dated: December 13, 2012



Hon. Yvonne Gonzalez Rogers
United States District Judge

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