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6 *Attorneys for Receiver*
J. Clark Kelso

7

8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10 AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 UNITED STATE DISTRICT COURT COMPOSED OF THREE JUDGES
12 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE
13

14 RALPH COLEMAN, et al.,
15 *Plaintiffs,*
16 v.
17 ARNOLD SCHWARZENEGGER, et al.,
18 *Defendants.*

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

19 MARCIANO PLATA, et al.,
20 *Plaintiffs,*
21 v.
22 ARNOLD SCHWARZENEGGER, et al.,
23 *Defendants.*

Case No. C01-1351 TEH
THREE JUDGE COURT
**DECLARATION OF MARTIN H. DODD
IN SUPPORT OF RECEIVER'S
STATEMENT REGARDING
DISCOVERY DISPUTE**

Date: July 10, 2008
Time: 11:00 a.m.
Courtroom: 12

26 I, Martin H. Dodd, declare as follows:

- 27 1. I am an attorney licensed to practice before all the courts of the State of California and
28 before this Court and am a partner in the law firm of Futterman & Dupree LLP, attorneys

- 1 for Receiver J. Clark Kelso.
- 2 2. Attached hereto as Exhibit A is a true and correct copy of the February 14, 2006 Order
- 3 Appointing Receiver in Plata.
- 4 3. Attached hereto as Exhibit B is a true and correct copy of the three-judge Court order,
- 5 dated November 29, 2007.
- 6 4. Attached hereto as Exhibit C is a true and correct copy of the three-judge Court order,
- 7 dated June 5, 2008.
- 8 5. On July 7, 2008, I received by facsimile transmission a copy of Plaintiffs' Third Request
- 9 for Inspection ("Third Inspection Request") in *Plata*. The Third Inspection Request had
- 10 not previously been served on the Receiver. The Third Inspection Request purports to
- 11 schedule inspections in *Plata* at the following prisons on the following dates: North Kern
- 12 State Prison (July 14); SATF (July 15); Pleasant Valley (July 16); CSP-Solano (July 17);
- 13 High Desert (July 18).
- 14 6. Also on July 7, 2008, I received a telephone call from plaintiffs' counsel, Alison Hardy,
- 15 in which I objected to the Third Inspection Request. During that telephone call, she
- 16 acknowledged that it was "a fairly significant screw up," that the Receiver had not been
- 17 previously served with the Third Inspection Request.
- 18 7. On July 8, 2008, I sent plaintiffs' counsel a letter objecting to the Third Inspection
- 19 Request on various grounds. A true and correct copy of my July 8 letter is attached
- 20 hereto as Exhibit D.
- 21 8. On July 9, 2008, I was served with a Fourth Inspection Request in *Plata*. A true and
- 22 correct copy of the Fourth Inspection Request in Plata is attached hereto as Exhibit E.
- 23 Previously, I had been served with a Fourth Inspection Request in *Coleman*. A true and
- 24 correct copy of the Fourth Inspection Request in *Coleman* is attached hereto as Exhibit F.
- 25 On July 9, 2008, I sent plaintiffs' counsel a letter objecting to the Fourth Inspection
- 26 Requests in *Plata* and *Coleman*. A true and correct copy of my July 9 letter is attached
- 27 hereto as Exhibit G.
- 28 9. I received Plaintiffs' Statement Regarding Discovery Dispute in which it is asserted that

1 the Receiver did not object to a Third Inspection Request, purportedly served in *Coleman*
2 on July 2, 2008. The Receiver was *not* served with that request and therefore has had no
3 opportunity to review it.

4 10. The Receiver has cooperated with the parties when they have required information
5 pertinent to discovery. Thus, the Receiver cooperated in the last round of plaintiffs'
6 expert tours of the prisons in the Fall of 2007. Indeed, those inspections involved more
7 than a dozen facilities throughout the State and required the Receiver, on extremely short
8 notice, to direct his representatives to attend such inspections, sometimes including visits
9 to more than one prison in a single day.

10 11. In addition, the Receiver also cooperates with plaintiffs when their counsel inspect
11 prisons pursuant to compliance monitoring in *Plata*. They are entitled to, and do, inspect
12 multiple prisons throughout each year and those inspections sometimes take a full two
13 days and require staff to produce voluminous information on individual inmates and their
14 care, as well as lengthy discussions with staff pertaining to a myriad of medical care
15 related issues. I am informed and believe, that in addition to the inspections proposed in
16 the Inspection Requests that plaintiffs will tour Pleasant Valley State Prison on July 15
17 and July 16 pursuant to the *Plata* monitoring tours that plaintiffs are entitled to, and do,
18 take. Contrary to plaintiffs' representation in their Statement Regarding Discovery
19 Dispute, they know that the Receiver has repeatedly taken the position that the tours
20 conducted by plaintiffs are burdensome on prison medical staff and extremely disruptive.
21 Adding discovery tours to an already overburdened staff is unreasonable and unnecessary.

22 I declare under penalty of perjury under the laws of the State of California that the foregoing is
23 true and correct.

24 Dated: July 9, 2008

/s/ Martin H. Dodd
Martin H. Dodd

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CERTIFICATE OF SERVICE

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The undersigned hereby certifies as follows:

I am an employee of the law firm of Futterman & Dupree LLP, 160 Sansome Street, 17th Floor, San Francisco, CA 94104. I am over the age of 18 and not a party to the within action.

I am readily familiar with the business practice of Futterman & Dupree, LLP for the collection and processing of correspondence.

On July 9, 2008, I served a copy of the following document(s):

DECLARATION OF MARTIN H. DODD IN SUPPORT OF RECEIVER'S STATEMENT REGARDING DISCOVERY DISPUTE

by placing true copies thereof enclosed in sealed envelopes, for collection and service pursuant to the ordinary business practice of this office in the manner and/or manners described below to each of the parties herein and addressed as follows:

— BY FACSIMILE: I caused said document(s) to be transmitted to the telephone number(s) of the addressee(s) designated.

X BY MAIL: I caused such envelope(s) to be deposited in the mail at my business address, addressed to the addressee(s) designated below. I am readily familiar with Futterman & Dupree's practice for collection and processing of correspondence and pleadings for mailing. It is deposited with the United States Postal Service on that same day in the ordinary course of business.

Andrea Lynn Hoch
Benjamin T. Rice
Legal Affairs Secretary
Office of the Governor
Capitol Building
Sacramento, CA 95814

Robin Dezember, Director (A)
Division of Correctional
Health Care Services
CDCR
P.O. Box 942883
Sacramento, CA 94283-0001

Molly Arnold
Chief Counsel, Dept. of Finance
State Capitol, Room 1145
Sacramento, CA 95814

Matthew J. Lopes
Pannone, Lopes & Devereaux, LLC
317 Iron Horse Way, Suite 301
Providence, RI 02908

Warren C. (Curt) Stracener
Paul M. Starkey
Dana Brown
Labor Relations Counsel
Dept. of Personnel Admin. Legal Division
1515 "S" St., North Building, Ste. 400
Sacramento, CA 95814-7243

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Legal Counsel
CDCR, Legal Division
P.O. Box 942883
Sacramento, CA 94283-0001

Laurie Giberson
Staff Counsel
Department of General Services
707 Third St., 7th Fl., Ste. 7-330
West Sacramento, CA 95605

David Shaw
Inspector General
Office of the Inspector General
P.O. Box 348780
Sacramento, CA 95834-8780

1 Donna Neville
Senior Staff Counsel
2 Bureau of State Audits
555 Capitol Mall, Suite 300
3 Sacramento, CA 95814

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Chief Counsel
California Public Employees Retirement
System
400 Q Street, Lincoln Plaza
Sacramento, CA 95814

4 Al Groh
Executive Director
5 UAPD
1330 Broadway Blvd., Ste. 730
6 Oakland, CA 94612

Yvonne Walker
Vice President for Bargaining
SEIU Local 1000
1108 "O" Street
Sacramento, CA 95814

7 Pam Manwiller
Director of State Programs
8 AFSME
555 Capitol Mall, Suite 1225
9 Sacramento, CA 95814

Richard Tatum
CSSO State President
CSSO
1461 Ullrey Avenue
Escalon, CA 95320

10 Tim Behrens
President
11 Association of California State Supervisors
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12 Sacramento, CA 95814

Elise Rose
Counsel
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

13 Professor Jay D. Shulman, DMD, MA, MSPH
9647 Hilldale Drive
14 Dallas, TX 75231

Joseph D. Schalzo, DDS, CCHP
3785 N. 156th Lane
Goodyear, AZ 85395

15 Stuart Drown
Executive Director
16 Little Hoover Commission
925 L Street, Suite 805
17 Sacramento, CA 95814

John Chiang
Richard J. Chivaro
State Controller
300 Capitol Mall, Suite 518
Sacramento, CA 95814

18

19 I declare that I am employed in the offices of a member of the State Bar of this Court at
20 whose direction the service was made. I declare under penalty of perjury, under the laws of the
21 united State of America, that the above is true and correct.

Executed on July 9, 2008 at San Francisco, California.

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Lori Dotson

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EXHIBIT A

FILED
FEB 14 2006
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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

MARCIANO PLATA, et al.,
Plaintiffs,

v.

ARNOLD SCHWARZENEGGER,
et al.,
Defendants.

NO. C01-1351 TEH
CLASS ACTION

ORDER APPOINTING
RECEIVER

United States District Court
For the Northern District of California

On October 3, 2005, this Court issued its written Findings of Fact and Conclusions of Law in support of its June 30, 2005 decision to establish a Receivership to take control of the delivery of medical services to California state prisoners confined by the California Department of Corrections and Rehabilitation ("CDCR").¹ In its written ruling, the Court explained that it was undertaking a national search to find a Receiver with the leadership ability, experience, and vision to take on the monumental and critical task of bringing the

¹ As the October 3, 2005 ruling notes, Pelican Bay State Prison is exempted from this action and instead falls under this Court's jurisdiction in the separate case of *Madrid v. Woodford*, C90-3094 TEH.

1 level of medical care provided to California's 166,000 inmates up to federal constitutional
2 standards. Having undergone a thorough and successful search process, the Court HEREBY
3 APPOINTS Mr. Robert Sillen to serve as the Receiver in this case, at the pleasure of the
4 Court, effective Monday, April 17, 2006. A copy of the Receiver's curriculum vitae is
5 attached to this Order.

6 In furtherance of the Receivership, the Court sets forth the Receiver's duties and
7 powers as follows:

8
9 I. DUTIES OF THE RECEIVER

10 A. Executive Management

11 The Receiver shall provide leadership and executive management of the California
12 prison medical health care delivery system with the goals of restructuring day-to-day
13 operations and developing, implementing, and validating a new, sustainable system that
14 provides constitutionally adequate medical care to all class members as soon as practicable.
15 To this end, the Receiver shall have the duty to control, oversee, supervise, and direct all
16 administrative, personnel, financial, accounting, contractual, legal, and other operational
17 functions of the medical delivery component of the CDCR.

18
19 B. Plan of Action

20 The Receiver shall, within 180 - 210 calendar days of the effective date of
21 appointment, develop a detailed Plan of Action designed to effectuate the restructuring and
22 development of a constitutionally adequate medical health care delivery system. This Plan
23 shall include recommendations to the Court of which provisions of the (1) June 13, 2002
24 Stipulation for Injunctive Relief, and (2) September 17, 2004 Stipulated Order re Quality of
25 Patient Care and Staffing Order and Injunction (and/or policies or procedures required
26 thereby), should be carried forward and which, if any, should be modified or discontinued
27 due to changed circumstances. The Plan of Action shall also include a proposed time line for
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1 all actions and a set of metrics by which to evaluate the Receiver's progress and success.
2 The Receiver shall update and/or modify this Plan as necessary throughout the Receivership.

3 Pending development of the Plan of Action, the Receiver shall undertake immediate
4 and/or short term measures designed to improve medical care and begin the process of
5 restructuring and development of a constitutionally adequate medical health care delivery
6 system.

7
8 C. Budgeting and Accounting

9 The Receiver shall determine the annual CDCR medical health care budgets
10 consistent with his duties and implement an accounting system that meets professional
11 standards. The Receiver shall develop a system for periodically reporting on the status of the
12 CDCR's medical health care budget and shall establish relations with the California Office of
13 Inspector General to ensure the transparency and accountability of budget operations.

14
15 D. Reporting

16 The Receiver shall provide the Court with bimonthly progress reports. These reports
17 shall address: (a) all tasks and metrics contained in the Plan and subsequent reports, with
18 degree of completion and date of anticipated completion for each task and metric,
19 (b) particular problems being faced by the Receiver, including any specific obstacles
20 presented by institutions or individuals, (c) particular successes achieved by the Receiver,
21 (d) an accounting of expenditures for the relevant period, and (e) all other matters deemed
22 appropriate for judicial review.

23 The Receiver shall meet with the Court on a bimonthly basis shortly following the
24 issuance of each report and shall remain in contact with the Court throughout the
25 Receivership on an informal, as needed, basis.

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1 II. POWERS AND AUTHORITY OF THE RECEIVER

2 The Receiver shall have all powers necessary to fulfill the above duties under this
3 Order, including, but not limited to:

4 A. General Powers

5 The Receiver shall exercise all powers vested by law in the Secretary of the CDCR as
6 they relate to the administration, control, management, operation, and financing of the
7 California prison medical health care system. The Secretary's exercise of the above powers
8 is suspended for the duration of the Receivership; it is expected, however, that the Secretary
9 shall work closely with the Receiver to facilitate the accomplishment of his duties under this
10 Order.

11

12 B. Personnel

13 The Receiver shall have the power to hire, fire, suspend, supervise, promote, transfer,
14 discipline, and take all other personnel actions regarding CDCR employees or contract
15 employees who perform services related to the delivery of medical health care to class
16 members. The Receiver shall have the power to establish personnel policies and to create,
17 abolish, or transfer positions related to the delivery of medical health care to class members.
18 The Receiver also shall be empowered to negotiate new contracts and to renegotiate existing
19 contracts, including contracts with labor unions, in the event that such action is necessary for
20 the Receiver to fulfill his duties under this Order.

21

22 C. Property

23 The Receiver shall have the power to acquire, dispose of, modernize, repair, and lease
24 property, equipment, and other tangible goods as necessary to carry out his duties under this
25 Order, including but not limited to information technology and tele-medicine technology.

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United States District Court
For the Northern District of California

1 D. Governing State Laws, Regulations, and Contracts

2 The Receiver shall make all reasonable efforts to exercise his powers, as described in
3 this Order, in a manner consistent with California state laws, regulations, and contracts,
4 including labor contracts. In the event, however, that the Receiver finds that a state law,
5 regulation, contract, or other state action or inaction is clearly preventing the Receiver from
6 developing or implementing a constitutionally adequate medical health care system, or
7 otherwise clearly preventing the Receiver from carrying out his duties as set forth in this
8 Order, and that other alternatives are inadequate, the Receiver shall request the Court to
9 waive the state or contractual requirement that is causing the impediment. Upon receipt of
10 any such request, the Court shall determine the appropriate procedures for addressing such
11 request on a case-by-case basis.

12
13 E. Access

14 The Receiver shall have unlimited access to all records and files (paper or electronic)
15 maintained by the CDCR, including but not limited to all institutional, personnel, financial,
16 and prisoner records, as deemed necessary by the Receiver to carry out his duties under this
17 Order.

18 The Receiver shall have unlimited access to all CDCR facilities, as deemed necessary
19 by the Receiver, to carry out his duties under this Order. Ordinarily, the Receiver shall
20 attempt to provide reasonable notice when scheduling such visits, but this shall not preclude
21 the Receiver from making unannounced visits to facilities or offices as the Receiver deems
22 necessary to carry out his duties under this Order.

23 The Receiver shall have unlimited access to prisoners and to line and managerial staff,
24 including the authority to conduct confidential interviews with staff and prisoners.

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1 F. Immunity and Indemnification

2 The Receiver and his staff shall have the status of officers and agents of this Court,
3 and as such shall be vested with the same immunities as vest with this Court.

4 Additionally, Defendants shall indemnify the Receiver and members of his staff to
5 the same extent as Defendants are obligated to indemnify the Secretary of the CDCR.

6
7 III. OFFICE OF THE RECEIVER

8 A. The Receiver shall be paid a reasonable compensation for his services in an
9 amount to be approved by this Court.

10 B. The Receiver shall establish an Office of the Receiver in a location to be
11 determined in consultation with the Court, with staffing necessary to fully carry out his duties
12 as set forth in this Order. Upon approval from the Court, the Receiver shall set reasonable
13 compensation and terms of service for each member of his staff, (including employees and/or
14 consultants) and shall be authorized to enter into contracts with the employees or consultants
15 of the Office.

16 C. Because time is of the essence, and in order to begin operations immediately,
17 Defendants shall, within 30 days of the date of this Order, establish an initial operating fund
18 with the Court in the amount of \$750,000. The Receiver shall submit monthly requests for
19 payment from this fund to the Court. Further funds for the Office of the Receiver shall be
20 deposited to the Receiver's Office Fund Account set forth in paragraph F below.

21 D. Throughout the Receivership, the Receiver shall submit to the Court a monthly
22 accounting of all receipts and expenditures of the Office of the Receiver and shall arrange for
23 an independent financial audit of the Receiver's Office Fund Account on an annual basis.

24 E. Within 45 calendar days from the date of effective appointment, the Receiver shall
25 establish an interest-bearing account, with respect to which he shall be the signatory and
26 fiduciary. This account shall be designated as the Receiver's Office Fund Account and shall
27 be maintained solely for the reasonable and necessary expenses associated with the operation
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1 of the Office of the Receiver, including but not limited to salaries, consulting fees, and the
2 costs of supplies, equipment, office space, transportation,² and the like. The Receiver shall
3 arrange with Defendants a system for regularly replenishing the Receiver's Office Fund
4 Account.

5 F. Within 75 calendar days of the date of effective appointment, the Receiver shall
6 establish a budget for the Office of the Receiver's first year of operation. The Receiver shall
7 also establish a budget for the Office of Receiver for each subsequent year of operation, with
8 each such budget due 90 days in advance of each budget year.

9
10 IV. COSTS

11 All costs incurred in the implementation of the policies, plans, and decisions of the
12 Receiver relating to the fulfillment of his duties under this Order shall be borne by
13 Defendants. Defendants shall also bear all costs of establishing and maintaining the Office
14 of Receiver, including the compensation of the Receiver and his staff.

15
16 V. LENGTH OF RECEIVERSHIP

17 The Receivership shall remain in place no longer than the conditions which justify it
18 make necessary, and shall cease as soon as the Court is satisfied, and so finds in consultation
19 with the Receiver, that Defendants have the will, capacity, and leadership to maintain a
20 system of providing constitutionally adequate medical health care services to class members.
21 The Court expects that as the Receivership progresses, the Receiver will attempt to engage
22 Defendants in assuming responsibility over portions of the system that are within
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27 ²When engaged in travel, the Receiver and his staff shall use their best efforts to
28 contain direct expenses in a cost-effective fashion. For example, when engaged in necessary
travel, the Receiver and his staff shall, when possible, utilize advanced-purchase economy
airfares and reasonably priced accommodations.

1 Defendants' demonstrated ability to perform, so that the ultimate transfer of power back to
2 the State will be transitional.

3 Prior to the cessation of the Receivership, the Receiver shall develop a Plan for Post-
4 Receivership Governance of the system, which shall include consideration of its structure,
5 funding, and governmental responsibility for its long-term operation. The Receiver shall
6 present this plan to the Court for approval and adoption as an order.

7
8 VI. COOPERATION

9 A. All Defendants, and all agents, or persons within the employ, of any Defendant in
10 this action (including contract employees), and all persons in concert and participation with
11 them, and all counsel in this action, shall *fully* cooperate with the Receiver in the discharge of
12 his duties under this Order, and shall promptly respond to all inquiries and requests related to
13 compliance with the Court's orders in this case. Any such person who interferes with the
14 Receiver's access, as set forth in section II.E., or otherwise thwarts or delays the Receiver's
15 performance of his duties under this Order, shall be subject to contempt proceedings before
16 this Court.

17 B. Counsel for Defendants shall ensure that the following state agencies are given
18 prompt notice of the substance of this paragraph: the Department of Personnel
19 Administration, the Department of Finance, the Department of General Services, the State
20 Personnel Board, and any other state agencies that Defendants deem should be notified.
21 Defendants shall notify the Court in writing of their compliance with this paragraph within
22 30 days of the date of this Order.

23 C. The Secretary of the CDCR shall ensure that all of the CDCR's employees and
24 agents (including contract employees) are given prompt notice of the substance of this
25 paragraph. Defendants shall notify the Court in writing of their compliance with this
26 paragraph within 30 days of the date of this Order.

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1 VII. ADVISORY BOARD

2 The Court, in consultation with the Receiver, shall appoint an Advisory Board of no
3 more than five members to assist and advise the Court and the Receiver with respect to
4 achieving the goals of the Receivership.

5
6 VIII. MODIFICATION

7 Given that this Receivership is unprecedented in scope and dimension, this Court
8 finds that flexibility will be an important element in ensuring its effectiveness. Accordingly,
9 this Order may be modified as necessary from time to time to assure the success of this
10 Receivership and the eventual return of the operation of the CDCR's medical health care
11 delivery system to the State of California.

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14 **IT IS SO ORDERED.**

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16 Dated: February 14, 2006



THELTON E. HENDERSON
UNITED STATES DISTRICT JUDGE

United States District Court
For the Northern District of California

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ROBERT SILLEN

EDUCATIONAL BACKGROUND

1965 University of Denver, Denver, Colorado: Bachelor of Arts Degree

1972 Graduate School, Yale University: Masters of Public Health Degree

CAREER EXPERIENCE

1993 - Present	Executive Director Santa Clara Valley Health & Hospital System San Jose, CA
1979 - 1993	Executive Director, Hospital & Clinics Santa Clara Valley Medical Center San Jose, CA
1976 - 1979	Associate Director, Hospital & Clinics University Hospital University of California Medical Center San Diego, CA
1972 - 1976	Assistant Director University Hospital University of California Medical Center San Diego, CA
1968 - 1970	Assistant Administrator City Hospital Center at Elmhurst Elmhurst, NY
1967 - 1968	Director of Community and Professional Relations United States Public Health Service New York, NY
1965 - 1967	Director of Clinics United States Public Health Service New York, NY

DETAILS OF CAREER EXPERIENCE

Executive Director, Santa Clara Valley Health & Hospital System (SCVHHS)

In June, 1993, the Board of Supervisors created a full service, integrated County health care system consisting of the Santa Clara Valley Medical Center, Department of Public Health, Department of Mental Health, Department of Custody Health Services and the Department of Alcohol & Drug Services. The Santa Clara Valley Health & Hospital System is responsible for a full continuum of preventive intervention and treatment services throughout the County, both directly under County auspices and through contracts with the private sector. The system is comprised of over 6,200 employees and has an annual operating budget of nearly \$1.4 billion.

The Executive Director is responsible for all aspects of the system's operations, long range planning, private/public partnerships, community relations, capital development and information systems. The development of a cost effective, fully integrated system is essential for the successful conversion to a full-service managed care delivery system in a highly competitive environment. In addition, the Executive Director was responsible for designing and implementing a County-wide Medi-Cal Managed Care program (Local Initiative) in June, 1996 as well as the Children's Health Initiative and Healthy Kids program in January, 2000.

Executive Director, Santa Clara Valley Medical Center (SCVMC)

Directed, administered, and coordinated all activities of the hospital and its affiliated clinics; responsibilities included: planning and establishing major current and long range objectives, goals, and policies; maintaining good employee and medical staff relations; maintaining financial solvency of the institution; organizing the functions of the Medical Center and clinics through appropriate departmentalization and delegation of duties; exercising day-to-day responsibility for the internal operations of the hospital; and directly coordinating all external activities and relations affecting the hospital and clinics.

The Santa Clara Valley Medical Center is a 500-bed regional medical center with an operating budget of over \$800 million and 4,500 full-time equivalent employees. Services range from community based primary care satellite clinics to tertiary regional services such as: Regional Burn, Spinal Cord Injury, and Head Trauma; Neonatal Intensive Care; Poison Control Center; Trauma Center; Life Flight Helicopter; and Custody (Jail) Health Services.

Associate Director, University Hospital, University of California Medical Center, San Diego

Administrative and budgetary responsibility for the following professional services: Anesthesia, Medicine, Neurology, Surgery. Responsibility included approval and control of operating and capital budgets, program planning and implementation and identification and solution of operational problems. Relate directly to Chairpersons and Division Chief of above indicated departments.

Responsible for operation of hospital planning office, including overall administrative responsibility for short- and long-range planning. Responsibilities included formulation of planning methodology, acquisition of capital resources, and coordination of all hospital construction, renovation, and space allocation.

Responsible for the activities of the Assistant Director, Hospital and Clinics, for a variety of professional services and non-professional departments including: Cardiac Catheterization Laboratory, Gastroenterology, Material Handling, Medicine, Neurology, Pathology, Pharmacy, Physical and Occupational Therapy, Radiology, Respiratory Therapy, Surgery.

Assistant Administrator, City Hospital at Elmhurst

Assisted the Administrator of this 1,000-bed teaching hospital in the general administration of a variety of professional and non-professional services, including: Anesthesia, Hematology, Inhalation Therapy, Pathology, Radiology, Social Services, Medical Records, and Medical Library. Directly responsible for administration of internship and residency training programs, and administration of Medicare compliance program.

ACADEMIC APPOINTMENTS

Assistant Clinical Professor, Department of Community Medicine,
University of California, San Diego

Clinical Lecturer, Department of Community Medicine,
University of California, San Diego

PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS

Children & Families First Commission of Santa Clara County, Commissioner: 2000 – Present
California Association of Public Hospitals & Health Systems, Board of Directors, Current Member;
Current and Past Chairman: 2003, 1984, 1985, 1989

National Association of Public Hospitals & Health Systems, Current Member; Past Chairman: 1987
Emergency Housing Consortium, Board of Directors, Member: 1998-2001

American Cancer Society, Board of Directors, Member: 2000, 2001

California Association of Hospitals and Health Systems, Board of Trustees

California Association of Hospitals and Health Systems, Chairperson, CAHHS Committee on
Finance, 1990

California Association of Hospitals and Health Systems, Marketplace Task Force, 1989; Blue
Ribbon Committee, 1990

American Hospital Association

American Hospital Association, Governing Council, Section for Metropolitan Hospitals

Hospital Council of Northern California, Board of Directors

California Hospital Association County Hospital Committee

Hospital Conference of Santa Clara County: President, 1986

Hospital Council of Northern California, Planning Committee

Hospital Council of Northern California, Finance Committee

National Association of Counties, Health and Education Steering Committee; Subcommittee, Health
Care Cost Containment; Subcommittee, Long Term Care

ROBERT SILLEN

Major Accomplishments

Planned, financed and implemented major capital expansion of Medical Center:

- \$50 million patient care tower, including new and expanded Comprehensive Emergency Room; Adult Medical, Surgical and Coronary Care Intensive Care Units, Regional Burn Center, post-partum maternity; clinical lab expansion; 40 bed telemetered Transitional Care Unit; Newborn Nursery; roof-top heliport.
- \$12 million ambulatory care/physician office building (Valley Health Center). This practice facility provides a highly competitive practice site enabling our faculty to expand our base of privately insured patients. 42,000 square foot facility includes: decentralized registration/waiting, patient care modules including exam rooms, consult rooms and offices; pharmacy; laboratory; radiology services; medical records. This facility is the locus of our prepaid health plan (Valley Health Plan) for County and other public employees.
- \$5 million physician/administrative complex that houses our faculty practice plan, physician offices and administrative support offices.
- Psychiatric Facility Expansion - As part of the same bond issue that financed the West Wing patient tower we have built a new 54 bed acute psychiatric facility (\$8 million) and purchased a free-standing, distinct part psychiatric SNF (\$4 million).
- Creation of a Magnetic Resonance Imaging Center through a joint venture.
- A Campus Development Plan has been funded and initiated which will culminate in the completion of the following projects during the next three years: Additional Patient Care Tower; 1,500 car parking structure(s); Ambulatory Care Facility; Alzheimers Treatment and Day Care Center; Long Term Care facility; new power plant and laundry; Administrative support and physician office building. The Campus Development effort will cost over \$500 million.
- \$250 million Patient Care Tower (completed in 1999).
- \$250 million Specialty Inpatient Center (to be completed in 2008).
- Four Community Based Primary Care Centers (\$200 million).

Program Development:

- Designation as Level I Trauma Center
- Occupational and Industrial Medicine Program. Developed a program for and consummated contracts with union health and welfare funds and corporate entities in Silicon Valley as well as governmental agencies and school districts.
- Valley Health Plan (VHP). Designed and implemented a prepaid health plan for County employees. This plan, licensed by the State Department of Corporations, is intended to compete with private HMO's, PPO's, IPA's and indemnity plans offered to over 13,000 County employees thus increasing our private insurance base and reducing County subsidy to the Medical Center. Since its inception, VHP has grown from 0 to 2,600 enrollees.
- Developed a Marketing and Public Relations Division that successfully maintained and enhanced our patient referral base, created community support and understanding and enhanced our image throughout the County and State.
- Created a free-standing 501(c)(3) fundraising foundation (SCVMC Foundation). The Foundation, the sole purpose of which is to raise funds and create community support for SCVMC was created in 1988. During its first year it raised over \$1 million for the Medical Center. The Foundation Board is comprised of wealthy Silicon Valley corporate leaders and civic "movers and shakers." Major support has been garnered from wealthy individuals, other local foundations, corporations (IBM, Cypress Semiconductors, Applied Materials, Hewlett-Packard, Syntex to name a few). This is a unique effort for a county medical center and we are now providing consultative services to other public hospitals that want to emulate our success.
- Service Excellence. Successfully designed and implemented a Medical Center-wide program which has significantly enhanced intra-and-interdepartmental functioning and communications, increased employee morale, aided recruitment and retention, positively impacted operating efficiency, enhanced our patient and community relations and maintained and enhanced our patient base.
- Financial Performance. Despite the adverse sponsorship mix of SCVMC's patient population (60% Medi-Cal, 20% unsponsored, 5% private insurance, 15% Medicare) our financial performance has been exemplary. The County General Fund subsidy has never exceeded 10% of our total operating budget during my 16 year tenure at SCVMC. This is unique for a California county hospital, especially the third largest in the State. Our financial and clinical successes are closely related and have created an environment of full community and political support vital to our overall success.
- Operational Re-engineering. Implemented a full-scale work re-engineering project; the goal of which was to reduce operating expenses by \$60 million over three years. This program is unique within County government in California and has the full support of the Board of Supervisors and County unions.

EXHIBIT B

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

RALPH COLEMAN, et al.,
Plaintiffs,
v.
ARNOLD SCHWARZENEGGER,
et al.,
Defendants.

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

MARCIANO PLATA, et al.,
Plaintiffs,
v.
ARNOLD SCHWARZENEGGER,
et al.,
Defendants.

NO. C01-1351 TEH
THREE-JUDGE COURT
PROTECTIVE ORDER RE:
DEPOSITION OF THE
CALIFORNIA PRISON HEALTH
CARE RECEIVERSHIP
CORPORATION

The Court is in receipt of a notice of deposition of the California Prison Health Care Receivership Corporation (“Receiver”), served by Defendant Arnold Schwarzenegger on November 21, 2007, which notices the deposition of the person most knowledgeable at the Receiver’s office on a variety of topics, to commence on December 17, 2007. The scope of this notice of deposition is extremely broad and covers all of the Receiver’s reports in *Plata v. Schwarzenegger*, as well as topics as expansive as “[t]he causes of the problems and deficiencies in the delivery of medical care to inmates at CDCR’s adult institutions.” Notice of Dep. Sch. A at 1. Schwarzenegger also asks the Receiver to produce a broad range of

1 documents, including “[a]ny and all DOCUMENTS authored or prepared by [the Receiver’s
2 office] that refer, relate to, or describe the level of medical services provided inmates housed
3 in CDCR’s adult institutions from April 2006 to the present.” *Id.* at 3. For the reasons
4 discussed below, this Court now enters a protective order barring the noticed deposition from
5 proceeding.

6 Under Federal Rule of Civil Procedure 26(c), and in the inherent discretion of a court
7 to manage its own discovery, a court may sua sponte enter a protective order for good cause
8 shown. *E.g., Lesal Interiors, Inc. v. Resolution Trust Corp.*, 153 F.R.D. 552, 558 n.4 (D.N.J.
9 1994); *McCoy v. Southwest Airlines, Inc.*, 211 F.R.D. 381, 385 (C.D. Cal. 2002). A
10 protective order may include an order that “discovery not be had.” Fed. R. Civ. P. 26(c)(1).

11 In this case, although neither the Receiver nor any party has formally objected to the
12 noticed deposition, the Court finds good cause to bar the deposition based on immunity. The
13 Receiver was “imbued with the power and authority to act in the name of the Court as the
14 Court’s officer.” *Plata v. Schwarzenegger*, Case No. C01-1351 TEH, 2005 WL 2932253, at
15 *33 (N.D. Cal. Oct. 3, 2005). Thus, like court-appointed special masters, the Receiver
16 “assumed the duties and obligations of a judicial officer” when appointed, *In re Gilbert*, 276
17 U.S. 6, 9 (1928), and acts as a “surrogate[.]” of the court, *Cordoza v. Pac. States Steel Corp.*,
18 320 F.3d 989, 995 (9th Cir. 2003) (quoting *Louisiana v. Mississippi*, 466 U.S. 921, 921
19 (1984)). Accordingly, just as quasi-judicial immunity applies to special masters appointed
20 under Federal Rule of Civil Procedure 53, *Atkinson-Baker & Assocs., Inc. v. Kolts*, 7 F.3d
21 1452, 1454-55 (9th Cir. 1993), this Court concludes that the Receiver is also protected by
22 quasi-judicial immunity. *See Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 436 (1993)
23 (explaining that “[w]hen judicial immunity is extended to officials other than judges, it is
24 because their judgments are functionally comparable to those of judges – that is, because
25 they, too, exercise a discretionary judgment as a part of their function” (citation, internal
26 quotations, and alterations omitted)). Not only does this conclusion follow from the case
27 law, but it also follows from the *Plata* court’s order that the Receiver and his staff “shall
28 have the status of officers and agents of this Court, and as such shall be vested with the same

1 immunities as vest with this Court.” *Plata v. Schwarzenegger*, Case No. C01-1351 TEH,
2 Feb. 14, 2006 Order Appointing Receiver.

3 This Court therefore agrees with the result in *Gary W. v. Louisiana*, 861 F.2d 1366
4 (5th Cir. 1988), in which the court squarely held that a special master may not be deposed
5 regarding his or her findings. A hearing was scheduled before a magistrate judge in that case
6 regarding the suitability of the special master’s recommendations. *Id.* at 1367.

7 Dr. Lyles [the special master] began the preparation of a report
8 on incidents of abuse and neglect to be submitted to the
9 magistrate at the hearing on the recommendations she had made
10 as special master. Seeking to discover the substance of this
11 report, the state noticed Dr. Lyles’ deposition and issued a
12 subpoena and a subpoena duces tecum to her. The [plaintiff]
13 classmembers moved to quash. The magistrate quashed the
14 subpoenas because of Dr. Lyles’ special relationship with the
15 court. The district court affirmed that ruling. Dr. Lyles
16 completed her report and, as ordered by the magistrate,
17 distributed copies to the parties before the scheduled hearing.
18 Following the hearing the magistrate ordered implementation of
19 Dr. Lyles’ formal recommendations. The state appeals the ruling
20 on the motion to quash.

21 *Id.* at 1368. The appellate court affirmed the quashing of the subpoena, explaining that,
22 “Dr. Lyles was performing a quasi-judicial function when, as special master, she submitted
23 her formal recommendation. An examination of her mental processes in making that
24 recommendation would have been inappropriate and the magistrate and district court
25 correctly prevented such.” *Id.* at 1369 (citation omitted).

26 Likewise, in this case, the Receiver has filed numerous reports, as detailed by
27 Schwarzenegger in Schedule A of his notice of deposition listing subjects within the scope of
28 the desired testimony. These reports speak for themselves, and any testimony about the
29 reports, as well as testimony about or the production of underlying documents considered by
30 the Receiver in his preparation of the reports, would impermissibly intrude on the Receiver’s
31 mental processes. *See, e.g., United States v. Roebuck*, 271 F. Supp. 2d 712 (D.V.I. 2003)
32 (explaining that “[t]he overwhelming authority concludes that a judge may not be compelled
33 to testify concerning the mental processes used in formulating official judgments or the
34 reasons that motivated him in the performance of his official duties”).

EXHIBIT C

1 IN THE UNITED STATES DISTRICT COURTS
2 FOR THE EASTERN DISTRICT OF CALIFORNIA
3 AND THE NORTHERN DISTRICT OF CALIFORNIA
4 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES
5 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE
6

7 RALPH COLEMAN, et al.,
8 Plaintiffs,

9 v.

10 ARNOLD SCHWARZENEGGER,
11 et al.,
12 Defendants.

NO. CIV S-90-0520 LKK JFM P

THREE-JUDGE COURT

13 MARCIANO PLATA, et al.,
14 Plaintiffs,

15 v.

16 ARNOLD SCHWARZENEGGER,
17 et al.,
18 Defendants.

NO. C01-1351 TEH

THREE-JUDGE COURT

**ORDER RE: ROLE OF
RECEIVER AND SPECIAL
MASTER REGARDING PRISON
POPULATION ADVISORY
GROUP**

19
20 At the status conference conducted in the above-captioned proceedings on May 30,
21 2008, there was a discussion concerning the membership of an advisory group that will
22 perform a detailed analysis of the operational capacity of each California prison facility in an
23 effort to arrive at an agreement on a prison population cap. *See also* Confidential Status
24 Report, filed June 2, 2008, at 8-9.

25 A question arose concerning what role, if any, the *Plata* Receiver and the *Coleman*
26 Special Master might have in connection with that advisory group. As the Court noted in its
27 November 29, 2007 order, both the *Plata* Receiver and the *Coleman* Special Master have
28 assumed duties and obligations of a judicial officer and are acting as surrogates of the *Plata*

1 and *Coleman* courts, respectively. See Nov. 29, 2008 Order at 2. For that reason, it would
2 not be appropriate for either the *Plata* Receiver or the *Coleman* Special Master, or any of
3 their staff members, to serve on the advisory group. By this order, both the Receiver and the
4 Special Master will be authorized to provide, in their discretion, on an informal basis such
5 information as the advisory group may seek from them that may be helpful to the goals of
6 said group. Nothing in this order shall be construed to permit any member of the advisory
7 group to request preparation of written reports by the Receiver or the Special Master or any
8 of their staff members, or to permit any party to these proceedings to request formal
9 testimony from the Receiver or the Special Master or any of their staff members at any stage
10 of these proceedings.

11

12 **IT IS SO ORDERED.**

13

14 Dated: 06/05/08

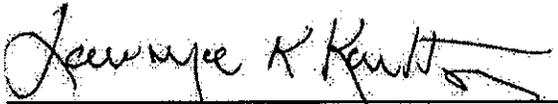
/s/
STEPHEN REINHARDT
UNITED STATES CIRCUIT JUDGE
NINTH CIRCUIT COURT OF APPEALS

15

16

17

18 Dated: 06/05/08


LAWRENCE K. KARLTON
SENIOR UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF CALIFORNIA

19

20

21

22 Dated: 06/05/08


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

23

24

25

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EXHIBIT D

July 8, 2008

VIA U.S. MAIL AND ELECTRONIC MAIL

Donald Specter
Steve Fama
Alison Hardy
Prison Law Office
1917 Fifth Street
Berkeley, CA 94710-1916

Re: Plaintiffs' Third Request For Inspection in Three-Judge Court Proceeding

Dear Counsel:

Yesterday, July 7, I received by facsimile transmission a copy of Plaintiffs' Third Request for Inspection ("Inspection Request"), which had not previously been served on the Receiver. The Inspection Request purports to schedule inspections in *Plata* at the following prisons on the following dates: North Kern State Prison (July 14); SATF (July 15); Pleasant Valley (July 16); CSP-Solano (July 17); High Desert (July 18). Among other things, the Inspection Request indicates that plaintiffs' experts will "interview . . . the prison's highest ranking medical and mental health officers, including, when applicable, the Chief Medical Officer, Chief Physician & Surgeon and Director of Nursing; "will confer with . . . medical staff" and will seek to review unit health records for some unspecified number of unidentified patient inmates.

I have had the opportunity to review the Inspection Request with the Receiver and his senior staff. The Receiver is unable to accommodate the Inspection Request for any and all of the following reasons.

1. The three-judge Court has issued two orders which make it unmistakably clear that testimonial discovery from the Receiver and his staff will not be permitted in this matter. *Plata* Docket ## 988, 1226. The purportedly informal "interviews" with the senior medical staff at each prison is effectively an end run on the prohibition against testimonial discovery. As a result, the Receiver does not intend to subject his senior staff to such discovery.

Donald Specter et al.

July 8, 2008

Page 2

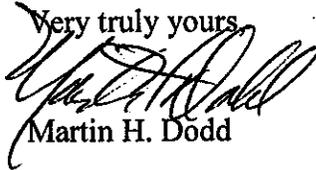
2. On a number of occasions we have informed your office that if you desire information from the Receiver or his staff, including medical staff, then it is necessary that you first meet and confer with me to determine whether, and to what extent, the Receiver can accommodate the request for information. The Receiver is not a party to the three-judge Court proceeding and discovery served on the defendants is not effective to require the Receiver or his staff, including medical personnel, to provide the requested information or otherwise to respond to the discovery.
3. I first received the Inspection Request yesterday, barely a week before the inspections are scheduled to begin.¹ The proposed "interviews" of senior medical staff, conferences with other medical staff on an ad hoc basis, and demands that staff locate and retrieve medical records for an unspecified number of inmates will interfere with the important work in which local medical staff are engaged on a daily basis. In addition to the ongoing delivery of care, the Receiver has commenced several initiatives to improve care at the local level, which initiatives are themselves making extraordinary demands on prison medical personnel. It will be unduly disruptive to conduct the proposed inspections, with their attendant demands on local medical staff, particularly on such short notice. Local medical staff cannot be expected to drop everything else that they are doing to comply with such improper discovery requests.
4. Finally, it is by no means clear what the purpose of these inspections is or why it is necessary to involve local medical staff. Several months ago, your office conducted quite a few (also hastily arranged) inspections by your experts. The Receiver cooperated at that time, despite the fact that the inspections were intrusive, disruptive and required sending Receiver's representatives to prisons throughout the state, and sometimes more than one prison in one day. The Receiver and his staff cannot be expected to continue to accommodate these burdensome inspections in the face of the many other competing, and significantly more critical, demands they must address each day.

In view of the foregoing, the Receiver is unable to assist you with the proposed inspections and we will instruct local medical staff that they are neither authorized nor expected to cooperate with or participate in such inspections. Finally, you are not

¹ Alison Hardy called yesterday to discuss this Inspection Request and acknowledged that the failure to serve the Receiver was "a fairly significant screw up" (or words to that effect). While we appreciate the recognition that the failure to provide adequate notice was unjustifiable, it does nothing to relieve the extreme, and we believe, unnecessary burden on the local medical staff.

Donald Specter et al.
July 8, 2008
Page 3

authorized to interview, question, confer with or make any demand upon local medical staff without prior approval from the Receiver. Please call with any questions.

Very truly yours,

Martin H. Dodd

cc: (All via e-mail)
J. Clark Kelso
John Hagar
Jared Goldman
Linda Buzzini
Terry Hill
Paul Mello
Rochelle East

EXHIBIT E

1 PRISON LAW OFFICE
DONALD SPECTER, Bar No. 83925
2 STEVEN FAMA, Bar No. 99641
SARA NORMAN, Bar No. 189536
3 ALISON HARDY, Bar No. 135966
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12 CLAUDIA CENTER, Bar No. 158255
600 Harrison Street, Suite 120
13 San Francisco, CA 94107
Telephone: (415) 864-8848

14 Attorneys for Plaintiffs

15 IN THE UNITED STATES DISTRICT COURTS
16 FOR THE EASTERN DISTRICT OF CALIFORNIA
17 AND THE NORTHERN DISTRICT OF CALIFORNIA
18 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES
19 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

20 RALPH COLEMAN, et al.,

21 Plaintiffs,

22 vs.

23 ARNOLD SCHWARZENEGGER, et al.,

24 Defendants

25 MARCIANO PLATA ,et al.,

26 Plaintiffs,

27 vs.

28 ARNOLD SCHWARZENEGGER, et al.,

Defendants

) No. Civ S 90-0520 LKK-JFM P

) THREE-JUDGE COURT

) PLATA PLAINTIFFS' FOURTH REQUEST
) FOR INSPECTION

) No. C01-1351 TEH

) THREE-JUDGE COURT

1 **PROPOUNDING PARTIES:** Plaintiffs Marciano Plata

2 **RESPONDING PARTIES:** Defendants Schwarzenegger, et al.

3 **SET NUMBER:** Four

4
5 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

6 PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure Rule 34,
7 Plaintiffs Marciano Plata et al. submit the following Fourth Request for Inspection to
8 Defendants Arnold Schwarzenegger, et al. (combined, the "Defendants") for plaintiffs and
9 plaintiffs' experts to inspect the Correctional Training Facility (CTF), Corcoran State Prison
10 and California State Prison, Los Angeles County (Lancaster).

11 **DEFINITIONS**

12 Unless otherwise indicated, the following definitions and terms shall apply to these
13 Requests for Inspection:

- 14 1. The term "all" means any and all.
- 15 2. The term "any" means each and every.
- 16 3. The term "CDCR" refers to the California Department of Corrections and
17 Rehabilitation, its agents, employees and anyone acting on its behalf.
- 18 4. The term "confer with" means to interview, formally or informally, CDCR
19 personnel with whom plaintiffs' experts and plaintiffs' counsel meet and/or encounter during
20 the course of the inspection.
- 21 5. The term "class member" means any prisoner who is a member of the plaintiff
22 class under *Plata v. Schwarzenegger* and/or *Coleman v. Schwarzenegger*.
- 23 6. The term "inspect" means to physically walk through and observe CDCR prison
24 facilities, including, but not limited to, all areas in which California state prisoners sleep, eat,
25 bathe, exercise, and receive medical attention, and areas in which such prisoners are received
26 at the prison and/or processed for release from the prison. The term further means to review
27 any records, including, but not limited to, logbooks relating to class members' movement
28

1 within the prison and to off-site medical care providers and/or relating to class members'
2 access to medical or mental health care.

3 **INSTRUCTIONS**

4 1. At each of the prisons to be INSPECTED, plaintiffs' experts request an interview
5 with the prison's Warden, Associate Warden for Health Care and the prison's highest ranking
6 medical and mental health officers, including, when applicable, the Chief Medical Officer,
7 Chief Physician & Surgeon and Director of Nursing, preferably at the beginning of the
8 inspection. Plaintiffs' counsel anticipate that the initial interview will take approximately 30-60
9 minutes.

10 2. At the beginning of each inspection, plaintiffs also request a list of all CLASS
11 MEMBERS from that prison that were, during the previous three months, treated as in-patients
12 and discharged from an off-site hospital or were treated at an off-site hospital Emergency
13 Room. For each CLASS MEMBER, please list the reason for the hospitalization or
14 Emergency Room visit.

15 3. During the INSPECTIONS, plaintiffs' counsel and plaintiffs' experts will
16 CONFER WITH the CDCR staff at the prison, including but not limited to the correctional
17 staff, administrative staff, and medical staff, regarding access of the *Plata* CLASS MEMBERS
18 to medical care, and as to issues of housing, programming, exercise and activities for class
19 members as they relate to medical care.

20 4. During the INSPECTIONS, plaintiffs' counsel and plaintiffs' experts may CONFER
21 WITH CLASS MEMBERS at the prison regarding their access to medical care, and as to
22 issues of housing, programming, exercise and activities for class members as they relate to
23 medical care.

24 5. If, during the INSPECTION, the plaintiffs' experts conclude that they require a
25 private setting to CONFER WITH certain CDCR staff or CLASS MEMBER(S), defendants
26 will provide an area where plaintiffs' experts can CONFER WITH the staff member or CLASS
27 MEMBER(S), in the presence of only plaintiffs' and defendants' counsel, and the Receiver's
28 representative, if any.

1 6. Plaintiffs' experts will not review CLASS MEMBERS' central files.

2 7. As part of the INSPECTIONS, plaintiffs may request to conduct confidential
3 interviews with five to ten CLASS MEMBERS. If so, plaintiffs' counsel will notify
4 defendants at least three days prior to each INSPECTION, and provide the names and CDCR
5 numbers of each CLASS MEMBER at that time. These CLASS MEMBER interviews will be
6 conducted only by plaintiffs' counsel and plaintiffs' experts.

7 **REQUESTS FOR INSPECTION**

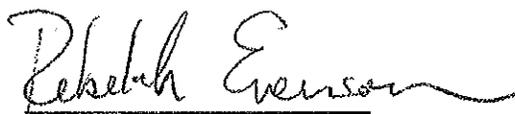
8 1. On July 23, 2008 from 8:00 a.m. to approximately 6:00 p.m., plaintiffs' counsel
9 and plaintiffs' experts request to INSPECT the Correctional Training Facility (CTF).

10 2. On July 24, 2008 from 8:00 a.m. to approximately 6:00 p.m., plaintiffs' counsel
11 and plaintiffs' experts request to INSPECT Corcoran State Prison.

12 3. On August 5, 2008 from 8:00 a.m. to approximately 6:00 p.m., plaintiffs' counsel
13 and plaintiffs' experts request to INSPECT California State Prison, Los Angeles County
14 (Lancaster).

15
16 Dated: July 9, 2008

Respectfully submitted,

17
18 
19 Rebekah Evenson
20 Prison Law Office
21 Attorneys for Plaintiffs
22
23
24
25
26
27
28

1 **DECLARATION OF SERVICE BY MAIL**

2 Case Name: Plata et al., Plaintiffs v. Schwarzenegger et al., Defendants.
3 United States District Court
Northern District of California No. C-01-1351 T.E.H.

4 I am employed in the County of Berkeley, California. I am over the age of 18 years and not a
5 party to the within entitled cause: my business address is Prison Law Office, 1917 Fifth Street,
Berkeley, CA 94710

6 On July 9, 2008, I served the attached:

7 **PLATA PLAINTIFFS' FOURTH SET OF REQUESTS FOR INSPECTION**

8 in said cause, placing, or causing to be placed, a true copy thereof, enclosed in a sealed
9 envelope with postage thereon fully prepaid in the United States Mail at Berkeley,
California, addressed as follows:

10 STEVEN A. KAUFHOLD
11 Akin Gump Straus Hauer & Feld LLP
580 California St., 15th Floor
12 San Francisco, CA 94104-1036

MARTIN J. MAYER
Kimberly Hall Barlow
Jones & Mayer
3777 North Harbor Blvd.
Fullerton, CA 92835

13 PAUL MELLO
14 Hanson Bridgett Marcus Vlahos & Rudy, LLP
333 Market Street, 21st Floor
15 San Francisco, CA 94105

STEVEN WOODSIDE
Office of the County Counsel
County of Sonoma
575 Admin. Dr., Rm 105A
Santa Rosa, CA 95403

16 GREGG MACCLEAN ADAM
17 NATALIE LEONARD
Carroll, Burdick, McDonough, LLP
44 Montgomery Street, Suite 400
18 San Francisco, 94104

LISA TILLMAN
Deputy Attorney General
Office of the Attorney General
PO Box 944255
Sacramento, CA 94244-2550

19 ROCHELL EAST
20 Deputy Attorney General
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102

WILLIAM E. MITCHELL
Office of the Attorney General
County of Riverside
4075 Main Street, First Floor
Riverside, CA 92501

21 ANN MILLER RAVEL
22 Office of the County Counsel
County of Santa Clara
70 West Hedding, East Wing 9th Fl.
23 San Jose, CA 94110

MARTIN H. DODD
JAMIE L. DUPREE
Futterman & Dupree
160 Sansome Street, 17th Floor
San Francisco, CA 94104

24
25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct, and that this declaration was executed at Berkeley,
California on July 9, 2008.

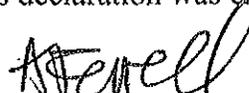
27 
28 Ashley Fewell

EXHIBIT F

1 PRISON LAW OFFICE
DONALD SPECTER, Bar No. 83925
2 STEVEN FAMA, Bar No. 99641
E. IVAN TRUJILLO, Bar No. 228790
3 SARA NORMAN, Bar No. 189536
ALISON HARDY, Bar No. 135966
4 REBEKAH EVENSON, Bar No. 207825
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14 Attorneys for Plaintiffs

15 IN THE UNITED STATES DISTRICT COURTS
16 FOR THE EASTERN DISTRICT OF CALIFORNIA
17 AND THE NORTHERN DISTRICT OF CALIFORNIA
18 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES
19 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

20 RALPH COLEMAN, et al.,

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22 vs.

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24 Defendants

) No. Civ S 90-0520 LKK-JFM P

) **THREE-JUDGE COURT**

) **PLAINTIFFS' FOURTH REQUEST FOR INSPECTION**

25 MARCIANO PLATA ,et al.,

26 Plaintiffs,

27 vs.

28 ARNOLD SCHWARZENEGGER, et al.,

Defendants

) No. C01-1351 TEH

) **THREE-JUDGE COURT**

1 **PROPOUNDING PARTY:** PLAINTIFFS RALPH COLEMAN et al.

2 **RESPONDING PARTIES:** Defendants Schwarzenegger, et al.

3 **SET NUMBER:** FOURTH

4 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

5 **DEFINITIONS**

6 Unless otherwise indicated, the following definitions and terms shall apply to these
7 Requests for Inspection:

8 1. The term "all" means any and all.

9 2. The term "any" means each and every.

10 3. The term "CDCR" refers to the California Department of Corrections and
11 Rehabilitation, its agents, employees and anyone acting on its behalf.

12 4. The term "DMH" refers to the Department of Mental Health, its agents,
13 employees and anyone acting on its behalf.

14 5. The term "confer with" means to interview, formally or informally, CDCR
15 and/or DMH personnel with whom plaintiffs' experts and plaintiffs' counsel meet and/or
16 encounter during the course of the inspection.

17 6. The term "class member" means any prisoner who is a member of the plaintiff
18 class under *Plata v. Schwarzenegger* and/or *Coleman v. Schwarzenegger*.

19 7. The term "inspect" means to physically walk through and observe CDCR prison
20 facilities and any DMH units within these prison facilities, including, but not limited to, all
21 areas in which California state prisoners sleep, eat, bathe, exercise, and receive medical and
22 mental health attention, and areas in which such prisoners are received at the prison and/or
23 processed for release from the prison. The term further means to review any records,
24 including, but not limited to, logbooks and waiting list data relating to class members'
25 movement within the prison and to off-site medical care and mental health care providers
26 and/or relating to class members' access to medical or mental health care.

1 **INSTRUCTIONS**

2 1. At each of the prisons to be INSPECTED, plaintiffs' experts request an interview
3 with the prison's Warden, Associate Warden for Health Care, and the prison's highest ranking
4 medical and mental health officers, including, when applicable, the Chief Medical Officer,
5 Chief Psychiatrist and/or Chief Psychologist, and Director of Nursing, preferably at the
6 beginning of the inspection. Plaintiffs' counsel anticipates that the initial interview will take
7 approximately 30-60 minutes.

8 2. At the beginning of each inspection, plaintiffs request census data for the mental
9 health delivery system population, by category, for the prison on the day of the tour. Plaintiffs
10 also request a list of any prisoners from that prison that were, during the previous three months,
11 placed in a mental health crisis bed ("MHCB"), an outpatient housing unit ("OHU"), any
12 overflow crisis bed units, and/or were referred for transfer to a DMH program. Plaintiffs also
13 request a list of ALL *Coleman* CLASS MEMBERS from that prison that are currently
14 classified as Enhanced Outpatient ("EOP") and are waiting for transfer to an EOP program.

15 3. During the INSPECTIONS, plaintiffs' counsel and plaintiffs' experts will
16 CONFER WITH the CDCR and DMH staff at the prison, including but not limited to the
17 correctional staff, administrative staff, and medical and mental health staff, regarding access of
18 the *Plata* CLASS MEMBERS to medical care and of the *Coleman* CLASS MEMBERS to
19 mental health care, and as to issues of housing, programming, exercise and activities for class
20 members as they relate to mental health and medical issues.

21 4. During the INSPECTIONS, plaintiffs' counsel and plaintiffs' experts may
22 CONFER WITH CLASS MEMBERS at the prison regarding their access to medical care and
23 to mental health care, and as to issues of housing, programming, exercise and activities for
24 CLASS MEMBERS as they relate to medical and mental health issues.

25 5. If, during the INSPECTION, the plaintiffs' experts conclude that they require a
26 private setting to CONFER WITH certain CDCR staff or CLASS MEMBER(S), defendants
27 will provide an area where plaintiffs' experts can CONFER WITH the staff member or CLASS
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1 MEMBER(S), in the presence of only plaintiffs counsels', defendants' counsel, and the
2 Receiver's representative.

3 6. Plaintiffs' experts will not review CLASS MEMBERS' central files. Plaintiffs'
4 experts may review some CLASS MEMBERS' unit health records.

5 7. As part of the INSPECTIONS, plaintiffs may request to conduct confidential
6 interviews with five to ten CLASS MEMBERS and review their unit health records. If so,
7 plaintiffs' counsel will notify defendants at least three days prior to each INSPECTION, and
8 provide the names and CDCR numbers of each CLASS MEMBER at that time. These CLASS
9 MEMBER interviews will be conducted only by plaintiffs' counsel and plaintiffs' experts.

10 **REQUESTS FOR INSPECTION**

11 **SITE 1:** On July 21, 2008 from 9:00 a.m. to approximately 6:00 p.m., plaintiffs' counsel and
12 plaintiffs' experts request to INSPECT California Substance Abuse Treatment Facility.

13 **SITE 2:** On July 22, 2008 from 9:00 a.m. to approximately 6:00 p.m., plaintiffs' counsel and
14 plaintiffs' experts request to INSPECT California Correctional Institute.

15 **SITE 3:** On July 29, 2008 from 9 a.m. to approximately 6:00 p.m., plaintiffs' counsel and
16 plaintiffs' experts request to INSPECT Salinas Valley State Prison.

17 **SITE 4:** On July 31, 2008 from 10:00 a.m. to approximately 6:00 p.m., plaintiffs' counsel and
18 plaintiffs' experts request to INSPECT California Medical Facility.

19 **SITE 5:** On July 31, 2008 from 9:00 a.m. to approximately 6:00 p.m., plaintiffs' counsel and
20 plaintiffs' experts request to INSPECT North Kern State Prison.

21 **SITE 6:** On August 1, 2008 from 9 a.m. to approximately 6:00 p.m., plaintiffs' counsel and
22 plaintiffs' experts request to INSPECT Mule Creek State Prison.

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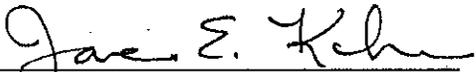
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1 **SITE 7:** On August 1, 2008 from 9 a.m. to approximately 6:00 p.m., plaintiffs' counsel and
2 plaintiffs' experts request to INSPECT Wasco State Prison.

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4 Dated: July 2, 2008

Respectfully submitted,

ROSEN, BIEN & GALVAN, LLP

6 By: 
7 Jane E. Kahn
8 Attorneys for Plaintiffs

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1 **PROOF OF SERVICE**

2 I, Kathleen Johnson-Silk, declare that I am a resident of the State of California, am over the
3 age of eighteen years and am not a party to the within action. I am employed with Rosen, Bien &
4 Galvan LLP, whose address is 315 Montgomery Street, Tenth Floor, San Francisco, California
5 94104. On July 2, 2008, I served the following document:

6 **PLAINTIFFS' FOURTH REQUEST FOR INSPECTION**

7 I served the documents on the persons listed below, as follows:

8 9 10	<input type="checkbox"/>	By messenger service. I served the documents by placing them in an envelope or package addressed to the persons listed below and providing them to a professional messenger service for service. (A declaration by the messenger is attached hereto as a separate document.)
11 12 13 14 15 16	<input checked="" type="checkbox"/>	By United States mail. I enclosed the documents in a sealed envelope or package addressed to the persons listed below and placed the envelope or package for collection and mailing in accordance with our ordinary business practices. I am readily familiar with my firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Francisco, California.
17 18 19	<input type="checkbox"/>	By overnight delivery. I enclosed the documents in a sealed envelope or package provided by Federal Express and addressed it to the persons listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier and I arranged to pay for all fees for delivery.
20 21 22	<input type="checkbox"/>	By fax transmission. Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below from Rosen Bien & Galvan's facsimile transmission telephone number, (415) 433-7104. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
23 24 25 26	<input type="checkbox"/>	By e-mail or electronic transmission. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

All documents were sent to the following persons:

Lisa A. Tillman
Deputy Attorney General
P.O. Box 944255
Sacramento, CA 94244-2550

Rochelle East
Office of the Attorney General
455 Golden Gate, Suite 11000
San Francisco, CA 94102-7004

Lead Counsel for County Intervenors
Ann Miller Ravel
Theresa Fuentes
Office of the County Counsel
70 West Hedding, East Wing, 9th Floor
San Jose, CA 95110

Paul B. Mello, Esq.
Hanson & Bridgett LLP
425 Market Street, 26th Floor
San Francisco, CA 94105

California Correctional Peace Officers'
Association (CCPOA) Intervenors
Natalie Leonard
Gregg MacClean Adam
Carroll, Burdick & McDonough, LLP
44 Montgomery Street, Suite 400
San Francisco, CA 94104

Republican Assembly and Senate Intervenors
Steven S. Kaufhold
Akin, Gump Strauss Hauer & Feld, LLP
580 California Street, 15th Floor
San Francisco, CA 94104

District Attorney Intervenors
William E. Mitchell
Assistant District Attorney
Riverside County District Attorney's
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4075 Main Street, First Floor
Riverside, CA 92501

County of Sonoma Intervenors
Anne L. Keck, Deputy County Counsel
Steven Woodside
575 Administration Drive, Room 105A
Santa Rosa, CA 95403

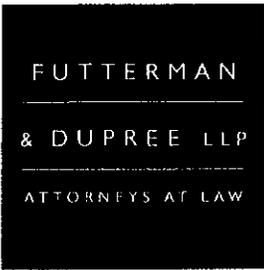
California Sheriff, Probation, Police
Chief and Corrections Intervenors
Jones & Mayer LLP
Martin J. Mayer
Michael R. Capizzi
Kimberly Hall Barlow
Elizabeth R. Feffer
3777 North Harbor Boulevard
Fullerton, CA 92835

Futterman & Dupree, LLP
Martin H. Dodd
Jamie L. Dupree
160 Sansome Street, 17th Floor
San Francisco, CA 94104

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Proof of Service was executed on this 2nd day of July, 2008, at San Francisco, California.

Kathleen Johnson-Silk

EXHIBIT G



July 9, 2008
VIA U.S. MAIL AND ELECTRONIC MAIL

Donald Specter
Steve Fama
Alison Hardy
Prison Law Office
1917 Fifth Street
Berkeley, CA 94710-1916

Re: Plaintiffs' Fourth Requests For Inspection in Three-Judge Court Proceeding

Dear Counsel:

We are in receipt of Plaintiffs' Fourth Request for Inspection in connection with the *Coleman* case and a Fourth Request for Inspection in *Plata* served this morning. Like the Third Request for Inspection, which was the subject of my July 8, 2008 letter to you, the Fourth Requests each call for prison inspections that will entail, in part, proposed interviews with the highest ranking medical officer at each prison including, when applicable, the Chief Medical Officer, Chief Physician and Surgeon or Director of Nursing and conferences with "medical staff." Although the Fourth Requests provide the Receiver with more notice of the proposed inspections than did the Third Request, we otherwise have the objections and concerns with regard to the Fourth Requests that we expressed in our July 8 letter.

Accordingly, we stress again that neither you nor your experts are authorized to interview, question, confer with or make any demand upon the Chief Medical Officer, Chief Physician and Surgeon, Director of Nursing or any other local medical staff as part of any prison inspection without prior approval from the Receiver. Please call with any questions.

Very truly yours,

Martin H. Dodd

cc: (All via e-mail)
J. Clark Kelso

Donald Specter et al.

July 9, 2008

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John Hagar
Jared Goldman
Linda Buzzini
Terry Hill
Paul Mello
Rochelle East