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DEPARTMENT OF JUSTICE

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December 16, 2011

The Honorable Kimberly J. Mueller
United States District Court - Eastern District of California
501 I Street
Sacramento, CA 95814

RE: *Ivan Pena, et al. v. Wilfredo Cid*, Case No. 2:09-CV-01185-KJM-CKD

Dear Judge Mueller:

On behalf of Defendant Wilfredo Cid, our office respectfully submits this letter to advise the Court that on November 28, 2011, the Ninth Circuit ordered *Nordyke v. King* to be reheard en banc and directed that the three-judge panel opinion not be cited as precedent by any court of the Ninth Circuit. (Order filed Nov. 28, 2011 (Doc. No. 197), *Nordyke v. King*, No. 07-15763 (9th Cir.)) Oral argument in *Nordyke* will occur during the week of March 12, 2012. (Order filed Nov. 29, 2011 (Doc. No. 198), *Nordyke v. King*, No. 07-15763 (9th Cir.)) Until yesterday, this matter was stayed pending the resolution of *Nordyke*. (Mem. & Order filed Oct. 2, 2009.)

In the parties' most recent joint status report filed on September 26, Cid agreed with Plaintiffs at the time that the Court should lift the stay because the Ninth Circuit had issued the three-judge panel opinion in *Nordyke*. However, Cid further advised that a petition for rehearing en banc was fully briefed and awaiting a decision by the Ninth Circuit. (Doc. No. 35 at 10.)

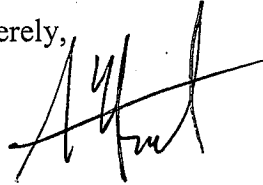
Yesterday the Court issued a minute order lifting the stay in this case. The order does not mention the current status of the *Nordyke* proceedings. Accordingly, out of an abundance of caution, and to ensure that the Court is aware of the latest developments in *Nordyke*, Cid is filing this letter. I have discussed this matter with Donald Kilmer, counsel for Plaintiffs, and he had no objection to our office notifying the Court regarding the latest developments in *Nordyke*.

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Finally, unless the Court directs otherwise, Cid's intention is to proceed in this case in accordance with yesterday's Order lifting the stay.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Hakl', with a long horizontal stroke extending to the right.

ANTHONY R. HAKL
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

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