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5 IN THE UNITED STATES DISTRICT COURTS
6 FOR THE EASTERN DISTRICT OF CALIFORNIA
7 AND THE NORTHERN DISTRICT OF CALIFORNIA
8 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES
9 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

10
11 RALPH COLEMAN, et al.,
12 Plaintiffs,
13 v.
14 ARNOLD SCHWARZENEGGER,
15 et al.,
16 Defendants.

NO. CIV S-90-0520 LKK JFM P
THREE-JUDGE COURT

17 MARCIANO PLATA, et al.,
18 Plaintiffs,
19 v.
20 ARNOLD SCHWARZENEGGER,
21 et al.,
22 Defendants.

NO. C01-1351 TEH
THREE-JUDGE COURT
**ORDER RE: DEPOSITION
EXCERPTS AT TRIAL**

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24 Pursuant to court order, this matter came on for pretrial conference on November 10,
25 2008. At the time of the conference, questions arose concerning the designation of witnesses
26 and deposition excerpts.

27 1. It appears from the joint pretrial statement and representations made in court at the
28 time of the pretrial conference that plaintiffs propose to tender in deposition form so-called

1 admissions of approximately thirty-three witnesses who may be called to testify by
2 defendants or intervenors. Ordinarily, trial witnesses are subject to examination using
3 deposition testimony where their trial testimony deviates from testimony given in deposition.
4 The parties, including intervenors, shall inform the court in writing what justification there is,
5 if any, for departure from the standard practice and what authority, if any, there is for
6 proceeding in the manner proposed by plaintiffs. If any of the witnesses whose deposition
7 testimony will be offered is a witness in the first phase of the now-bifurcated trial, responses
8 to this order shall be filed electronically in each of the above-captioned actions and served
9 not later than **5:00 PM on Sunday, November 16, 2008**. On the first morning of trial, the
10 court will rule on which, if any, deposition excerpts will be admitted as proposed by the
11 parties. The parties will have five days thereafter to file and serve objections to any
12 deposition excerpts so admitted and any counter designations thereto.

13 2. Plaintiffs have also identified deposition excerpts for approximately eleven
14 individuals who are not otherwise identified as witnesses for trial, and defendants propose
15 two or three witnesses in the same manner. If any of the deposition testimony is relevant to
16 the first phase, objections to this deposition testimony and counter designations thereto shall
17 be filed electronically in each of the above-captioned actions and served not later than
18 **5:00 PM on Sunday, November 16, 2008**.

19 3. The California Correctional Peace Officers' Association intervenors (CCPOA)
20 apparently propose to offer deposition testimony of their own witnesses. CCPOA shall
21 inform the court in writing what authority, if any, there is for offering the deposition
22 testimony of their own witnesses. The CCPOA's response to this order shall be filed
23 electronically in each of the above-captioned actions and served not later than **5:00 PM on**
24 **Sunday, November 16, 2008**. On the first morning of trial, the court will rule on which, if
25 any, deposition excerpts will be admitted. The parties will have five days thereafter to file
26 and serve objections to any deposition excerpts so admitted and any counter designations
27 thereto.

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1 4. The deadlines set forth in this order supercede those set in paragraph 3.d of the
2 court's November 10, 2008 bifurcation order.
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4 **IT IS SO ORDERED.**
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6 Dated: 11/12/08

/s/

7 STEPHEN REINHARDT
8 UNITED STATES CIRCUIT JUDGE
9 NINTH CIRCUIT COURT OF APPEALS

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11 LAURENCE K. KARLTON
12 SENIOR UNITED STATES DISTRICT JUDGE
13 EASTERN DISTRICT OF CALIFORNIA

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15 THELTON E. HENDERSON
16 SENIOR UNITED STATES DISTRICT JUDGE
17 NORTHERN DISTRICT OF CALIFORNIA

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