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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
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7 **STEPHANY BORGES,**

8 Plaintiff,

9 v.

10 **CITY OF EUREKA, et al.,**

11 Defendants.

Case No.: 15-cv-00846 YGR

**ORDER LIFTING STAY; SETTING
COMPLIANCE HEARING**

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13 On June 29, 2016, the Court stayed this case pending the Ninth Circuit *en banc* panel's
14 decision addressing whether a subjective or objective standard applies in failure-to-protect claims
15 brought by pretrial detainees under the Fourteenth Amendment's Due Process Clause. *Castro v.*
16 *Cty. of Los Angeles*, 797 F.3d 654, 673-76 (9th Cir. 2015), *reh'g en banc granted*, 809 F.3d 536
17 (9th Cir. 2015). The *en banc* panel has now issued its decision holding that an objective standard
18 should apply in this context. *Castro v. Cty. of Los Angeles*, --F.3d.--, 2016 WL 4268955, at *7
19 (9th Cir. Aug. 15, 2016). Specifically, the court established four elements a plaintiff must prove to
20 prevail on such a claim:

- 21 (1) The defendant made an intentional decision with respect to the
22 conditions under which the plaintiff was confined;
23 (2) Those conditions put the plaintiff at substantial risk of suffering
serious harm;
24 (3) The defendant did not take reasonable available measures to abate
that risk, even though a reasonable officer in the circumstances would
25 have appreciated the high degree of risk involved—making the
consequences of the defendant's conduct obvious; and
26 (4) By not taking such measures, the defendant caused the plaintiff's
27 injuries.

28 *Id.* at *7.

1 Accordingly, the Court **LIFTS** the stay in this case. The parties shall meet and confer and
2 submit a **JOINT** proposed briefing schedule, which identifies whether all briefing on defendants'
3 motion for summary judgment must be revised, and if not, which portions in particular will be
4 revised based on *Castro*.

5 The Court **SETS** a compliance hearing to be held on **Tuesday, August 30th, 2016 at 2:01**
6 **p.m.**, in the Federal Courthouse, 1301 Clay Street, Oakland, California, Courtroom 1. By no later
7 than **August 23rd, 2016**, the parties shall file either: (a) a **JOINT** proposed briefing schedule as
8 described above; or (b) a one-page **JOINT** statement setting forth an explanation for their failure to
9 comply. If compliance is complete, the parties need not appear and the compliance hearing will be
10 taken off calendar. Telephonic appearances will be allowed if the parties have submitted a joint
11 statement in a timely fashion. Failure to do so may result in sanctions.

12 **IT IS SO ORDERED.**

13 Date: August 16, 2016

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16 **YVONNE GONZALEZ ROGERS**
17 **UNITED STATES DISTRICT COURT JUDGE**