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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RONALD D. ALLEN JR., RAYMOND)	CASE NO. 12-CV-1668-WQH-KSC
BOZIGIAN, ALEXANDRA M. CASTOR,)	
KEITH DENVER, MILTON DENVER,)	NOTICE OF RECENT AUTHORITIES IN
JESSICA FLOREZ, ANTHONY FREEMAN,)	SUPPORT OF PLAINTIFFS' OPPOSITION
MIKKI A. GRABER, MIKE HACKMAN,)	TO DEFENDANTS' MOTION TO DISMISS
JOSEPH HARRIS, NIKKI D. HARRIS, GINA)	
HOWARD, BEN JOHNSON, PAUL)	
JOHNSON, BONNIE J. KING, BRITTNEY)	DATE: N/A
LUTTERS, CHERYL MAJEL, JULIEANNE)	TIME: N/A
MENDOZA, LUANNE MORO, KALCIE)	CTRM: The Honorable William Q. Hayes
ONTIVEROS, KIRSTEN ONTIVEROS,)	
VIKKI L. OXLEY, JOEY PINK, MATTHEW)	
PINK, JOHN RANDOLPH, LILLIAN)	
VANCE, and MARIA J. VIVANCO)	

Plaintiffs,

vs.

ROBERT H. SMITH, LEROY H. MIRANDA
JR., KILMA S. LATTIN, THERESA J.
NIETO, and DION PEREZ

Defendants.

1 Plaintiffs hereby submit, in further support of their opposition to defendants' pending
2 motion to dismiss, the following recent opinions.

3 In *Vann v. U.S. Dep't of the Interior*, No. 11-5322, 2012 U.S. App. LEXIS 25550 (D.C.
4 Cir. Dec. 14, 2012), involving the Cherokee Nation's removal of the Freedmen as tribal
5 members, the Court of Appeals for the District of Columbia Circuit found that the Cherokee
6 Nation was not a required party under Federal Rule of Civil Procedure 19 because the Principal
7 Chief can adequately represent the Cherokee Nation and that the suit may proceed against the
8 Principal Chief in his official capacity, without the Cherokee Nation itself as a party, under the
9 *Ex parte Young* doctrine. *Id.* at **5-6. In so ruling, the Court of Appeals for the District
10 Columbia noted that its analysis is consistent with the precedents in the Ninth Circuit. *Id.* at *7.
11 The *Vann* opinion is attached hereto as Exhibit A.

12 In *Maxwell v. Cnty. of San Diego*, 697 F.3d 941 (9th Cir. 2012), involving a lawsuit
13 against paramedics from the Viejas Band of Kumeyaay Indians Tribal Fire Department, the
14 Ninth Circuit rejected the paramedics' argument that they enjoyed tribal sovereign immunity,
15 instead reaffirming that "[n]ormally, a suit like this one – brought against individual officers in
16 their individual capacities, does not implicate sovereign immunity" (*Id.* at 953), that "individual
17 capacity suits related to an officer's official duties are generally permissible" (*Id.* at 954), and
18 that "our tribal immunity cases do not question the general rule that individual officers are liable
19 when sued in their individual capacities" (*Id.* at 955). The Ninth Circuit further noted that,
20 where defendants are sued in their individual capacities and plaintiffs seek money damages not
21 "not from the state treasury but from the officer[s] personally," the sovereign is not the
22 substantive party in interest. *Id.* at 953. *Maxwell* is attached hereto as Exhibit B.

23 DATED: December 17, 2012

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26 /s/ Elizabeth P. Lin

27 ELIZABETH P. LIN

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