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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 S.A. THOMAS, et al.,
12
13 Plaintiffs,

14 vs.

15 LEROY BACA, et al.,
16
17 Defendants.
18

) Case No. CV 04-08448 DDP (SHx)

) Honorable Dean D. Pregerson

) **DEFENDANT'S STATUS REPORT**
) **RE SETTLEMENT AND**
) **REQUEST FOR FURTHER**
) **STATUS/SETTLEMENT**
) **CONFERENCE**

19
20 Defendants agree that the Court should set a further status/settlement
21 conference.

22 On September 24, 2010, the Court presided over another extensive
23 settlement conference, whereat the parties reached a tentative settlement the terms
24 of which were very clear and detailed. The Court dismissed the parties and their
25 counsel, with instructions for counsel to further meet and confer to resolve issues
26 related to attorneys' fees and costs for class counsel.

27 In the days and weeks that followed, counsel for Defendants contacted lead
28 counsel Paul Kiesel on multiple occasions to complete the final terms of the

1 parties' settlement, in accordance with the Court's instruction. Unfortunately, no
2 such meet and confer conference ever occurred. Instead, the defense was met
3 with repeated representations by Mr. Kiesel that his co-counsel, Marion Yagman,
4 wished to renegotiate certain terms previously negotiated and agreed to by the
5 parties with the Court's assistance. The defense advised counsel for Plaintiffs
6 that, with respect to the settlement discussions, they were not going to go
7 backwards, but move forward to discuss and resolve the remaining final terms.
8 Counsel for Plaintiffs (specifically, Ms. Yagman) refused to further discuss
9 settlement of class counsel fees in accordance with the Court's instruction and,
10 instead, filed her request for status conference.

11 Unfortunately, Ms. Yagman's unexplained change of heart concerning
12 settlement coincides with the release from federal prison of her former law
13 partner and co-class counsel, Stephen Yagman. The defense has had no direct
14 communications with Mr. Yagman, but they fear that since his release, he has
15 improperly reasserted himself into these proceedings. (The State Bar of
16 California entered an order disbaring Mr. Yagman from the practice of law,
17 effective December 22, 2010.)

18 So, the defense agrees that the Court should reconvene the parties and their
19 counsel to further discuss the status of settlement. In her notice, Ms. Yagman
20 objects to further settlement discussions before the District Court. Of course, her
21 objection is without merit and must be disregarded by the Court. If Ms. Yagman
22 had any objections to the District Court presiding over settlement discussions,
23 then she could and should have raised them much earlier. She did not. Instead,
24 she, the Court, and the defense proceeded in earnest and good faith in multiple
25 sessions of settlement discussions. At this late stage of these proceedings,
26 Ms. Yagman cannot now rescind her decision and force the Court and the parties
27 to start over. Too much time has passed, too much time and effort has been
28 invested, and too much prejudice to Defendants will result.

