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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT HECKER, et al.,

Plaintiffs,

No. 2:05-cv-2441 LKK JFM P

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

ORDER

_____ /

Plaintiffs are state prisoners proceeding through counsel with a proposed class action raising claims under the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and California Government Code § 11135. This action is proceeding on plaintiffs’ second amended complaint, filed October 20, 2006. It was stayed by order filed March 15, 2007. On September 19, 2012, plaintiffs filed a motion to lift the stay.¹ Plaintiffs’ motion, opposed by defendants, is set for hearing before the undersigned on October 25, 2012.

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¹ Plaintiffs’ motion is styled as a renewed motion and supersedes their filed motion for relief from the stay to “pursue mediation, seek class certification, and update plaintiffs by filing third amended complaint.” Motion, filed December 14, 2007.

1 This matter was stayed pending consideration of whether the claims raised herein
2 can be resolved in the remedial phase of Coleman v. Brown, No. 2:90-cv-0520 LKK JFM P. In
3 support of their motion, plaintiffs identify ten specific issues of alleged discrimination against
4 mentally ill inmates in the California Department of Corrections and Rehabilitation (CDCR), and
5 contend that “attempts to resolve issues raised in *Hecker* through the *Coleman* framework [have]
6 remained awkward and often infeasible” in spite of efforts to do so. Plaintiffs’ Renewed Motion
7 for Relief from Stay, filed September 19, 2012, at 5. In opposition to the motion, defendants
8 contend that several of the identified issues have been resolved in the remedial process in
9 Coleman and “the parties continue to work to resolve Plaintiffs’ concerns through *Coleman*’s
10 remedial phase.” Defendants’ Opposition, filed October 11, 2012, at 2.

11 After review of the papers filed in support of and opposition to the motion, and
12 good cause appearing, the court will direct the parties to meet and confer, under the guidance of
13 the Coleman special master to: (1) identify which, if any, issues raised in the second amended
14 complaint have been resolved through the Coleman remedial process; (2) identify which, if any,
15 issues raised in the second amended complaint remain in dispute; (3) as to any remaining issues
16 so identified, which of those are or could be resolved in the Coleman remedial process; and (4)
17 which, if any, of the claims raised in the second amended complaint cannot be resolved through
18 the Coleman remedial process and why they cannot be so resolved. The parties will be directed
19 to complete this process by February 15, 2013. Plaintiffs’ motion to lift the stay will be denied
20 without prejudice to its renewal, as appropriate, not later than March 1, 2013. Any renewed
21 motion must be accompanied by a joint report by the parties and approved by the Coleman
22 special master addressing the four topics outlined in this order.

23 In accordance with the above, IT IS HEREBY ORDERED that:

24 1. Plaintiffs’ December 14, 2007 motion (Docket No. 78) is superseded by
25 plaintiffs’ September 19, 2012 motion (Docket No. 94).

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1 2. The parties shall meet and confer, under the guidance of the Coleman special
2 master to: (1) identify which, if any, issues raised in the second amended complaint have been
3 resolved through the Coleman remedial process; (2) identify which, if any, issues raised in the
4 second amended complaint remain in dispute; (3) as to any remaining issues so identified, which
5 of those are or could be resolved in the Coleman remedial process; and (4) which, if any, of the
6 claims raised in the second amended complaint cannot be resolved through the Coleman
7 remedial process and why they cannot be so resolved.

8 3. The meet and confer process required by this order shall be completed by
9 February 15, 2013.

10 4. Plaintiffs' September 19, 2012 motion to lift the stay of this action (Docket
11 No. 94) is denied without prejudice to its renewal, as appropriate, not later than March 1, 2013.
12 Any renewed motion must be accompanied by a joint report by the parties and approved by the
13 Coleman special master addressing the four topics outlined in this order.

14 5. The Clerk of the Court is directed to serve a copy of this order on Matthew A.
15 Lopes, Jr., Esq., Pannone Lopes & Devereaux LLC, 317 Iron Horse Way, Suite 301, Providence,
16 RI 02908.

17 DATED: October 18, 2012.

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19 
20 UNITED STATES MAGISTRATE JUDGE

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