

\*\*E-filed 4/27/06\*\*

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28 Attorneys for Defendants  
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1  
2 **IN THE UNITED STATES DISTRICT COURT**  
3 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
4 **SAN JOSE DIVISION**  
5

6  
7 MICHAEL ANGELO MORALES, ) CASE NO. C 06 0219 (JF) (RS)  
8 ) C 06-926 (JF) (RS)  
9 Plaintiff, )  
10 vs. ) STIPULATION OF THE PARTIES TO  
11 ) CONTINUE HEARING TO SEPTEMBER  
12 ) 19, 2006; [~~PROPOSED~~] ORDER  
13 JEANNE WOODFORD, Secretary of the )  
14 California Department of Corrections; )  
15 EDDIE YLST, Warden, San Quentin State )  
16 Prison, San Quentin, CA; and DOES 1-50, )  
17 Defendants. )  
18 \_\_\_\_\_ )

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17 IT IS HEREBY STIPULATED by and between the parties herein through their  
18 respective attorneys of record that the evidentiary hearing currently scheduled for May 2,  
19 2006, be continued until September 19, 2006. Good cause exists for this stipulation as  
20 follows:  
21

22 1. "The dates for the evidentiary hearing were adopted in part on the  
23 assumption that the parties would cooperate in the discovery process." Order Deferring  
24 Ruling on Plaintiff's Motion to Continue Hearing, April 4, 2006, at 1. In this regard, the  
25 parties have and continue to cooperate in the discovery process. Any discovery  
26 disagreements have resulted from the reasonable representation of the clients' interests.  
27 Counsel have been in regular contact throughout the discovery process and have had  
28

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1 numerous meetings in good faith pursuant to Local Rule 37-1 to resolve all discovery  
2 issues. Almost all disagreements have been resolved by counsel. Proceeding reasonably  
3 in this manner has required the bulk of the short period of time to prepare for the May 2  
4 evidentiary hearing.

6 2. Despite the efforts of the parties, discovery is not complete. The parties  
7 have not completed paper discovery, scheduling depositions, conducting depositions, or  
8 reviewing transcripts and redacting Protected Information (see id. at 2). After efforts to  
9 search for and collect requested documents pertaining to Procedure 770, Defendants only  
10 recently (on April 21, 2006) were able to provide Plaintiff the ability to inspect and copy  
11 those documents. Efforts are currently being undertaken to determine if additional  
12 documents exist. Plaintiffs have obtained four depositions, and through those  
13 depositions, the identities of additional witnesses recently have become known.  
14 Remaining depositions that must be completed include the execution team leader for the  
15 previous 8 lethal injection executions conducted at San Quentin, and the medical  
16 personnel who had various assignments during these executions, including the scheduled  
17 execution for plaintiff on February 21, 2006. Those depositions were not possible due to  
18 the unavailability of the witnesses.

23 3. The parties have made substantial efforts to protect the confidentiality of  
24 lethal injection team members. This effort has required additional time, and has  
25 necessitated court intervention.

27 4. Counsel have met in person to outline the remaining discovery required to  
28 be conducted before a hearing can take place. In doing so, counsel reasonably believe

1 that most or all witnesses who need to be deposed have been identified. Some of these  
2 witness have not been in the country for several weeks or months, and may not be in the  
3 country at present. Arrangements are being made to determine when and where these  
4 witnesses can be deposed. A schedule for conducting and completing the depositions of  
5 the other witnesses has been agreed to by counsel.  
6

7  
8 5. Counsel anticipate and have agreed to complete these depositions by June  
9 30, 2006.

10 6. Defendants are assessing whether further revisions are required to  
11 Procedure 770, in writing or in practice, in light of recent rulings in other jurisdictions.  
12 Additional discovery may be required with respect to these revisions.  
13

14 7. The parties agree that certain expert witnesses are unavailable to attend a  
15 May 2 evidentiary hearing. Many of plaintiff's expert witnesses work and reside on the  
16 East Coast and scheduling and completing their depositions will require additional time.  
17

18 8. The parties have agreed to exchange expert reports by August 15, 2006,  
19 and complete expert depositions by September 8, 2006.  
20

21 9. The parties agree that certain witnesses necessary to conduct a full hearing  
22 are unavailable to attend a hearing scheduled to commence on May 2. Arrangements are  
23 being made to either ensure their availability to attend a September 19, 2006 hearing, or  
24 make the witnesses available for a deposition to be used in lieu of testimony to be  
25 presented at the hearing.  
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1 In light of the foregoing, IT IS HEREBY STIPULATED AND AGREED that the  
2 evidentiary hearing, if possible with the Court's calendar, be continued to September 19,  
3 2006. It is also requested that a four-day hearing be scheduled.  
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6 DATED: April 26, 2006

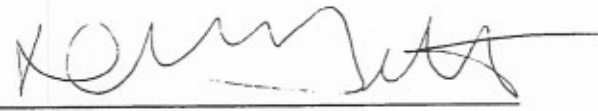
MCBREEN & SENIOR

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8  
9 By: 

10 DAVID A. SENIOR  
11 Attorneys for Plaintiff  
MICHAEL ANGELO MORALES

12 SENIOR ASSISTANT ATTORNEY GENERAL

13  
14  
15 DATED: April 26, 2006

16 By: 

17 DANE R. GILLETTE  
18 Attorneys for Defendants  
JEANNE S. WOODFORD and  
EDDIE S. YLST

19 IT IS SO ORDERED.

20 DATED: April 27, 2006

21 By: 

22 JEREMY FOGEL  
23 UNITED STATES DISTRICT JUDGE  
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26  
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