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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
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15 MARCIANO PLATA, et al.,

16 Plaintiffs

17
18 v.

19 ARNOLD SCHWARZENEGGER, et al.,

20 Defendants.
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26

No. C01-1351 T.E.H.

**PLAINTIFFS' RESPONSE TO
RECEIVER'S MOTIONS FOR AN
EXTENSION OF TIME TO FILE A
PLAN OF ACTION AND TO
ESTABLISH AN ADVISORY
BOARD, AND TO MODIFY THE
JUNE 13, 2002 STIPULATION RE
INJUNCTIVE RELIEF**

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1 I.

2 INTRODUCTION

3 On February 14, 2006, this Court ordered the appointment of Robert Sillen as
4 Receiver to take control of the health care delivery system of the California Department of
5 Corrections and Rehabilitation. This Court based imposition of this extraordinary relief on
6 its findings that the health care delivery system was, by all accounts, “broken beyond repair,”
7 and caused California state prisoners unconscionable suffering and needless death. Findings
8 of Fact and Conclusions of Law, October 3, 2005, p. 1-2. Citing undisputed evidence that a
9 state prisoner dies every week unnecessarily, the Court declared that this terrible statistic
10 “barely provides a window into the waste of human life occurring behind California’s prison
11 walls due to the gross failures of the medical delivery system.” *Id.*, p. 2.

12 This Court’s February 14, 2006 Order directed the Receivership to develop a Plan of
13 Action to address these appalling and life-threatening conditions. Recognizing the
14 magnitude of the task, the Court granted the Receivership a generous 180-210 days to
15 complete the plan^{1/}, from the effective date of the appointment (April 17, 2006), making the
16 Plan due on November 13, 2006. Receiver Appointment Order, February 14, 2006, p. 2. The
17 Court further directed the Receiver to include in the Plan recommendations on which
18 provisions of the June 13, 2002 Stipulation for Injunctive Relief and the September 17, 2004
19 Stipulated Order re Quality of Patient Care should be retained, and which should be modified
20 or discontinued. *Ibid.* Finally, the Court indicated that it would appoint an Advisory Board
21 to advise and assist the Court and the Receiver on achieving the goals of the Receivership.
22 *Id.*, at p. 9.

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25 1. In *Madrid v. Gomez*, 889 F.Supp. 1146 (N.D. Cal. 1995), this Court found constitutional
26 violations at Pelican Bay State Prison involving excessive use of force, inadequate medical and mental health
27 care and conditions in the Security Housing Unit for mentally ill prisoners. The parties were ordered to
28 develop a remedial plan within 120 days.

1 The Receiver did not submit a plan on November 13. Instead, the Receiver now
2 requests an additional six months to submit a proposed plan and a full year to submit his final
3 plan, and urges the Court to defer appointment of an Advisory Board. Receiver's Motion, p.
4 21. Yet, far from supporting his plea for delay, the factors cited in the Receiver's Motion,
5 including the extraordinary complexity of the issues and deep bureaucratic intractability,
6 overwhelmingly militate *in favor* of the immediate submission of a plan. The Receiver
7 asserts that developing a plan at this time will impede his ability to respond to the multitude
8 of health care crises with flexibility, yet there is nothing in the development of a plan that is
9 inconsistent with remaining flexible and open to changing course when circumstances
10 require it. Finally, the factors that the Receiver cites to support his plea for a temporary delay
11 are deeply embedded in the fabric of the CDCR's health care delivery system, are likely to
12 remain there for years to come, and if accepted by the Court would justify an indefinite delay.

13 Plaintiffs, this Court and the Receiver are united in the commitment to cure the
14 terrible medical care problems that have caused an enormous degree of needless suffering
15 and death. To reach that goal, this Court wisely ordered the development of a detailed plan,
16 and plaintiffs agree strongly with the Court's approach. In order to address the profound
17 dysfunction and, in a very real sense, stop the bleeding, the Receiver must develop a plan
18 immediately. The dimensions of the health care quagmire are so vast that the Receiver must
19 develop, as the foundation for his actions, a well-coordinated plan that weaves together the
20 goals and strategies for system-wide reform. Without a coordinated plan as a foundation for
21 reform, there is a significant risk that the reform of the health care system will be
22 unnecessarily delayed.

23 Given the need to relieve immediate suffering, plaintiffs advocate for the development
24 of a plan as soon as practicable. Plaintiffs understand that development of a plan will be
25 time-consuming and are not opposed to a three-month extension to file the plan. If the
26 Receiver is not able to develop a comprehensive plan in that period, plaintiffs suggest that

1 the Court order the Receiver to provide an interim plan in three months, and every six months
2 thereafter until a final plan is submitted. Additionally, plaintiffs urge this Court to appoint an
3 Advisory Board immediately to enhance the resources available to the Receiver and this
4 Court.

5 Finally, as set forth below, this Court should deny the Receiver's motion to modify the
6 June 13, 2002 Stipulation for Injunctive Relief to lower the medical screening standards for
7 Reception Center prisoners at San Quentin on a pilot basis, as the motion is premature. A
8 decision on this motion should be deferred until the Receiver presents a final proposal for the
9 pilot project.

10 **II.**

11 **GIVEN THE OVERWHELMING DYSFUNCTION IN THE CDCR,**
12 **THE IMMEDIATE DEVELOPMENT OF A PLAN OF ACTION, OR**
13 **AN INTERIM PLAN, IS ESSENTIAL**

14 As this Court noted, its grant of power to the Receiver in this action is "unprecedented
15 in scope and dimension." Receiver Appointment Order, p. 9. With this extraordinary grant
16 of authority, this Court's Appointment Order also created a framework designed to promote
17 the success of the Receivership, and ensure public accountability and transparency. So, in
18 addition to vesting the Receiver with wide-ranging authority, this Court ordered the Receiver
19 to submit a number of documents, at specified intervals, to enable the Receiver to document
20 the activities of the Office of the Receiver, including a Plan of Action.²¹ The Court also
21 ordered that it would appoint a five-member advisory board to assist the Receiver and the

22 2. In addition to requiring the submission of a Plan of Action, this Court ordered the Receiver (1) to
23 develop a system for periodically reporting on the status of the CDCR's budget; (2) to submit bi-monthly
24 progress reports; (3) to submit to the Court monthly accountings for all receipts and expenditures for the
25 Office of the Receivership; (4) to arrange for a yearly audit of the Receiver's Office Fund Account; and (5) to
26 submit a yearly budget. *Id.* at pp. 2, 3, 6 and 7. To date, the Receiver has complied with items 1, 2 and 5.
He submitted a list of receipts and expenditures with the First Bi-Monthly Report, broken down by month.
The expenditures/receipts report submitted with the Second Bi-Monthly Report was not broken down by
month. Item 4 has not yet become due.

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28 AND ESTABLISH AN ADVISORY BOARD

1 court. *Id.* at p. 9.

2 With respect to the order for a Plan of Action, this Court was very specific: the
3 Receiver was required to include a proposed time line for all actions and a set of metrics by
4 which to evaluate the Receiver's progress and success. Receiver Appointment Order, p. 2.
5 This Court correctly recognized that, to end the suffering caused by the CDCR's terribly
6 broken system, California required both a strong and dynamic leader *and* a concrete and
7 detailed plan for that leader to oversee and implement.

8 Not only is the plan a vital element of any remedial strategy, it also serves other
9 critical interests that the Court values: accountability and transparency. As detailed below,
10 these interests are particularly acute in a setting such as this, where the Receiver has been
11 accorded sweeping powers over vast resources. A plan with metrics will permit progress
12 assessment and will provide a public roadmap for the Receiver's plans.

13 The Receiver has clearly established himself as a bold and creative leader who has
14 already started myriad initiatives, including projects to build 5000 new hospital beds, reform
15 the pharmacy system and improve access to care at San Quentin. Now the Receiver must
16 comply with the Court's order to develop a plan so that these projects fit into an overall
17 scheme for reforming the system.

18 **A. The Receiver Must Develop a Plan in Order to Deliver a Constitutional**
19 **Level of Health Care to Class Members.**

20 Health care delivery is complex, and multiple health care institutions under a single
21 organizational structure are among the most complex organizations in the United States. See
22 Peter Drucker, *Management: Tasks, Responsibilities, Practices*, Chapter 1, (Harper & Row,
23 1973). As explained by Dr. Bruce Spivey, a physician with three decades of management
24 experience including stints as the CEO of hospitals and multi-hospital organizations,
25 reforming a complex system requires a clear understanding of the organization's present
26 environment, strengths and weaknesses, agreement about needs to be accomplished, and a

1 plan of execution to accomplish the established goals and objectives. Spivey Decl., ¶ 6.
2 While a small, single health care entity might be able to “make it up on the fly,” a complex
3 health care entity requires strategic thinking, planning and effective implementation of plans.
4 *Id.* at ¶ 7. Indeed, in Dr. Spivey’s estimation, “to approach the vast delivery system which
5 encompasses the California prison medical care system without careful and creative strategic
6 planning” borders on a “suicidal mission.” *Ibid.*

7 While there are undoubtedly medical crises that require immediate ad hoc initiatives,
8 the dangers of attempting to resolve complex, multi-faceted problems in a piecemeal fashion
9 are obvious. “Curing” one issue may well undermine progress on a related issue, *e.g.*,
10 placing a population cap on one particularly dysfunctional prison will result in greater
11 suffering for prisoners who are diverted from that prison to another if there have been no
12 coordinated efforts to ensure that the new receiving prisons have the resources available for
13 the additional population. Solving one aspect of a problem may be futile if foundational
14 issues are not addressed, *e.g.*, contracting with additional specialty consultants in the
15 community will not result in improved access to care unless there is also a plan to increase
16 custody staffing for escorts, purchase and service additional transport vehicles, and enhance
17 the clerical staff to ensure specialist’s reports/recommendations are timely received and acted
18 upon. Attempting to create a constitutional health care system in the dysfunctional California
19 state prison system without a plan is like attempting to construct a skyscraper on a swamp
20 without a coordinated plan for the engineers, architects, contractors and construction workers
21 to follow.

22 Despite his professed misgivings about entering into plans for complex, multi-faceted
23 problems, the Receiver plainly understands the value of planning, as evidenced by his
24 approach to the San Quentin Project. In his First Bi-Monthly Report, the Receiver
25 documents his efforts to create a clinical environment at San Quentin where health care
26 professionals can provide quality care. Rather than attempting ad hoc fixes on blatantly

1 broken processes, the Receiver's San Quentin Project Team developed a corrective action
2 plan with a list of elements that required attention, developed strategies for addressing them,
3 coordinated processes for reporting project completion, and set forth a time line. Hardy Decl.
4 ¶ 2. In his Second Bi-Monthly, the Receiver explained that progress had been made in some
5 areas, that strategies had to be revised as new information came to light, and that the time
6 line for the Project had been extended. Second Bi-Monthly Report, pp. 24-45.

7 The Receiver's handling of the pharmacy crisis likewise demonstrates an appreciation
8 for the role of planning to resolve major problems. There, the Receiver worked with a
9 consultant to develop a "Roadmap" to guide the Receiver's efforts to create a sustainable
10 pharmacy system that delivers a constitutional level of service. Second Bi-Monthly Report,
11 pp. 20-21. It is unclear why the Receiver embraces planning to address elements of the
12 health care system, yet eschews development of a comprehensive plan.

13 The Receiver has initiated a number of ambitious projects in the first seven months in
14 office, and his accomplishments at San Quentin, on the pharmacy issue and in other areas are
15 impressive. Addressing certain aspects of the health care crisis, as he has, is certainly
16 important. What is still missing, however, is an overall plan that shows the relationships
17 between these discrete projects, sets forth the Receiver's priorities and makes clear the
18 Receiver's strategies for success. His first two bi-monthly reports describe upcoming
19 projects, and include hints about the Receiver's values (e.g., he repeatedly refers to his
20 interest in reducing taxpayer waste^{3/}), but this cannot substitute for a carefully conceived plan
21 that shows how the various projects to improve aspects of care will be coordinated to
22 produce a healthy, viable system. Without an overall Plan of Action, neither the Court, the
23 plaintiffs nor the public can evaluate, or even understand, the Receiver's strategies, priorities

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25 3. Plaintiffs query why the Receiver has apparently placed a premium on cost-cutting, in light of this
26 Court's charge to improve care. The production of a plan could shed light on how reducing taxpayer waste
fits into the overall goal of constructing a constitutional health care system.

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1 and overall vision for ensuring that these projects are coordinated to produce sustainable
2 improvement.

3 **B. Development of a Plan Will Serve the Public Interests of Accountability**
4 **and Transparency.**

5 In addition to serving as a blueprint to guide the Receiver and the CDCR, the Plan of
6 Action in this case will serve two basic principles of management in the public sector: the
7 need for accountability and for transparency. Accountability, both as an end itself and as a
8 means towards a more effective organization, is indispensable in situations where individuals
9 are vested with enormous power over organizations and resources. It requires clarity about
10 who is accountable to whom and for what, and that individuals be held accountable for their
11 decisions and their performance. It is premised on the obligation of public officials to report
12 on the use of public resources. Transparency is likewise essential in order to produce
13 quantifiable data to demonstrate progress towards stated goals, to ensure that public
14 resources are allocated responsibly, and to ensure that all stakeholders (including class
15 members, medical care workers and taxpayers) have accurate information to make well-
16 informed decisions.

17 Above all in this action, accountability and transparency are owed to the plaintiff
18 class. Sick and dying prisoners have suffered for years in a health care system characterized
19 by neglect, incompetence, and bureaucratic indifference. Now that the Receiver is in place,
20 those class members must be provided with essential information about how their access to
21 life-sustaining care is being improved, and about the pace of particular aspects of the reform
22 process. The class members are entitled to the Receiver's plan.

23 Accountability and transparency are also vital to the CDCR as it tries to work with,
24 and at the direction of, the Receiver. The failure to provide a plan only promotes confusion
25 and, indeed, bureaucratic paralysis, as CDCR officials are left to second-guess their own
26 efforts to improve prison health care. For example, in the Second Bi-Monthly Report, the

1 Receiver wrote, “The Office of the Receiver will begin a process to identify and stop Central
2 Office medical care projects, and to eliminate unneeded positions and pending BCP requests
3 that will not be necessary given the Receiver’s plans to reorganize the medical care delivery
4 system.” Second Bi-Monthly Report, p. 50. So, the Receiver has warned the CDCR that
5 certain of his projects will be discontinued, but has, so far as plaintiffs are aware, provided
6 no further direction in this regard. The Receiver must produce his plan so that all of the
7 parties, especially the CDCR, can make informed decisions on how to proceed to improve
8 health care.

9 The Court has granted the Receiver the authority, *inter alia*, to hire and fire, to enter
10 the state into binding contracts, and to control the spending of hundreds of millions of dollars
11 each year. In light of this extraordinary power, accountability and transparency are due, not
12 only to the class members and the CDCR, but also to all stakeholders, including the
13 taxpaying public, the community of medical workers, and the Legislature. Incorporation of
14 these principles into the Receivership will enhance the Receiver’s effectiveness by
15 minimizing potential challenges from stakeholders who may question the allocation of
16 enormous resources to ensure that prisoners have access to a constitutional level of health
17 care.

18 Transparency is also essential because the resolution of some medical care issues in
19 *Plata* will intersect with and require coordination with remedial efforts in at least three
20 other major lawsuits whose class members overlap with the *Plata* class: *Armstrong v.*
21 *Schwarzenegger* (C-94-2307 CW), *Coleman v. Schwarzenegger* (S-90-0520 LKK JFM), and
22 *Perez v. Tilton* (C-05-5241 JSW).

23 This Court has demonstrated its commitment to accountability and transparency in this
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1 and prior cases.⁴¹ In *Madrid v. Gomez*, 889 F.Supp. 1146 (N.D. Cal. 1995), for example,
2 after finding numerous constitutional violations that resulted in the infliction of severe
3 physical and psychological harm to class members, this Court ordered the parties “as soon as
4 practicable” to begin working together to develop a satisfactory remedial plan to address the
5 identified constitutional violations and relieve the suffering. As noted above, this Court
6 ordered that the plan be submitted within 120 days. Presumably, this court ordered the
7 development of a remedial plan recognizing that the elimination of constitutional violations
8 could not be effected with the stroke of the Court’s pen, but would take the sustained,
9 coordinated effort of numerous individuals over time. Undertaking remedial efforts under
10 these circumstances requires the development of a plan to focus attention, resources and
11 effort on the common goal. The justification for a Plan of Action in this case, involving
12 critical health care for prisoners at thirty-two state prisons, is more compelling.

13 **C. As Ordered by the Court, Metrics Must be an Integral Part of the Plan**

14 This Court ordered that the Receiver include in his plan a set of metrics. Metrics are
15 measures of key performance indicators, and are used to assess the impact of a particular
16 project to measure whether the goals of that activity have been met. Metrics have emerged as
17 an essential tool to obtain accountability from health care leaders. See Spivey Decl., ¶ 8. As
18 Dr. Spivey explains, “Without clear objectives, metrics and an understanding by all of what
19 is to be accomplished, every person is a successful leader and prophet.” *Ibid.* The Court
20 cannot be confident that improvement is occurring without strong planning, clarity and
21 measurement of accomplishments. *Ibid.*

22 A cogent plan showing what the Receivership intends to accomplish, coupled with a
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25 4. As this Court explained in a recent hearing, transparency must be an element of the remedial
26 process. Indeed, this Court specifically pointed out that during the Receivership interview process, he and
27 Mr. Sillen agreed that the Receivership would be characterized by transparency, and that “nothing would be
28 done in secret.” Hardy Decl., ¶ 3, Exh. A [Reporter’s Transcript, pp. 10, 12-13].

1 well-conceived set of metrics will ensure that the Receiver, the Court and the class members,
2 among others, have a yardstick for measuring and assessing the Receivership's work.

3 **D. The Receiver's Listed Reasons for Delaying Submission of a Plan of Action**
4 **In Fact Militate in Favor of Expediting a Plan**

5 The Receiver offers six reasons for delaying submission of the Plan of Action:

- 6 (1) the health care system is in worse shape than initially envisioned;
- 7 (2) the problems facing the system are highly interconnected;
- 8 (3) California's bureaucratic paralysis continues to plague the system;
- 9 (4) overcrowding is worsening and adversely impacts on the health care system;
- 10 (5) the system is fraught with taxpayer waste; and
- 11 (6) the Receiver may need to privatize some aspects of the system.

12 Receiver's Motion, pp. 2-9. According to the Receiver, in order "to effectuate long term
13 sustainable improvement" in the CDCR's health care system, which is plagued by the above-
14 listed issues, he should put off developing a plan. Receiver's Motion, p. 2. Instead, the
15 Receiver maintains that, in the face of these challenging issues, the Receiver should continue
16 to address problems on an ad hoc, piecemeal basis to preserve his flexibility.^{5/}

17 Plaintiffs agree with the Receiver that the health care system is abysmal, plagued by
18 myriad interconnected problems, including bureaucratic paralysis, overcrowding and
19 taxpayer wasted, and that certain aspects of the system may have to be privatized. But the
20 issues the Receiver has identified do not lessen the need for a plan in the short term. Rather,
21 in the face of these obstacles, the need for a Plan of Action is amplified. See Spivey Decl., ¶
22 10. Indeed, it is virtually unfathomable that anyone would attempt to reform so large a
23 system that is plagued with this level of dysfunction *without* a plan. See Spivey Decl., ¶ 7.

24
25 5. Absent from the Receiver's Motion and from the first two bi-monthly reports is any indication
26 that work on development of a plan has begun. This Court ordered the development of a plan nine months
27 ago, and the Receiver has had seven months in office to complete it. The request for an extension would be
28 more understandable had the Receiver shown diligent efforts to comply with the Court's order.

1 Perhaps most importantly, all six of the listed items were present a year ago, exist
2 now, and will very likely exist, to some degree, for years into the future. These factors, to a
3 large extent, illustrate why the State of California itself was not able to cure the egregious
4 constitutional violations, and why a Receiver had to be appointed. To accept these factors as
5 justifications for delaying the formulation of a plan at this time would be a license to delay
6 submission of a plan indefinitely.

7 **E. Development of a Plan Will Not Deprive the Receiver of Necessary**
8 **Flexibility**

9 The Receiver expresses concern that the development of a plan will impede his
10 effectiveness by depriving him of flexibility. He claims that because he is continually
11 encountering newly discovered obstacles, his office should not be bound by the establishment
12 of “final, permanent remedial plans.” Receiver’s Motion, p. 2. The Receiver appears to base
13 his objections to producing the court-ordered Plan of Action on concerns that the Receiver
14 will be required to follow the submitted plan, even in the face of newly discovered
15 information rendering aspects of the Plan inappropriate or obsolete. But, the concept of a
16 Plan of Action is not inconsistent with the notion that such plans may require modification as
17 new information is received or uncovered. As Dr. Spivey explains, the fact that the CDCR’s
18 problems are interconnected and severe compels the development of a plan as soon as
19 possible. The Receiver’s need for flexibility does not diminish the need for a plan, “but
20 instead suggests that it may need to be modified over time, which is certainly appropriate, if
21 not essential.” Spivey Decl., ¶ 9. “Rapidly developing a plan – even if it ends up being
22 incomplete and requiring substantial modification – is far better than no plan at all because
23 without a plan the tendency will be to be weighed down with the considerable immediate
24 problems as they are encountered. The enormity of the problem demands an overall strategic
25 plan as soon as possible.” Spivey Decl., ¶ 10 .

26 A lack of long-term planning has crippled the CDCR’s capacity to deal with vital

1 health care issues. Quoting the Office of the Legislative Analyst, this Court noted that the
2 CDCR's "programs are too often characterized by a lack of adequate long-term planning and
3 'crisis management' The lack of long-term planning has been apparent for years."
4 *Madrid v. Gomez, supra*, 889 F.Supp. 1146, 1282. Long-term planning is essential to reverse
5 the course the state has taken for years.

6 **F. The Court Should Appoint An Advisory Board Immediately**

7 This Court ordered that it would appoint an Advisory Board of no more than five
8 members to advise the Court and the Receiver with respect to achieving the Receivership's
9 goals. Receiver Appointment Order, p. 9. Presumably, this Court recognized that
10 reconstructing a health care system essentially from the ground up would require drawing on
11 a depth of resources that should include highly accomplished advisors with experience in the
12 clinical or administrative aspects of health care, or both. The Advisory Board was no doubt
13 never intended to impede the pace of the Receiver's remedial efforts, but rather to support
14 the Receiver and aid the Court by providing both with direct access to health care leaders
15 able to provide their unique perspective and advice regarding furtherance of the Receiver's
16 goals.

17 The Receivership claims that appointment of an Advisory Board at this juncture
18 would be premature because the Receiver currently requires the assistance of experts "in a
19 more hands-on, day-to-day capacity" to develop a sound Plan for Action. Receiver's Motion,
20 pp. 19-20. Plaintiffs do not doubt that the Receiver needs expertise at many levels of his
21 organization, and that his need for "hands-on" medical experts is particularly acute.
22 Nevertheless, it is difficult to conceive how the appointment of additional expert advisors
23 would do anything other than enrich the intellectual resources available to the Receiver.
24 Moreover, as noted above, the Board is intended to serve both the Court and the Receiver.
25 Even if the Receivership were not to avail itself of the Advisory Board's expertise, the Court
26 may well find its services useful. The Receiver offers no legitimate reason to delay

1 appointment of the Board any further.

2 **III.**

3 **THIS COURT SHOULD NOT APPROVE THE RECEIVER'S PROPOSAL**
4 **TO LOWER THE STANDARDS FOR MEDICALLY SCREENING**
5 **SAN QUENTIN'S RECEPTION CENTER PRISONERS AT THIS TIME**

6 The Receiver Appointment Order directed the Receiver to identify which of the
7 provisions of the June 13, 2002 Stipulation for Injunctive Relief and the September 14, 2004
8 Patient Care Order, should be modified or discontinued due to changed circumstances.
9 Receiver Order, p. 2. The Receiver has moved to modify the Reception Center screening
10 requirements, on a pilot basis, at San Quentin. The motion should be denied at this time
11 because the motion is premature as the Receiver has not yet finalized the alternative
12 screening proposal.

13 Plaintiffs share the Receiver's interest in reconsidering elements of the *Plata*
14 Stipulation and Policies & Procedures to ensure that the CDCR's health care resources are
15 used effectively. Moreover, plaintiffs are well aware that the Reception Center screening
16 process at San Quentin has long been backlogged and ineffective, and is thus ripe for reform.
17 However, neither plaintiffs nor the Court can assess the Receiver's pilot project proposal
18 because, as the Receiver acknowledges in his motion, it is still a "work in progress."
19 Receiver Motion, p. 16. According to the motion, the Receiver has sought the input of the
20 Court's Experts, who raised questions about aspects of the proposal, and the Receiver's
21 medical director Dr. Hill is coordinating meetings between the experts and the San Quentin
22 team to address these concerns. *Id.*, at 17. This motion should be revisited after the Receiver
23 has finalized the pilot project proposal, and presented it to this Court, the plaintiffs and the
24 Court Experts.

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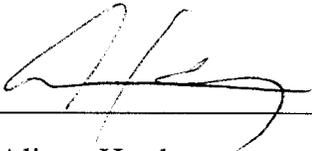
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V.
CONCLUSION

For the reasons cited above, plaintiffs urge this Court to order the Receiver to develop a Plan of Action or an Interim Plan, to appoint an Advisory Board, and to defer ruling on the Receiver's motion to modify the screening process at San Quentin pending submission of the final plan.

Dated: November ____, 2006

Respectfully Submitted
PRISON LAW OFFICE

By: 
Alison Hardy

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DECLARATION OF SERVICE BY MAIL

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

I am employed in the County of Marin, California. I am over the age of 18 years and not a party to the within entitled cause: my business address is Prison Law Office, General Delivery, San Quentin, California 94964.

On November 30, 2006, I served the attached:

- 1. **PLAINTIFFS' RESPONSE TO RECEIVER'S MOTIONS FOR AN EXTENSION OF TIME TO FILE A PLAN OF ACTION AND TO ESTABLISH AN ADVISORY BOARD, AND TO MODIFY THE JUNE 13, 2002 STIPULATION RE INJUNCTIVE RELIEF**
- 2. **DECLARATION OF ALISON HARDY IN SUPPORT**
- 3. **DECLARATION OF BRUCE SPIVEY IN SUPPORT**

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

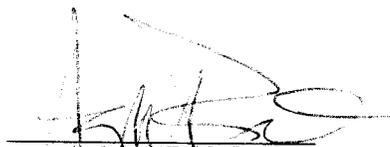
Jonathan Wolff
Deputy Attorney General
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455 Golden Gate Avenue, Suite 11000
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John Hagar, Special Master
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Paul Mello
Hanson Bridgett Marcus Vlahos & Rudy, LLP
333 Market Street, 21st Floor
San Francisco, CA 94105

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed at San Rafael, California on November 30, 2006.


Ashley Fewell