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

RALPH COLEMAN, et al.,

Plaintiffs,

v.

ARNOLD SCHWARZENEGGER, et al.,

Defendants.

Case No. CIV S 90-520 LKK-JFM

**STIPULATION AND ORDER TO STAY
PLAINTIFFS' MOTION TO COMPEL
PAYMENT OF REASONABLE
PARALEGAL FEES FOR WORK
PERFORMED DURING 2009 UNTIL THE
RESOLUTION OF *PEREZ V. CATE*
APPEAL NO. 09-17185**

**STIPULATION TO STAY PLAINTIFFS' MOTION TO COMPEL
PAYMENT OF REASONABLE PARALEGAL FEES FOR WORK
PERFORMED DURING 2009 UNTIL THE RESOLUTION OF *PEREZ V.*
CATE APPEAL NO. 09-17185**

Plaintiffs and Defendants STIPULATE as follows:

1. Pursuant to the *Coleman* Periodic Fees Order, "Plaintiffs will file a yearly motion to compel payment of disputed items, if necessary, not later than sixty (60) days after the parties meet and confer with respect to the statement covering the fourth quarter of each year." March 19, 1996 Stipulation and Order for Periodic Collection of Attorneys' Fees and Costs (attached as Appendix A). The parties have already stipulated to stay all attorneys' fees, costs and expense matters related to the Three-Judge Panel and related appeals until October 1, 2010. *Coleman* Docket 3801. The only remaining, disputed issues from 2009 are: (1) Defendants' refusal to pay for any work performed by staff who are not "paralegals" as defined by California Business & Professions Code § 6450, and; (2) Defendants' refusal to pay more than \$135 per hour or \$82.50 per hour for paralegal work on the case.

2. Plaintiffs' counsel will file a motion to compel regarding the first issue identified above. By this stipulation, however, the parties agree to extend the briefing and argument schedule for Plaintiffs' motion to compel as follows: Plaintiffs' motion will be due by July 5, 2010; Defendants' opposition to the motion will be due by August 2, 2010; Plaintiffs' reply brief will be due by August 16, 2010, and the hearing date for the motion will be set for August 23, 2010.

3. With respect to the second issue, Defendants' refusal to pay more than \$135 per hour or \$82.50 per hour for paralegal work, the parties agree to stay Plaintiffs' motion on this issue pending final resolution of *Perez, et al. v. Cate, et al.*, Court of Appeals Docket No. 09-17185, United States Court of Appeals for the Ninth Circuit, including any petitions for panel or en banc rehearing, or final resolution in the United States Supreme Court (hereinafter "*Perez* appeal"). In so doing, Plaintiffs do not waive and will enforce their right to interest in accordance with the provisions set forth in the March 19, 1996 *Coleman* Periodic Fees order.

Nothing in this Stipulation may be deemed a waiver or concession of any party's legal arguments regarding this issue.

4. If the requested stay is granted, the parties will meet and confer regarding the paralegal rate issue within 10 days after the mandate issues in the *Perez* appeal. If the parties are still unable to resolve this issue, Plaintiffs will file a motion to compel within 60 days of the completion of the meet and confer.

Dated: May 20, 2010

Respectfully submitted,

ROSEN, BIEN & GALVAN, LLP

By: /s/ Amy Whelan

Amy Whelan

Attorney for *Coleman* Plaintiffs

Dated: May 21, 2010

Office of the Attorney General

By: /s/ Debbie Vorous

Debbie Vorous, Deputy Attorney General

Attorney for *Coleman* Defendants


**ORDER STAYING PLAINTIFFS' MOTION TO COMPEL PAYMENT OF
PARALEGAL RATES UNTIL THE RESOLUTION OF *PEREZ V. CATE*
APPEAL NO. 09-17185**

Pursuant to the stipulation of the parties, and good cause appearing, this Court stays Plaintiffs' motion to compel payment of more than \$135 per hour or \$82.50 per hour for paralegal work performed during 2009 pending final resolution of *Perez, et al. v. Cate, et al.*, Court of Appeals Docket No. 09-17185, United States Court of Appeals for the Ninth Circuit, including any petitions for panel or en banc rehearing or final resolution in the United States Supreme Court. Plaintiffs have preserved and do not waive their right to claim interest in accordance with the provisions set forth in the March 19, 1996 *Coleman* Periodic Fees order. The parties shall meet and confer regarding the paralegal rate issue within 10 days after the mandate issues in the *Perez* appeal. If the parties are still unable to resolve this issue, Plaintiffs shall file a motion to compel within 60 days of the completion of the meet and confer.

With respect to Plaintiffs' yearly motion to compel payment for work performed by staff who are not "paralegals" as defined by California Business & Professions Code § 6450, this Court grants the parties' stipulation setting a briefing schedule. Accordingly, Plaintiffs' motion will be due by July 5, 2010; Defendants' opposition to the motion will be due by August 2, 2010; Plaintiffs' reply brief will be due by August 16, 2010, and the hearing date for the motion will be set for August 23, 2010.

IT IS SO ORDERED.

Dated: May 26, 2010


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT