

1 adequacy of the lighting in Luster’s cell, and (3) Sims’ culpability in denying Luster adequate
2 lighting. Sims now seeks leave to file a successive summary judgment motion to resolve the
3 remaining genuine issues of material fact.

4 “[D]istrict courts have discretion to entertain successive motions for summary judgment,
5 independent of whether the motions involve qualified immunity.” *Hoffman v. Tonnemacher*, 593
6 F.3d 908, 911 (9th Cir. 2010). Rule 56 does not limit the number of summary judgment motions
7 that may be filed and allows for exceptions to the default time limits to be made by local rule or
8 court order. Fed. R. Civ. P. 56(c)(1). Also, an order denying summary judgment is subject to
9 reconsideration by the court at any time. *Hoffman*, 593 F.3d at 911. A successive motion for
10 summary judgment may accordingly foster the “‘just, speedy, and inexpensive’ resolution of suits,”
11 and “is particularly appropriate on an expanded factual record.” *Id.* (quoting Fed. R. Civ. P. 1). To
12 avoid abuse of the procedure, however, the court retains discretion to weed out frivolous or simply
13 repetitive motions. *Id.*

14 Having reviewed Defendant Sims’ proposed successive motion for summary judgment,
15 submitted as an exhibit to the motion for leave, the court finds that the successive motion is neither
16 frivolous nor simply repetitive. The motion would expand the factual record to address the
17 deficiencies at the time of the prior motion and accordingly seeks to resolve the remaining genuine
18 issues of material fact. The court will therefore grant the request for leave to file a successive
19 motion for summary judgment in the interest of fostering the just, speedy and efficient resolution
20 of this action.

21 IT IS THEREFORE ORDERED that Defendant’s Motion for Leave to File Successive
22 Summary Judgment Motion (#159) is GRANTED.

23 IT IS FURTHER ORDERED that the Clerk shall detach and file Defendant’s Motion for
24 Summary Judgment, attached as Exhibit 1 to Defendant’s Motion for Leave to File Successive
25 Summary Judgment Motion (#159). The Appendix of Exhibits to Defendant’s Motion for
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1 Summary Judgment (#160) are deemed filed.

2 IT IS FURTHER ORDERED that Plaintiff's response must be filed within 30 days after
3 this order is served, and Defendant may file a reply within 14 days after the response is served.

4 IT IS FURTHER ORDERED that the Calendar Call and Jury Trial dates, currently
5 scheduled for November 22, 2010 and December 8, 2010, respectively, are VACATED.

6 IT IS SO ORDERED.

7 DATED this 2nd day of November, 2010.



10 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE

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