

1 MORGAN, LEWIS & BOCKIUS LLP
2 GEOFFREY T. HOLTZ, SBN 191370
3 BRENDAN E. RADKE, SBN 275284
4 One Market, Spear Street Tower
5 San Francisco, CA 94105-1126
6 Tel: 415.442.1000
7 Fax: 415.442.1001
8 geoffrey.holtz@morganlewis.com
9 brendan.radke@morganlewis.com

10 Attorneys for Plaintiff ROBERT MITCHELL

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ROBERT MITCHELL et al.,

Plaintiff,

vs.

TOM FELKER, et al.,

Defendants.

Case No.: 2:08-CV-1196 TLN

**JOINT STIPULATION OF
DISMISSAL OF ACTION WITH
PREJUDICE PURSUANT TO FRCP
41(A) and ORDER**

Plaintiff Robert Mitchell (“Plaintiff”) and Defendants Matthew Cate, Tom Felker, F. Foulk, George Giurbino, D. Hellwig, Scott Kernan, Terri McDonald, J. Owen, J. Tilton, D. Vanderville, and M. Wright (“Defendants”) (collectively, the “Parties”), through their respective counsel, hereby stipulate and agree as follows, pursuant to Federal Rule of Civil Procedure 41(a):

WHEREAS, on May 30, 2008, Plaintiff filed a complaint (“Complaint”) pursuant to 42 U.S.C. §§ 1983 and 1985, alleging constitutional deprivations and claims for negligence and intentional infliction of emotional distress as a result of race-based lockdown policies, in the matter captioned *Robert Mitchell v. T. Felker, Warden, et al.*, Case No. 2:08-cv-01196-TLN-EFB (Dkt.# 1);

1 **WHEREAS**, on September 23, 2011, Plaintiff filed a Second Amended
2 Complaint that asserted class claims on behalf of inmates affected by the race-
3 based lockdown policies, sought injunctive relief on a class-wide basis, and sought
4 damages on an individual basis for Plaintiff (Dkt.# 84);

5 **WHEREAS**, on February 27, 2015, the parties filed a Stipulated Settlement
6 that resolved the class claims for injunctive relief in this action, but that did not
7 resolve Mr. Mitchell’s individual claims for damages (the “Class Settlement”)
8 (Dkt.# 332-1);

9 **WHEREAS**, on May 21, 2015, the Court set a jury trial date of August 8,
10 2016, to address Mr. Mitchell’s individual claims for damages (Dkt.# 343);

11 **WHEREAS**, the matter came before the Court for a settlement conference
12 on April 27, 2016, at which time the matter settled and the parties executed a
13 Settlement Agreement and Release (Dkt.# 386);

14 **NOW THEREFORE IT IS HEREBY STIPULATED** by and between
15 Plaintiff and Defendants, through their respective counsel, that Plaintiff’s
16 individual damages claims in this action, Case No. 2:08-cv-01196-TLN-EFB, be
17 and hereby are dismissed with prejudice as to the Parties, pursuant to Federal Rule
18 of Civil Procedure 41(a).

19 **IT IS FURTHER STIPULATED** that the Court shall retain full
20 jurisdiction to enforce the terms of this Stipulation and the Settlement Agreement
21 and Release.

22 **IT IS FURTHER STIPULATED** that neither this Stipulation nor the
23 Settlement Agreement and Release affects the Class Settlement in any way or
24 Plaintiff’s status as a class representative or member of the class, or terminates any
25 outstanding obligations under the Class Settlement, including any injunctive relief
26 described therein.

27 **IT IS FURTHER STIPULATED** that the Parties bear their own attorneys’
28

1 fees and costs with respect to Plaintiff's individual damages claims in this action,
2 and this Stipulation has no effect on any fees and costs that were addressed in the
3 class settlement approved by the Court.

4 **IT IS SO STIPULATED TO BY THE UNDERSIGNED:**

5 Dated: June 2, 2016

MORGAN, LEWIS & BOCKIUS, LLP

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7 By: /s/ Brendan E. Radke

8 Geoffrey T. Holtz

Brendan E. Radke

9 Attorneys for Plaintiff ROBERT
MITCHELL

10 Dated: June 2, 2016

11
12 By: /s/ Damon G. McClain
(as authorized on 5/24/2016)

13 Damon G. McClain

Supervising Deputy Attorney General

Attorneys for Defendants M. CATE, S.

14 KERNAN, T. MCDONALD, G.

15 GIURBINO, J. TILTON, T. FELKER, M.

16 WRIGHT, F. FOULK, D. VANDERVILLE,

17 J. OWEN, AND D. HELLWIG

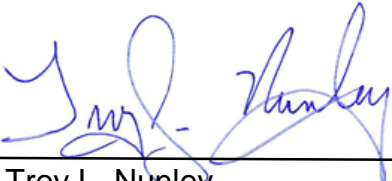
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ORDER

PURSUANT TO STIPULATION, IT IS ORDERED:

Plaintiff Robert Mitchell’s individual claims for damages against Defendants are dismissed with prejudice from this action pursuant to the Settlement Agreement and Release between the Parties. Each side shall bear its own attorneys’ fees and costs with respect to Plaintiff’s individual claims for damages.

Dated: June 2, 2016



Troy L. Nunley
United States District Judge