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12 Attorneys for Plaintiffs

13
14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA
16

17 RALPH COLEMAN, et al.,
18 Plaintiffs,
19 v.
20 EDMUND G. BROWN, Jr., et al.,
21 Defendants.

Case No. Civ S 90-0520 LKK-JFM

DECLARATION OF MICHAEL W. BIEN
IN REPLY TO DEFENDANTS'
RESPONSE TO ORDER TO SHOW
CAUSE RE: DEFENDANTS' EXPERT
REPORTS AND DECLARATIONS

Judge: Lawrence K. Karlton

22
23 I, Michael W. Bien, declare as follows:

24 1. I am an attorney at law, a member of the Bar of this Court and a partner of
25 the law firm, Rosen Bien Galvan & Grunfeld LLP, counsel of record for the plaintiff class
26 in this litigation. I have personal knowledge of the facts set forth herein and if called as a
27 witness, I could and would so testify competently. I submit this declaration in reply to
28 Defendants' Response to Order to Show Cause and Plaintiffs' Evidentiary Objections

1 Regarding Defendants' Expert Reports and Declarations.

2 2. I am lead counsel for the plaintiff class in this litigation. I have never given
3 permission to defense counsel or their experts, agents or consultants, to communicate with,
4 or interview my clients, prisoners with serious mental illness housed in CDCR prisons and
5 DSH hospitals, outside of my presence. I have never received written or oral notice from
6 opposing counsel, the Attorney General's Office, or from in-house counsel, Benjamin
7 Rice, or from Martin Hoshino or Matt Cate, that they had retained experts and were
8 conducting inspections of the prisons to be used for the *Coleman* litigation.

9 3. I was never informed by the Special Master that a representative of
10 defendants or the Attorney General or anyone else had informed him that they were
11 conducting inspections of CDCR prisons that included interviews and communications
12 with my clients or that retained experts were conducting inspections of the prisons for use
13 in the *Coleman* litigation.

14 4. I was never informed by my co-counsel, Donald Specter, that he had been
15 informed by Steve Martin that he was part of a team actively conducting inspections of
16 CDCR prisons for purposes of litigation on behalf of the Attorney General's Office that
17 included interviews of and communications with our clients. At the time Mr. Martin
18 recalls talking to Mr. Specter, "some time in the late summer or early fall of 2012,"
19 defendants had already conducted 10 secret prison inspections. Mr. Martin does not state
20 that he informed Mr. Specter that he was conducting formal prison inspections that
21 included interviews with mentally ill prisoners or that Mr. Specter gave his consent to the
22 secret tours. Mr. Specter, in *Plata*, litigated this very issue and obtained an order
23 prohibiting defendants from conducting secret tours with their retained experts without
24 notice to plaintiffs' counsel and the opportunity to observe the inspection and be present
25 for any communications with their prisoner clients. 2/21/13 Order, *Plata* Docket 2546.

26 5. Mr. Specter and I have been co-counsel on various cases against the State
27 concerning prison and parole conditions, for more than 25 years including but not limited
28 to *Gates*, *Coleman*, *Armstrong*, and *Valdivia*, and most recently, the three-judge court

1 proceedings in the coordination of *Coleman* and *Plata*. In each of these cases, plaintiffs'
2 counsel has always insisted on being present for any inspections of CDCR facilities by
3 defendants' retained experts, and where possible, have arranged for plaintiffs' experts to
4 participate in the inspection. In each of these cases the Attorney General's Office has
5 represented the State defendants.

6 6. I have had conversations with Martin Hoshino, Mathew Cate, and other
7 senior CDCR and State of California officials, including representatives of the Governor,
8 from time to time during the course of this litigation without notice to the Attorney
9 General's Office. Some of the conversations included Donald Specter and I have also
10 been informed by Mr. Specter that he has also had conversations with Secretary Cate,
11 Secretary Beard and other senior CDCR and State of California officials. In virtually
12 every case, Benjamin Rice, CDCR General Counsel, or another attorney representing the
13 State or CDCR was present, had been informed or gave permission. Secretary Beard, at
14 his deposition in this case on March 5, 2013 in the presence of Paul Mello of Hanson
15 Bridgett and Benjamin Rice, invited me to call him at his office at any time to set up a
16 meeting. At times, including during discussions with Mr. Hoshino, Secretary Cate and
17 Benjamin Rice in 2012, the CDCR and State officials I have communicated with,
18 including Mr. Rice, have specifically requested that we exclude the Attorney General's
19 Office from our meeting or conversations.

20 7. The Special Master and his Team are authorized by the Order of Reference
21 of this Court, and have plaintiffs' counsel permission, to communicate with and interview
22 my clients.

23 8. Attached hereto as **Exhibit 1**, is a true and correct copy of excerpts from the
24 transcript of the deposition of Joel Dvoskin taken February 27, 2013 in San Francisco,
25 California and lodged with this Court on March 15, 2013.

26 9. Attached hereto as **Exhibit 2** is a true and correct copy of Dr. Dvoskin's
27 contract with the AG's Office which was authenticated as Exhibit 2 to his deposition and
28 which states that Dr. Dvoskin's retention was for purposes of assisting the Department of

1 Justice “in its defense of the case referenced herein” [Coleman v. Brown], at DEXP
2 103092 ¶ 1, and was authenticated at pages 16-17 of the transcript of his deposition.

3 10. Attached hereto as **Exhibit 3**, is a true and correct copy of excerpts from the
4 transcript of the deposition of Charles Scott taken March 8, 2013 in Davis, California and
5 lodged with this Court on March 15, 2013.

6 11. Attached hereto as **Exhibit 4**, is a true and correct copy of excerpts from the
7 transcript of the deposition of Jacqueline Moore taken February 21, 2013 in San Francisco,
8 California and lodged with this Court on March 15, 2013.

9 12. Attached hereto as **Exhibit 5** is a true and correct copy of an e-mail sent by
10 Patrick McKinney to Joel Dvoskin, Jackie Moore, Charles Scott, and Steve Martin, cc’ing
11 William Downer, Jay Russell, and Debbie Vorous, on July 20, 2012, and which was
12 produced by Defendants as DEXP 000021-22.

13 13. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts from the
14 transcript of the deposition of Steve Martin taken February 28, 2013 in San Francisco,
15 California and lodged with this Court on March 15, 2013.

16 14. Attached hereto as **Exhibit 7** is a true and correct copy of an e-mail sent by
17 Patrick McKinney to Joel Dvoskin, Jackie Moore, Charles Scott, and Steve Martin, cc’ing
18 David Spagnolo and Debbie Vorous, on February 24, 2012, and which was produced by
19 Defendants as DEXP 000014.

20 15. My ability to defend defendants’ termination motion has been seriously
21 compromised by defendants’ decision to conduct secret inspections of the prisons and to
22 interview my clients without my permission and outside my presence. As reflected in the
23 cross-examination of Dr. Packer and Dr. Thomas in the three-judge court and Drs. Koson
24 and Dvoskin in the 1993 *Coleman* trial, where plaintiff counsel is given notice of a defense
25 expert prison inspection and the opportunity to accompany him or her on the inspection, an
26 effective cross-examination or deposition can be undertaken. When plaintiffs’ counsel is
27 present to see and hear the same information that is provided to the defense expert, to note
28 the time spent in different locations and with different prison officials, to record the names

1 of prisoners and employees interviewed and to copy or make note of the documents and
2 records that the expert witness was provided access to, we have a fair opportunity to
3 understand the foundation of the expert's opinion. We can separate facts that were "fed"
4 to the expert by defendants and their representatives from facts that they gleaned on their
5 own from observations and interviews. We can speak privately to our clients, explain the
6 purpose of the inspection and ask them if they are willing to speak with defense experts or
7 prefer not to for whatever reason. While I usually encourage my clients to speak with
8 defense experts, I have advised clients who have pending criminal cases or serious
9 disciplinary charges not to participate.

10 16. Defendants' expert reports did not include a list of the names of prisoners
11 and state employees that they spoke with, when and where they spoke with them, or
12 identification of which medical records and documents they reviewed, when they reviewed
13 them and where they are located. The Joint Report did not identify the role of each expert,
14 who attended each tour, or break down the specific tasks and assignments of the three joint
15 experts. Defendants' document production and notes did not cure the confusion. No
16 matter how much time and energy I could spend in a deposition with one of these experts, I
17 will never know what was really said to them by who on a certain day at a certain prison,
18 what the conditions were like that day at the prison, whether there were incidents on the
19 Unit—a riot, an attempted suicide or other emergency--how many hours they spent in each
20 unit and what parts they skipped altogether. Even if I look at a later version of the medical
21 record, I will never know what the record looked like the day they examined it. The
22 missed inspection can never be recreated and the missed opportunity as plaintiffs' counsel
23 cannot be cured.

24 17. Ms. Vorous's declaration at Paragraph 4 (Dkt. No. 4496) gives the incorrect
25 impression that she was the sole defense attorney present at the California State Prison,
26 Sacramento tour (which took place on January 29, 2013, not January 28, 2013 as she
27 reports), and that it was normal for Plaintiffs to send four attorneys. First, Ms. Vorous was
28 one of three defense attorneys on the tour. She was accompanied by attorneys Katherine

1 Tebrock and Heather McCray. At all times, CDCR had enough attorneys present to
2 monitor any discussions with staff that took place. In addition to three attorneys for the
3 state, we were accompanied by several high-ranking state officials, including Nathan
4 Stanley, CDCR Deputy Director Mike Staynor, Warden Virga, and the head of CSP-
5 Sacramento's mental health program, Dr. Shama Chaiken, as well as others. It was highly
6 unusual for Plaintiffs to have four attorneys on a tour. The Sacramento tour took place at
7 the beginning of a highly compressed discovery period, during which five experts would
8 tour prisons up and down the state. It was necessary and appropriate for Plaintiffs to use
9 this early tour close to the Bay Area to orient two newer attorneys to the tour process.
10 Subsequent tours generally included only one or two attorneys for Plaintiffs. Defendants,
11 however, consistently sent a large entourage of attorneys and state officials. There was
12 only one expert, Dr. Stewart, on this tour and the group stayed together, in the same
13 locations, at all times. At no time did I, nor did I observe or hear any other attorney for the
14 plaintiffs, make any effort to speak with a state employee outside the presence of defense
15 counsel.

16 I declare under penalty of perjury under the laws of the United States and the State
17 of California that the foregoing is true and correct, and that this declaration is executed at
18 San Francisco, California this 26th day of March, 2013.

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21 Michael W. Bien
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Exhibit 1



Transcript of the Testimony of:

Joel Dvoskin, Ph.D., ABPP

Coleman v. Brown

February 27, 2013

Volume I

THORSNES LITIGATION SERVICES, LLC
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, ET AL.,)
)
 Plaintiffs,)
) CASE NO.:
 vs.) S 90-0520 LKK-JFM
)
 EDMUND G. BROWN, JR., ET AL.,)
)
 Defendants.)
 _____)

DEPOSITION OF
JOEL DVOSKIN, PH.D., ABPP
WEDNESDAY, FEBRUARY 27, 2013, 9:14 A.M.
SAN FRANCISCO, CALIFORNIA

REPORTED BY: MEGAN F. ALVAREZ, RPR, CSR NO. 12470
THORSNES LITIGATION SERVICES, LLC

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, ET AL.,)
)
Plaintiffs,)
)CASE NO.:
vs.)S 90-0520 LKK-JFM
)
EDMUND G. BROWN, JR., ET AL.,)
)
Defendants.)
_____)

The Deposition of JOEL DVOSKIN, PH.D., ABPP,
taken on behalf of the Plaintiffs, before Megan F.
Alvarez, Certified Shorthand Reporter No. 12470,
Registered Professional Reporter, for the State of
California, commencing at 9:14 a.m., on Wednesday,
February 27, 2013, at Rosen, Bien, Galvan & Grunfeld,
LLP, 315 Montgomery Street, 10th Floor, San Francisco,
California.

1 APPEARANCES OF COUNSEL:

2 FOR PLAINTIFFS:

3 BY: MICHAEL BIEN, ESQ.
4 AARON FISCHER, ESQ.
5 JANE KAHN, ESQ.
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12 FOR DEFENDANTS:

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20 DEBBIE.VOROUS@DOJ.CA.GOV

21 BY: HEATHER L. McCRAY, ESQ.
22 DEPARTMENT OF CORRECTIONS AND REHABILITATION
23 OFFICE OF LEGAL AFFAIRS
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916.324.4123
916.327.5306 FAX

1 was \$100,000?

2 A. That's correct.

3 Q. I'm sorry. Going back to the second page of
4 the document, 103092.

5 You understood this was a contract for expert
6 witness services?

7 The first sentence there.

8 A. That's what the contract says.

9 Q. Okay.

10 A. And so I proceeded on the -- you never know if
11 you're actually going to be an expert witness when you
12 start working on these, but that was the contract and
13 that was the way I proceeded.

14 Q. You understood that you're being retained for
15 litigation purposes?

16 A. Yes.

17 Q. Okay. And the field -- it describes your
18 field as psychology and prison administration?

19 A. I think that's what they said, yeah.

20 Q. Do you agree that's your field?

21 A. Those are some of my fields.

22 Q. Okay. And if you go down to the last four
23 pages of this first part, starting with 103098, is that
24 a copy of your CV?

25 A. At the time, yes.

1 A. Same answer I gave before. It seems
2 reasonable to me.

3 Q. Okay. Okay.

4 A. And it would -- the appropriateness of the
5 individual case would depend on the individual case.

6 Q. Of course.

7 A. Is that all for this one?

8 Q. Yes, I was going to ask you...

9 MR. BIEN: Mark next exhibit in order, No. 6,
10 some handwritten notes produced by defendants
11 represented to be from Dr. Dvoskin. They bear
12 production numbers DEXP103258 through -263.

13 (Plaintiffs' Exhibit 6 was marked for
14 identification.)

15 THE WITNESS: Okay.

16 BY MR. BIEN:

17 Q. Dr. Dvoskin, are these your notes?

18 A. Yes.

19 Q. Okay. And do you recall attending a meeting
20 in Sacramento, approximately October of 2011, as one of
21 your first events in your work on this case?

22 A. Yeah. I think it was my first event, other
23 than some -- the telephone calls I previously discussed.

24 Q. Okay. And who was present at the meeting?

25 A. Well, I happen to know that.

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Steve Martin.

Q. You just turned to look at something?

A. On the next-to-the-last page, I actually -- when I go into a big meeting, I have a habit of making a little seating chart so that I can remember -- there was a lot of new faces to me, and I wanted to make sure I remembered who people were.

So as the people introduced themselves, I do it in the same -- I've been doing this for many years.

Q. So you're on page 103262?

A. Yes.

Q. Okay.

A. Do you want me to read the names to you?

Q. Sure.

A. Steve Martin. Jim Scaramozzino, S-C-A-R-M-A-Z-I-N-O, although I think that's a misspelling. I think there's an A missing there.

Judy Burleson, B-U-R-L-E-S-O-N.

Debbie Juarez, J-U-A-R-E-Z.

Pat McKinney, M-c-K-I-N-N-E-Y.

Jackie Moore.

Martin -- I think I spelled his name wrong.

Q. Is that Martin Hoshino?

A. Yeah. I have A-S-H-I-N-O, but I think it's --

Q. That's okay. I don't need you to read what's

1 there. Let's just go over the names.

2 Was it Debbie Vorous that was there rather
3 than Juarez?

4 A. Oh, yes, it was.

5 THE WITNESS: You must not have spoken very
6 loudly at the time.

7 BY MR. BIEN:

8 Q. I'm just going to go through the names. Tell
9 me if I'm right.

10 Rick Subia, he's from Department of
11 Corrections?

12 A. Yes.

13 Q. And Katherine Tebrock, lawyer for Department
14 of Corrections?

15 A. Yes.

16 Q. Ben Rice, who's CDCR general counsel?

17 A. Yes.

18 Q. Cynthia Rodriguez? It says "counsel at DMH."

19 A. Yes.

20 Q. And David Brice, another AG?

21 A. Yes.

22 Q. Gabriel Sanchez, another deputy AG?

23 A. Yes.

24 Q. And then Rodney Reed from UC Davis?

25 A. Yes.

1 Q. And David Bobb from UC Davis?

2 A. Yes.

3 Q. And then you?

4 A. Yes.

5 Q. And Dr. Scott?

6 A. Yes.

7 MS. VOROUS: If I could interject, it's
8 actually Gabriel Sanchez. I think -- just in terms of
9 the spelling.

10 THE WITNESS: The names are on here.

11 BY MR. BIEN:

12 Q. So in addition to the four experts that have
13 been retained, there were Mr. Subia and Mr. Hoshino from
14 CDCR administrators; is that right? You understood
15 that?

16 A. Yes.

17 Q. Okay. And then Judy Burleson and
18 Jim Scaramozzino were there from CDCR mental health?

19 A. Yes.

20 Q. And everyone else was a lawyer for the
21 defendants, either in-house or AGs?

22 A. No. The two fellows, David Bob and
23 Rodney Reed, were psychiatric fellows that worked with
24 Dr. Scott.

25 Q. Right.

1 So coming back to the first page of this
2 meeting, what did you understand the purpose of the
3 meeting to be?

4 A. To set some context for what we were being
5 asked to do, to explain some of the litigation history
6 and the current status of the litigation and the
7 question that we were being asked.

8 Q. Okay. And I'm looking on the first page where
9 it says -- I think I'm reading your handwriting right --
10 "six areas"?

11 A. Six areas.

12 Q. Right. Are these the six areas that you were
13 asked to investigate or --

14 A. No. These were six -- well, kind of. But
15 these were six areas that the plaintiffs had alleged,
16 and I believe that the judge had found problems in six
17 general areas that were the topics of interest of the
18 Coleman litigation and monitoring and remedial work.

19 Q. Do you know what the reference sort of towards
20 the bottom "agreement to work over 90-day period"
21 referred to?

22 A. I do not.

23 Q. Okay. What about "wait list 142"?

24 A. I assume that referred to the wait list for
25 something. Maybe for inpatient care. But my note

1 wasn't clear, so I don't know what it refers to.

2 Q. What about the number at the bottom? Is that
3 a dollar sign? Can you read what that says there?

4 A. "\$42 million monitoring."

5 Q. What was that a reference to?

6 A. It was -- there was some discussion about the
7 inordinate expense that went with the monitoring as
8 opposed to care -- as opposed to approving care, that
9 the monitoring itself bore an unprecedented expense.

10 Q. Who informed you of that at the meeting?

11 A. I would -- I don't remember which person, but
12 it could have been almost anybody in the room except for
13 the four of us and the two fellows. It was, I think, a
14 widespread belief that monitoring costs were excessive.

15 Q. Did they explain what they meant by
16 "excessive"?

17 A. Too much.

18 Q. Too much. Too much relative to what?

19 A. I inferred from the discussion that they
20 thought that the monitoring wasn't focused enough; that
21 it was micromanagerial in nature; that details were
22 being monitored at great expense.

23 There was a comment made that there were four
24 full-time attorneys working for the special master and
25 the -- that no one -- something to the effect of, "I

1 BY MR. BIEN:

2 Q. Okay. Coming back to your meeting in
3 Sacramento, Exhibit 6, if you pull that out. It's your
4 handwritten notes.

5 MR. BIEN: This is Aaron Fischer from my
6 office.

7 THE WITNESS: Hi, Aaron.

8 BY MR. BIEN:

9 Q. On page 2, could you -- there's some
10 discussion four rows down, they measure and report
11 120 items by level of care.

12 Was this some of the discussion that you
13 already talked about about the special master's
14 monitoring?

15 A. Yeah. I was just taking notes as they were
16 presenting the status of things.

17 Q. Okay. And, again, so they were -- I'll just
18 say complaining about the extent of the monitoring and
19 the detail orientedness of the monitoring; is that a
20 fair summary?

21 A. Yeah, that's a fair summary.

22 Q. What does it say at the top of the page?

23 A. I was afraid you were going to ask me about
24 that.

25 It says: "Judge Karlton hates State and AG."

1 And I probably wish I hadn't written that note, but I
2 think there was a general belief that any time there was
3 a disagreement between the special master and the State,
4 that the judge would simply agree with the special
5 master. So that they didn't feel like it was a level
6 playing field, I guess, to put it -- and I wish I hadn't
7 written that.

8 Q. You wrote it down because it was stated at
9 that meeting?

10 A. Yeah, I believe so.

11 Q. Do you know who said that?

12 A. I do not.

13 Q. How did you select the number of prisons --
14 the prisons that you toured?

15 A. We had a meeting -- might have been that same
16 day or shortly thereafter -- where we -- we kind of sat
17 around, and I asked for a list of, like, which kind of
18 programs are at which programs. And there were people
19 from CDCR there, and I asked them questions about, you
20 know, I say "I"; we all did.

21 All four of us weighed in about -- we wanted a
22 reasonable sample that would cover the types of programs
23 that existed. We asked specifically for one prison that
24 didn't have much of anything. I think we picked
25 Centinela for that.

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CERTIFICATE OF REPORTER

I, MEGAN F. ALVAREZ, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the events of this cause, and that I am not related to any of the parties hereto.

DATED: March 1, 2013

MEGAN F. ALVAREZ
RPR, CSR 12470

Exhibit 2

AGREEMENT NUMBER	11-6459
REGISTRATION NUMBER	eP 1182434

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

DEPARTMENT OF JUSTICE

CONTRACTOR'S NAME

JOEL A. DVOSKIN, Ph.D., A.B.P.P.

2 The term of this Agreement is: 9/1/11 through 6/30/12

3. The maximum amount of this Agreement is: \$ 100,000.00 One Hundred Thousand Dollars and No Cents.

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

- Exhibit A – Scope of Work 1 page
- Exhibit B – Budget Detail and Payment Provisions 2 pages
- Exhibit C* – General Terms and Conditions GTC 610
- Check mark one item below as Exhibit D:
 - Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) 3 pages
 - Exhibit - D* Special Terms and Conditions
- Exhibit E – Contractor's Resume 4 pages

DOJ Docket No.: 48170 286 CF1997CS0003 DAG: Patrick McKinney Case Name: Coleman v. Brown

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ois.dgs.ca.gov/Standard+Language/default.htm

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

JOEL A. DVOSKIN, Ph.D., A.B.P.P.

BY (Authorized Signature)

[Handwritten Signature]

DATE SIGNED (Do not type)

9/19/11

PRINTED NAME AND TITLE OF PERSON SIGNING

JOEL A. DVOSKIN, Ph.D., A.B.P.P.

ADDRESS

668 E. Weckl Place Tucson, AZ 85704-6076 Telephone: (520) 577-3051

STATE OF CALIFORNIA

AGENCY NAME

DEPARTMENT OF JUSTICE

BY (Authorized Signature)

[Handwritten Signature]

DATE SIGNED (Do not type)

OCT 18 2011

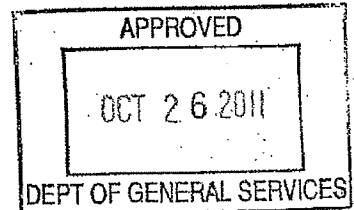
PRINTED NAME AND TITLE OF PERSON SIGNING

STEPHEN F. NAPOLILLO, Manager, Contracts Unit

ADDRESS

1300 I Street, 8th Floor Sacramento, CA 95814

California Department of General Services Use Only



Exempt pac

[Handwritten Signature]

Joel Dvoskin February 27, 2013 Exhibit No. 2 Megan F. Alvarez RPR, CSR No. 12470

**EXHIBIT A
(Standard Agreement)**

SCOPE OF WORK

1. Contractor agrees to provide to the Department of Justice (DOJ) expert witness services as described here:

Contractor, **JOEL A. DVOSKIN, Ph.D., A.B.P.P.**, an expert in the field of **psychology and prison administration**, will provide consultation, advice and services to, and on behalf of, the Department of Justice in its defense of the case referenced herein. Services to include, but may not be limited to: reviewing and analyzing records, preparing a report of the findings, and providing testimony via deposition and/or trial, if necessary.

Case Name: **Coleman v. Brown**
 Docket No.: **48170 286 CF1997CS0003**

2. The project representatives during the term of this agreement will be:

State Agency: DEPARTMENT OF JUSTICE	Contractor: JOEL A. DVOSKIN, Ph.D., A.B.P.P.
Name: Patrick McKinney, DAG	Name: JOEL A. DVOSKIN, Ph.D., A.B.P.P.
Address: 455 Golden Gate Avenue, Ste. 11000	Address: 668 E. Weckl Place
City/State/Zip: San Francisco, CA 94102-7004	City/State/Zip: Tucson, AZ 85704-6076
Phone: (415) 703-3035	Phone: (520) 577-3051
Fax: (415) 703-5843	Fax: (520) 577-7453

EXHIBIT B
(Standard Agreement)
BUDGET DETAIL AND PAYMENT PROVISIONS

Payment For full and satisfactory performance of the services provided pursuant to this Agreement, the Department of Justice shall pay the Contractor the following rates:

\$300/hr for records review, consultations and other non-testimony services; **\$300/hr** for travel, deposition and trial testimony; plus reasonable out-of-pocket expenses as incurred.

The total amount which may be paid under this Agreement shall not exceed **\$100,000.00** with the actual amount being dependent upon the extent of the Contractor's services required by the Department of Justice.

Travel and per diem expenses necessarily incurred in performance of the services rendered shall be reimbursed in accordance with the current State of California, Department of Personnel Administration Regulations applicable to State of California employees. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the Department of Justice.

The Contractor understands that no Federal or State income tax shall be withheld from the payments under this Agreement. However, the State of California is required to report all payments to the Internal Revenue Service and Franchise Tax Board for tax purposes.

Invoicing The Contractor shall submit monthly invoices, in arrears, stating the Agreement Number, dates of service, description of service(s) provided on those dates, charges for those services, any expense(s) incurred, and a total amount payable for each invoice. For all expenses incurred, each invoice must include necessary supporting documents and/or substantiation of travel and per diem costs, except mileage. The invoice shall be submitted to:

OFFICE OF THE ATTORNEY GENERAL
Attn: **Patrick McKinney**, DAG
455 Golden Gate Avenue, Ste. 11000
San Francisco, CA 94102-7004

Budget Contingency Clause It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

Prompt Payment Clause Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code section 927, et seq.

Federally Funded Contracts All contracts, except for state construction projects, that are funded in whole or in part by the federal government must contain a 30-day cancellation clause and the following provisions:

It is mutually understood between the parties that this contract may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the contract were executed after the determination was made.

EXHIBIT B
(Standard Agreement)
BUDGET DETAIL AND PAYMENT PROVISIONS

This contract is valid and enforceable only if sufficient funds are made available to the state by the United State Government for the grant fiscal year(s) n/a for the purposes of this program. In addition, this contract is subject to any additional restrictions, limitations or conditions enacted by the Congress or to any statute enacted by the Congress may affect the provisions, terms, or funding of this contract in any manner.

The parties mutually agree that if the Congress does not appropriate sufficient funds for the program, this contract shall be amended to reflect any reduction in funds.

The department has the option to invalidate the contract under the 30-day cancellation clause or to amend the contract to reflect any reduction in funds.

EXHIBIT D
(Standard Agreement)
SPECIAL TERMS AND CONDITIONS

Control and Direction The Department of Justice shall at all times maintain control and direction over the scope of work being performed under this Agreement. The Department of Justice reserves the right to change the tasks as defined within the general scope of the work to be performed by the Contractor. These changes shall be accomplished by written amendment to this Agreement.

Termination The Department of Justice reserves the right to terminate this Agreement when such termination is in the best interest of the Department. Such termination is subject to 30 days written notice to the Contractor.

Any such termination shall be effected by delivery to the Contractor of a notice of termination specifying whether termination is for default of the Contractor or for the convenience of the Department of Justice, the extent to which performance of services under this Agreement is terminated, and the date upon which such termination becomes effective. After receipt of a notice of termination and except as otherwise directed by the Department of Justice, the Contractor shall:

- o Stop work under this Agreement on the date and to the extent specified in the notice of termination;
- o Transfer title to the Department of Justice (to the extent that title has not already been transferred) and deliver in the manner, at the times, and to the extent directed by the Department of Justice the work in process, completed work and other material produced as a part of, or acquired in respect of the performance, the work terminated.

Contractor may submit a written request to terminate this Agreement only if the State should substantially fail to perform its responsibilities as provided herein.

Confidentiality of Data All financial, statistical, personal, technical, and other data and information relating to the Department of Justice's operations which are designated confidential by the Department of Justice and made available to the Contractor in order to carry out this Agreement, or which becomes available to the Contractor in carrying out this Agreement, shall be protected by the Contractor from unauthorized use and disclosure. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the Department of Justice to be adequate for the protection of the Department of Justice's confidential information, such methods and procedures may be used, with the written consent of the Department of Justice, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Agreement, or is rightfully obtained from third parties.

Copyrights and Rights in Data The Department of Justice reserves the right to use, to authorize others to use, duplicate and disclose, in whole or in part, in any manner for any purpose whatsoever, the activities supported by this Agreement that produce original computer programs, writings, sound recordings, pictorial reproductions, drawings, or other graphical representation and works of any similar nature (the term computer programs includes executable computer programs and supporting data in any form). The Department of Justice reserves its right to any original materials produced pursuant to this Agreement.

Publications Before publishing any materials produced by activities supported by this Agreement, the Contractor shall notify the Department of Justice ninety (90) days in advance of any such intended publication and shall submit twenty (20) copies of the materials to be published. Within sixty (60) days after any such materials have been received by the Department of Justice, the Department of Justice shall submit to the Contractor its comments with respect to the materials intended to be published. The Contractor shall determine, within ten (10) days after receipt of any such comments, whether or not to revise the materials to incorporate the comments of the Department of Justice and shall advise the Department of Justice of its determination within fifteen (15) days after such comments have been received by the Contractor. If the Contractor determines not to incorporate any of the comments of the Department of Justice into the text of the materials, it may publish the materials provided that the initial preface of introduction to these materials as published contain the following:

- o A disclaimer statement reading as follows: "The opinions, findings, and conclusions in this publication are those of the author and not necessarily those of the Department of Justice. The Department of Justice reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use and to authorize others to use these materials."
- o The comments of the Department of Justice are full, unabridged, and unedited.

EXHIBIT D
(Standard Agreement)
SPECIAL TERMS AND CONDITIONS

If the Contractor wishes to incorporate some or any of the comments of the Department of Justice in the text of the materials, it shall revise the materials to be published and resubmit them to the Department of Justice which shall prepare comments on the resubmitted data within thirty (30) days after receipt thereof. Within ten (10) days after receipt of these comments, the Contractor shall determine whether or not to accept or adopt any of the comments on the revised materials as resubmitted to the Department of Justice and shall advise the Department of Justice of this determination within fifteen (15) days after receipt of the comments of the Department of Justice. Thereafter, the materials may be published or revised in accordance with the procedures set forth above for the publication of materials on which the Department of Justice has submitted the comments to the Contractor.

If the Department of Justice has not submitted its comments on any materials submitted to it within ninety (90) days after the Department of Justice has received any such materials, the Contractor may proceed to publish the materials in the form in which they have been submitted to the Department of Justice but shall include the credit statement and the disclaimer statement set forth above, but without any further comments.

Patents If any discovery or invention arises or is developed in the course of or as a result of work performed under this Agreement, the Contractor shall refer the discovery or invention to the Department of Justice. The Contractor hereby agrees that determinations of rights to inventions or discoveries made under this Agreement shall be made by the Department of Justice, or its duly authorized representative, who shall have the sole and exclusive powers to determine the disposition of all rights in such inventions or discoveries, including title to and license rights under any patent application or patent which may issue thereon. The determination of the Department of Justice, or its duly authorized representative, shall be accepted as final. The Contractor agrees and otherwise recognizes that the Department of Justice shall acquire at least an irrevocable, nonexclusive, and royalty-free license to practice and have practiced throughout the world for governmental purposes and invention made in the course of or under this Agreement.

Assignment or Subcontracting It is the policy of the Department of Justice to withhold consent from proposed assignments, subcontractors, or novations when such transfer of responsibility would operate to decrease the Department of Justice's likelihood of receiving performance on this Agreement. No performance of this Agreement or any portion thereof may be assigned or subcontracted by the Contractor without the express written consent of the Department of Justice and any attempt by the Contractor to assign or subcontract any performance of this Agreement without the express written consent of the Department of Justice shall be void and shall constitute a breach of this Agreement.

Whenever the Contractor is authorized to subcontract or assign, all the terms of this Agreement shall be included in such subcontract or assignment.

Covenant Against Contingent Fees The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Department of Justice shall have the right to terminate this Agreement in accordance with the termination clause and, in its sole discretion, to deduct from this Agreement's price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

Disputes Except as otherwise provided in the Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Department of Justice who shall reduce its decision in writing and mail or otherwise furnish a copy thereof to the Contractor. The Contractor has fifteen (15) calendar days after receipt of such decision to submit a written protest to the Department of Justice specifying in detail in what particulars the Contractor disagrees with the Department's decision. Failure to submit such protest within the period specified shall constitute a waiver of any and all rights to adjustment of the Department's decision and the Department of Justice's decision shall be final and conclusive. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of this Agreement.

Consultant Services (Applies Only to Consultant Services Contracts) The Contractor is advised that the provisions of Public Contract Code sections 10335 through 10381 pertaining to the duties, obligations, and rights of a consultant service Contractor are applicable to this Agreement. Within sixty (60) days after completion of this Agreement, the Contract Manager shall complete a written evaluation of Contractor's performance under this Agreement. If Contractor did not satisfactorily perform the work, a copy of the evaluation will be sent to the State Department of General Services, Office of Legal Services, and to Contractor within fifteen (15) working days of the completion of the evaluation (PCC 10369). This evaluation shall not be a public record.

EXHIBIT D
(Standard Agreement)
SPECIAL TERMS AND CONDITIONS

Outside Legal Counsel (Applies Only to Outside Legal Counsel Contracts) The Contractor shall agree to adhere to legal costs, billing guidelines, litigation plans, and case phasing of activities designated by the Department of Justice. The Contractor shall also submit and adhere to legal budgets as designated by the Department and shall maintain legal malpractice insurance in an amount not less than \$1,000,000.00. The Contractor shall also submit to legal bill audits and law firm audits if requested by the Department. The audits may be conducted by employees or designees of the Department of Justice or by legal cost control providers retained by the Department for that purpose. A contractor may be required to submit to a legal cost and utilization review, as determined by the Department.

Conflict with Existing Law The Contractor and the Department of Justice agree that if any provision of this Agreement is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of this Agreement shall remain in full force and effect. Either party having knowledge of such terms or provision shall promptly inform the other of the presumed nonapplicability of such provision. Should the offending provision go to the heart of this Agreement, this Agreement shall be terminated in a manner commensurate with the interest of both parties, to the maximum extent reasonable.

PREVAILING WAGE (Applies Only to Moving, Courier, Security, Video services)

No Contractor or subcontractor performing hereunder shall pay any employee actually engaged in the moving and handling of goods being relocated under such contract less than the prevailing wage rate, as prescribed by California Government Code Section 14920.

It is hereby mutually agreed that the Contractor shall forfeit to the Department a penalty of twenty-five dollars for each calendar day, or portion hereof, for each worker paid by him, or subcontractor under him, less than the prevailing wage so stipulated; and in addition, the Contractor further agrees to pay to each worker the difference between the actual amount paid for each calendar day, or portion thereof, and the stipulated prevailing wage rate for the same. Upon the request of the Department of Industrial Relations, these penalties shall be withheld from progress payment due.

Employee Benefits (Applies ONLY to Janitorial and Security Guard services) The Contractor shall comply with Government Code (GC) section 19134, which requires contractors to provide employee benefits that are valued at least 85% of the state employer cost of benefits provided to state employees for performing similar duties. Employee benefits include health, dental and vision. The benefit rate is published by the Department of Personnel Administration (DPA) February 1st of each year and is effective until January 31st of the following year. Contractor may either provide benefits as described above or cash-in-lieu payments for each hour of service employees perform on the covered state contract (excluding overtime). Failure to comply with the provisions of GC § 19134 will be deemed a material breach of this contract, which may result in contract termination at the state's sole discretion. Contractor may access rates and information at www.dpa.ca.gov.

THIS AGREEMENT IS OF NO FORCE AND EFFECT UNTIL SIGNED BY BOTH PARTIES AND APPROVED BY THE DEPARTMENT OF GENERAL SERVICES, IF REQUIRED. CONTRACTOR MAY NOT COMMENCE PERFORMANCE UNTIL SUCH APPROVAL HAS BEEN OBTAINED AND ANY COMMENCEMENT OF PERFORMANCE PRIOR TO AGREEMENT APPROVAL SHALL BE DONE AT THE CONTRACTOR'S OWN RISK.

Curriculum Vitae

Joel A. Dvoskin, Ph.D., A.B.P.P.

668 E. Weckl Place
Tucson, Arizona 85704-6076
Phone: 520-577-3051
Fax: 520-577-7453
E-mail: JoeltheD@aol.com

EDUCATION:

Undergraduate: University of North Carolina at Chapel Hill; B.A. 1973;
Majors: English and Psychology;
Awards: Order of the Old Well Honorary Society
Order of the Grail Honorary Society

Stockholm University, Stockholm, Sweden; Diploma, 1972;
Major: Social Science.

Graduate: University of Arizona, Tucson, Arizona;
M.A. in Clinical Psychology, 1978; Ph.D. in Clinical Psychology, 1981;

Dissertation: Battered Women: An Epidemiological Study of Spousal Violence.

Professional: University of Arizona College of Law, Tucson, Arizona; Doctoral Minor

HONORS:

Diplomate in Forensic Psychology, American Board of Professional Psychology
Fellow, American Psychological Association
Fellow, American Psychology-Law Society
Peggy Richardson Award, National Coalition for the Mentally Ill in the Criminal Justice System
Amicus Award, American Academy of Psychiatry and the Law
Affiliate Member, International Criminal Investigative Analysis Fellowship
Distinguished Visiting Professor of Psychiatry, University of California, Davis School of Medicine and
Napa State Hospital, April 14, 2005
President, Division 18 of the American Psychological Association, Psychologists in Public Service
(2000-2001)
President, American Psychology-Law Society, Division 41 of the American Psychological
Association (Presidential year 2006-2007).
American Psychological Association, Division 18 Special Achievement Award
Arizona Psychological Association, Distinguished Contribution to the Science of Psychology Award,
2010
Distinguished Visiting Professor of Psychiatry, University of California, Davis School of Medicine and
Napa State Hospital, March 30, 2011

CURRICULUM VITAE - JOEL A. DVOSKIN, PH.D.
PAGE 2

ACADEMIC POSITIONS:

1996 - 2001

Asst. Professor (Adjunct) - University of Arizona College of Law

1996 - current

Asst. Professor (Clinical) - University of Arizona College of Medicine, Dept. of Psychiatry

1986 - 1995 (currently inactive)

Assistant Clinical Professor - New York University Medical School, Dept. of Psychiatry

2000 - 2005 (currently inactive)

Assistant Clinical Professor - Louisiana State University Medical Center

LICENSES:

Arizona Board of Psychologist Examiners, License #0931

New Mexico State Board of Psychologist Examiners, License #0904

Certificate of Professional Qualifications in Psychology (CPQ), CPQ #2,439

Interjurisdictional Practice Certificate, ASPPB, #2439

PROFESSIONAL EXPERIENCE:

September 1995 - Current

Full-time private practice of forensic psychology, providing expert testimony on civil and criminal matters, and consultation in the provision of mental health and criminal justice services, and workplace and community violence prevention programs.

Duties: Provide expert testimony, consultation, training, and public speaking services to federal, state, and local governmental agencies, corporations and attorneys, including the following areas:

- Police misconduct
- Conditions of confinement and hospitalization
- Architectural design of psychiatric and secure psychiatric buildings
- Workplace violence prevention and crisis response
 - Working with labor organizations
 - Safely managing corporate layoffs
- Psychological autopsy - (Psychological investigation of equivocal death or suicide)
- Suicide prevention
- Mental health services in correctional and criminal justice settings
- Mental health services to juvenile correctional facilities
- Stalking
- Assessing and preventing the risk of violent behavior
- Administration of public mental health and criminal justice services

September 1995 - Current

Associate, Threat Assessment Group, Inc., Newport Beach, California.

Duties: Provide consultation and training in workplace violence prevention and crisis management to governmental and corporate organizations.

CURRICULUM VITAE - JOEL A. DVOSKIN, PH.D.
PAGE 3

September 1995 - Current

Associate, Park Dietz & Associates, Inc., Newport Beach, California.
Duties: Forensic psychological services and expert testimony

March 1995 - August 1995

Acting Commissioner, New York State Office of Mental Health.
Duties: Under the direct supervision of the Governor, served as C.E.O. of the largest agency of its kind in the United States, with an annual budget of more than \$2.4 billion. The agency employed over 24,000 people and directly operated 29 institutions, including adult inpatient and outpatient psychiatric facilities, children's psychiatric hospitals, forensic hospitals and research institutes. The Office of Mental Health also licensed, regulated, financed, and oversaw more than 2,000 locally operated inpatient, emergency, outpatient, and residential programs in collaboration with 57 counties and New York City.

November 1984 - March 1995

Director, Bureau of Forensic Services (1984-1988) and Associate Commissioner for Forensic Services (1988-1995), New York State Office of Mental Health.
Duties: Line authority for inpatient services at three large forensic hospitals and two regional forensic units, including services to civil, forensic and correctional patients; line authority for all mental health services in New York State prisons (serving more than 60,000 inmates); responsibility for innovative community forensic programs including suicide prevention in local jails, police mental health training, and mental health alternatives to incarceration.

December 1984 - July 1985

Acting Executive Director, Kirby Forensic Psychiatric Center.
Duties: Founding C.E.O. for new maximum security forensic psychiatric hospital in New York City.

July 1984 - November 1984

Acting Director, Office of Mental Health, Virginia Department of Mental Health and Mental Retardation (held concurrently with permanent position as Director of Forensic Services).
Duties: Supervision of budget and certification of all community mental health programs statewide; statewide policy development in all program areas related to mental health; Executive Secretary to Virginia Mental Health Advisory Council.

July 1983 - November 1984

Director of Forensic Services, Virginia Department of Mental Health and Mental Retardation.
Duties: Design and coordination of statewide delivery system of institutional and community treatment and evaluation of forensic patients; management of the contract for the University of Virginia Institute of Law, Psychiatry and Public Policy; departmental liaison to Virginia Dept. of Corrections and other criminal justice agencies; develop statewide plan for delivery of mental health services to D.O.C. inmates; statewide Task Force on Mental Health Services in Local Jails.

August 1982 - July 1983

Psychologist, Arizona Correctional Training Center, Tucson, Arizona.
Duties: Supervision of psychology department; direct clinical treatment and evaluation services.

CURRICULUM VITAE - JOEL A. DVOSKIN, PH.D.
PAGE 4

April 1982 - July 1982

Acting Inmate Management Administrator, Arizona State Prison Complex,
Florence, Arizona.

Duties: Direct supervision of inmate records office; inmate classification and movement;
correctional program (counseling) services; psychology department; hiring of all new
correctional officers. (NOTE: During this period, I also maintained all duties of my
permanent position as Psychologist (below).

October 1981 - July 1982

Psychologist, Arizona State Prison Complex, Florence, Arizona.

Duties: Supervision of Psychology Department for complex consisting of five prisons;
direct clinical treatment and evaluation services.

November 1980 - October 1981

Psychology Associate, Arizona State Prison Complex, Florence, Arizona.

Duties: Direct clinical treatment and evaluation services.

August 1980 - November 1980

Psychological consultant to the Massachusetts Department of Correction.

Duties: Consultation to Director of Health Services; direct clinical treatment and
evaluation services at Walpole and Norfolk State Prisons.

January 1980 - November 1980

Psychologist (non-licensed) - Tri-Cities Community Mental Health Center, Malden,
Massachusetts. Pre-screened civil commitments for community mental health center.

August 1979 - August 1980

Pre-Doctoral Intern in Clinical Psychology, McLean Hospital, Belmont, Massachusetts;
and Fellow in Clinical and Forensic Psychology, Harvard Medical School, Cambridge,
Massachusetts, and Bridgewater (Massachusetts) State Hospital

1978-1979 Psychology Extern, Pima County (Arizona) Superior Court Clinic

1977-1978 Psychology Extern, Palo Verde Hospital, Tucson, Arizona

1976-1977 Psychology Extern, Arizona Youth Center (now Catalina Mountain School),
Tucson, Arizona

1975-1976 National Institute of Mental Health Trainee

1973-1975 United States Peace Corps Volunteer, Senegal, West Africa

1970-1995 Coach, Dean Smith's Carolina Basketball School, Chapel Hill, N.C.
(1-3 weeks each summer)

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I Street
P. O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 327-1930
Fax: (916) 324-0680
E-Mail Address: Mary.Banzon@doj.ca.gov

August 13, 2012

JOEL A. DVOSKIN, PH.D.
668 E. Weckl Place
Tucson, AZ 85704-6076

RE: Consultant Contract in the Matter of: *Coleman v. Brown*
Agreement Number: 11-6459, Amendment Number 1

Dear Dr. Dvoskin:

Enclosed for your records is a fully executed Standard Agreement Amendment (STD 213A) of Contract No. 11-6459, Amendment No. 1 for the provision of consulting services by you in the above captioned case. You are now authorized to continue providing the agreed upon services.

The total amount of the Agreement shall not exceed \$100,000.00. The Department of Justice cannot pay for work completed which exceeds the total amount of the Agreement. **If you anticipate the work will exceed the total remaining balance of \$3,295.53, please contact the Deputy Attorney General immediately.** Upon Department of Justice approval, the Agreement may be amended by mutual consent of both parties to cover any additional services and expenses.

Please promptly submit detailed monthly invoices for services provided pursuant to the guidelines located under the "Invoicing" paragraph in Exhibit B of the original Standard Agreement to the Deputy Attorney General. If you have any questions regarding this contract, please feel free to contact me or Deputy Attorney General, Patrick McKinney at (415) 703-3035.

Sincerely,


MARY BANZON
Staff Services Analyst

For KAMALA D. HARRIS
Attorney General

Enclosures

cc: Patrick McKinney, DAG (via email w/ attachments)

DEXP 103545

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213A (Rev 06/03)

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED Pages

AGREEMENT NUMBER 11-6459	AMENDMENT NUMBER 1
REGISTRATION NUMBER	

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME
DEPARTMENT OF JUSTICE

CONTRACTOR'S NAME
JOEL A. DVOSKIN, PH.D., A.B.P.P.

2. The term of this Agreement is: **9/1/11** through **6/30/13**

3. The maximum amount of this Agreement is: **\$ 100,000.00**
 One Hundred Thousand Dollars and No Cents

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:
 This Amendment is effective as of **6/29/12**.

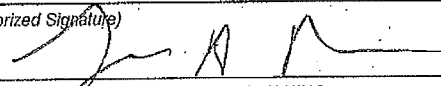
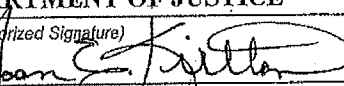
- Change the termination date of the Agreement from **6/30/12** to **6/30/13**.

All other terms and conditions shall remain the same.

Case Name: **Coleman v. Brown**
 Docket No.: **48170 286 CF1997CS0003**
 DAG: **Patrick McKinney**

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR	
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) JOEL A. DVOSKIN, PH.D., A.B.P.P.	
BY (Authorized Signature) 	DATE SIGNED (Do not type) 7/27/12
PRINTED NAME AND TITLE OF PERSON SIGNING JOEL A. DVOSKIN, PH.D., A.B.P.P.	
ADDRESS 668 E. Weckl Place Tucson, AZ 85704-6076 Telephone: (520) 577-3051	
STATE OF CALIFORNIA	
AGENCY NAME DEPARTMENT OF JUSTICE	
BY (Authorized Signature) 	DATE SIGNED (Do not type) 8/8/12
PRINTED NAME AND TITLE OF PERSON SIGNING STEPHEN F. NAPOLILLO, Manager, Contracts Unit	
ADDRESS 1300 I Street, Suite 820 Sacramento, CA 95814	

California Department of General Services Use Only

"Exempt From DGS Approval Per DGS Exemption Letter No.52"

Exempt per:

Joel A. Dvoskin, Ph.D., ABPP

668 E. Weckl Place
Tucson, Arizona 85704-6076
Phone: 520-577-3051
E-mail: joelthed@aol.com

INVOICE

To: California Office of the Attorney General
Attn: Patrick McKinney, DAG
From: Joel A. Dvoskin, Ph.D. SS# 214-48-7983
Date: May 15, 2012
Re: *Coleman v. Brown*Professional Fees at \$300 per hour

Feb. 15, 2012	Read case materials	5.5 hours	\$1,650
Feb. 16, 2012	Travel to Sacramento and review case materials	8.0 hours	\$2,400
Feb. 17, 2012	Meeting in Sacramento	8.0 hours	\$2,400
Feb. 17, 2012	Return travel	5.8 hours	\$1,740
Feb. 24, 2012	Read case materials	4.4 hours	\$1,320
Feb. 26, 2012	Travel to Sacramento and review case materials	8.0 hours	\$2,400
Feb. 27, 2012	Consultation and meetings - CMF	8.0 hours	\$2,400
Feb. 28, 2012	Consultation and meetings - CMF	8.0 hours	\$2,400
Feb. 29, 2012	Consultation and meetings - CSP-Sac	8.0 hours	\$2,400
March 1, 2012	Consultation and meetings - CSP-Sac	8.0 hours	\$2,400
March 1, 2012	Return Travel	5.6 hours	\$1,680
March 22, 2012	Read case materials	4.6 hours	\$1,380
March 26, 2012	Travel to Sacramento and review case materials	10.0 hours	\$3,000
March 27, 2012	Consultation and meetings - Centinela	8.0 hours	\$2,400
March 27, 2012	Travel to San Diego	2.0 hours	\$600
March 28, 2012	Consultation and meetings - RJ Donovan	8.0 hours	\$2,400
March 29, 2012	Consultation and meetings - RJ Donovan	8.0 hours	\$2,400
March 29, 2012	Return travel	4.0 hours	\$1,200
April 15, 2012	Read case materials	6.6 hours	\$1,980
April 16, 2012	Travel to Fresno and review case materials	6.0 hours	\$1,800
April 17, 2012	Consultation and meetings - Corcoran	8.0 hours	\$2,400
April 18, 2012	Consultation and meetings - Corcoran	8.0 hours	\$2,400
April 19, 2012	Consultation and meetings - CWF	8.0 hours	\$2,400
April 20, 2012	Consultation and meetings - CWF	8.0 hours	\$2,400
April 20, 2012	Return travel	5.8 hours	\$1,740
April 29-30, 2012	Travel to Ontario and review case files	7.3 hours	\$2,190
May 1, 2012	Consultation and meetings - CIM	8.0 hours	\$2,400
May 2, 2012	Consultation and meetings - CIM	8.0 hours	\$2,400
May 2, 2012	Travel to Lancaster	2.2 hours	\$660
May 3, 2012	Consultation and meetings - CSP-LAC	8.0 hours	\$2,400
May 4, 2012	Consultation and meetings - CSP-LAC	8.0 hours	\$2,400
Various	Telephone consultations	N/C	N/C

Total professional fees = 213.8 hours = \$64,140

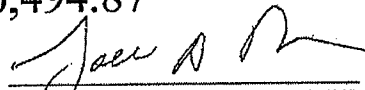
DEXP 105114

Expenses

Feb. 16-17, 2012	Airfare Tucson to Sacramento	\$748.30
Feb. 16-17, 2012	Residence Inn - 1 night room and tax	\$179.70
Feb. 16-17, 2012	Taxi to and from airport	\$99.00
Feb. 16-17, 2012	Airport Parking in Tucson	\$10.50
Feb. 16-17, 2012	Meals	\$13.66
Feb. 26 - March 1, 2012	Airfare Tucson-Sacramento round trip	\$501.20
Feb. 26 - March 1, 2012	Meals	\$190.19
Feb. 26 - March 1, 2012	Priceline / Alamo Car Rental	\$186.76
Feb. 26 - March 1, 2012	Gasoline	\$53.26
Feb. 26-28, 2012	Marriott Courtyard Vacaville (2 nights room/tax)	\$188.16
Feb. 26 - March 1, 2012	Airport Parking in Tucson	\$26.25
Feb. 28-March 1, 2012	Marriott Courtyard Sacramento Folsom (2 nights)	\$180.80
March 26-29, 2012	Round trip airfare Tucson - San Diego	\$593.20
March 26-29, 2012	Enterprise Car Rental	\$123.88
March 26-27, 2012	Fairfield Inn - El Centro - 1 night	\$147.50
March 26-29, 2012	Airport Parking	\$21.00
March 27-29, 2012	Marriott Courtyard San Diego Mission Valley (2)	\$331.36
March 26-29, 2012	Meals	\$129.60
April 16-20, 2012	Round trip air travel Tucson - Fresno	\$385.20
April 16-20, 2012	Airport parking in Tucson	\$26.25
April 16-20, 2012	Springhill Suites Madera CA - 2 nights room and tax	\$183.26
April 16-20, 2012	Visalia Marriott - 2 nights room and tax	\$198.60
April 16-20, 2012	Alamo Gasoline	\$60.84
April 16-20, 2012	Priceline Alamo	\$218.65
April 16-20, 2012	Meals	\$199.31
April 29-May 4, 2012	Airfare round trip Tucson - Burbank	\$439.20
April 29-May 4, 2012	Airport Parking Tucson	\$31.50
April 29-May 4, 2012	Enterprise Car Rental	\$237.43
April 29-May 2, 2012	Fairfield Inn Ontario - 2 nights room and tax	\$176.56
May 2-4, 2012	Embassy Suites Palmdale - 2 nights room and tax	\$246.00
April 30-May 4, 2012	Meals	\$227.91

Total expenses = \$6,354.87

Total amount due = \$70,494.87


 Joel A. Dvoskin, Ph.D., ABPP

APPROVED FOR PAYMENT:

Case: Coleman v. Brown

Docket: 16009286CF1997CS0003

By: P. M. Kinney

Date: 5-30-12

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213A (Rev 06/03)

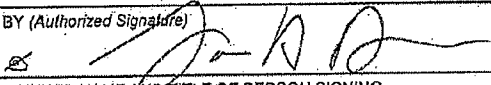
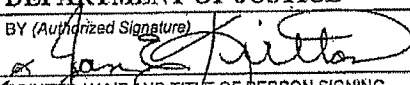
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AGREEMENT NUMBER 11-6459	AMENDMENT NUMBER 1
REGISTRATION NUMBER	

- This Agreement is entered into between the State Agency and the Contractor named below:
 STATE AGENCY'S NAME
DEPARTMENT OF JUSTICE
 CONTRACTOR'S NAME
JOEL A. DVOSKIN, PH.D., A.B.P.P.
- The term of this Agreement is: **9/1/11** through **6/30/13**
- The maximum amount of this Agreement is: **\$ 100,000.00**
 One Hundred Thousand Dollars and No Cents
- The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:
 This Amendment is effective as of **6/29/12**.
 - Change the termination date of the Agreement from **6/30/12** to **6/30/13**.
 All other terms and conditions shall remain the same.
 Case Name: **Coleman v. Brown**
 Docket No.: **48170 286 CF1997CS0003**
 DAG: **Patrick McKinney**

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only "Exempt From DGS Approval Per DGS Exemption Letter No.52"
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) JOEL A. DVOSKIN, PH.D., A.B.P.P.		
BY (Authorized Signature) 	DATE SIGNED (Do not type) 7/27/12	
PRINTED NAME AND TITLE OF PERSON SIGNING JOEL A. DVOSKIN, PH.D., A.B.P.P.		
ADDRESS 668 E. Weckl Place Tucson, AZ 85704-6076 Telephone: (520) 577-3051		
STATE OF CALIFORNIA		
AGENCY NAME DEPARTMENT OF JUSTICE		<input type="checkbox"/> Exempt per:
BY (Authorized Signature) 	DATE SIGNED (Do not type) 6/8/12	
PRINTED NAME AND TITLE OF PERSON SIGNING STEPHEN F. NAPOLILLO, Manager, Contracts Unit		
ADDRESS 1300 I Street, Suite 820 Sacramento, CA 95814		

APPROVED FOR PAYMENT:

Case: Coleman v. Brown

Docket: 48170286CF 1997650003

By: [Signature]

Date: 1-4-12

CONTRACT NO. 11-6459

Joel A. Dvoskin, Ph.D., ABPP

668 E. Weckl Place
Tucson, Arizona 85704-6076
Phone: 520-577-3051
E-mail: joelthed@aol.com

INVOICE

To: California Office of the Attorney General
Attn: Patrick McKinney, DAG
From: Joel A. Dvoskin, Ph.D. SS# 214-48-7983
Date: October 19, 2011
Re: *Coleman v. Brown*

Professional Fees at \$300 per hour

October 9, 2011	Travel to Sacramento and review case materials	8.0 hours	\$2,400
October 10, 2011	Consultation meetings	8.0 hours	\$2,400
October 10, 2011	Travel	4.0 hours	\$1,200
October 11, 2011	Read case materials	4.6 hours	\$1,380
October 12, 2011	Read case materials	3.9 hours	\$1,170
November 11, 2011	Read case materials	7.7 hours	\$2,310
November 13, 2011	Travel to Sacramento and review case materials	8.0 hours	\$2,400
November 14, 2011	Consultation and meetings	8.0 hours	\$2,400
November 15, 2011	Consultation and meetings	8.0 hours	\$2,400
November 16, 2011	Consultation and meetings	8.0 hours	\$2,400
November 16, 2011	Return travel	6.0 hours	\$1,800
December 12, 2011	Read and conference call	3.0 hours	\$900
December 22, 2011	Read and conference call	3.0 hours	\$900
Various	Telephone consultations	N/C	N/C

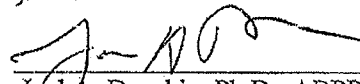
Total professional fees = 80.2 hours = \$24,060

Expenses

October 9-10, 2011	Airfare Tucson to Sacramento	\$268.10
October 9-10, 2011	Airfare Sacramento to Los Angeles	\$158.70
October 9-10, 2011	Hyatt - 1 night room and tax	\$134.93
October 9-10, 2011	Taxi to and from airport	\$100.00
October 9-10, 2011	Airport Parking in Tucson	\$8.00
October 13-16, 2011	Meals	\$46.38
November 13-16, 2011	Airfare Tucson-Sacramento round trip	\$722.80
November 13-16, 2011	Meals	\$170.90
November 13-16, 2011	Hyatt Hotel - 3 nights room and tax	\$404.79
November 13-16, 2011	Taxis	\$114.00
November 19-22, 2011	Airport Parking in Tucson	\$21.00

Total expenses = \$2,149.60

Total amount due = \$26,209.60


Joel A. Dvoskin, Ph.D., ABPP

Joel A. Dvoskin, Ph.D., ABPP

Diplomate in Forensic Psychology

668 East Weckl Place

Tucson, Arizona 85704-6076

Phone: 520-577-3051

Fax: 520-577-7453

E-mail: joelthed@aol.com

June 30, 2012

Patrick McKinney, Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004

Re: *Invoice for Consultation Services*

Dear Mr. McKinney:

Please find below a statement of my expert fees and expenses from May 16, 2012 to June 30, 2012

Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joel A. Dvoskin".

Joel A. Dvoskin, Ph.D., ABPP

Joel A. Dvoskin, Ph.D., ABPP

668 E. Weckl Place
Tucson, Arizona 85704-6076

INVOICE

To: California Office of the Attorney General
Attn: Patrick McKinney, DAG
From: Joel A. Dvoskin, Ph.D. SS# 214-48-7983
Date: June 30, 2012
Re: *Coleman v. Brown*

Professional Fees at \$300 per hour

May 19, 2012	Read case materials	4.0 hours	\$1,200
May 20, 2012	Travel to Salinas Valley and read case materials	8.3 hours	\$2,490
May 21, 2012	Consultation and meetings - SV	8.0 hours	\$2,400
May 22, 2012	Consultation and meetings - SV	8.0 hours	\$2,400
May 23, 2012	Consultation and meetings - SQ	8.0 hours	\$2,400
May 24, 2012	Consultation and meetings - SQ	8.0 hours	\$2,400
May 25, 2012	Return travel	4.4 hours	\$1,320
June 19, 2012	Conference call	1.0 hour	\$300
Various	Telephone consultations	N/C	N/C

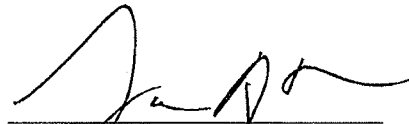
Total professional fees = 49.7 hours = \$14,910

Expenses

May 20-25, 2012	US Airways round trip Tucson – San Francisco	\$514.20
May 20-23, 2012	Holiday Inn Express Salinas– 2 nights room/tax	\$187.80
May 22-24, 2012	Embassy Suites San Rafael – 2 nights room/tax	\$188.50
May 24-25, 2012	Renaissance Hotel – SF – 1 night room/tax	\$179.12
May 24-25, 2012	Hotel parking and tax	\$52.44
May 20-25, 2012	Enterprise Rental Car	\$173.69
May 20-25, 2012	Tolls	\$11.00
May 20-25, 2012	Airport Parking in Tucson	\$31.50
May 20-25, 2012	Meals	\$304.30

Total expenses = \$1,642.55

Total amount due = \$16,552.55



Joel A. Dvoskin, Ph.D., ABPP

Joel A. Dvoskin, Ph.D., ABPP

Diplomate in Forensic Psychology

668 East Weckl Place

Tucson, Arizona 85704-6076

Phone: 520-577-3051

Fax: 520-577-7453

E-mail: joelthed@aol.com

September 30, 2012

Patrick McKinney, Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004

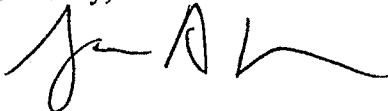
Re: *Invoice for Consultation Services*

Dear Mr. McKinney:

Please find below a statement of my expert fees and expenses from July 1, 2012 to September 30, 2012.

Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joel A. Dvoskin', written over a light blue horizontal line.

Joel A. Dvoskin, Ph.D., ABPP

INVOICE

To: California Office of the Attorney General
 Attn: Patrick McKinney, DAG
 From: Joel A. Dvoskin, Ph.D. SS# 214-48-7983
 Date: September 30, 2012
 Re: *Coleman v. Brown*

Professional Fees at \$300 per hour

July 1, 2012	Travel to Sacramento	5.4 hours	\$1,620
July 2, 2012	Meetings re: suicide prevention	8.0 hours	\$2,400
July 3, 2012	Meetings re: suicide prevention	8.0 hours	\$2,400
July 4, 2012	Return travel	5.2 hours	\$1,560
August 20, 2012	Travel to Sacramento	5.2 hours	\$1,560
August 21, 2012	Meeting with Asst. Attorneys Gen,	8.0 hours	\$2,400
August 21, 2012	Return travel	5.0 hours	\$1,500
September 10, 2012	Review materials and write reports	6.0 hours	\$1,800
September 11, 2012	Meeting and report writing	8.0 hours	\$2,400
September 12, 2012	Consultation and meetings – CMF	8.0 hours	\$2,400
September 13, 2012	Return travel	4.0 hours	\$1,200
Various	Telephone consultations	N/C	N/C

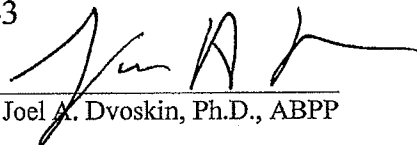
Total professional fees = 70.8 hours = \$21,240

Expenses

July 1-4, 2012	US airways round trip Tucson-Sacramento	\$358.20
July 1-4, 2012	Marriott Residence Inn (3 nights room/tax/parking)	\$496.35
July 1-4, 2012	Meals	\$56.00
July 1-4, 2012	Airport Parking in Tucson	\$23.00
July 1-4, 2012	Enterprise Car Rental	\$113.88
August 20-21, 2012	US Airways round trip Tucson-Sacramento	\$727.20
August 20-21, 2012	Residence Inn Sacramento (1 night room & tax)	\$148.45
August 20-21, 2012	Meals	\$57.33
August 20-21, 2012	Taxis	\$78.00
August 20-21, 2012	Airport parking in Tucson	\$11.50
Sept. 9-13, 2012	Airfare round trip Tucson-San Francisco	N/C
Sept. 9-13, 2012	Marriott Courtyard-Sacramento (3 nights room/tax)	\$379.96
Sept. 9-13, 2012	Meals	\$119.77
Sept. 9-13, 2012	Tolls	\$9.00
Sept. 9-13, 2012	Gasoline	\$61.79

Total expenses = \$2,640.43

Total amount due = \$23,880.43



 Joel A. Dvoskin, Ph.D., ABPP

Exhibit 3



Transcript of the Testimony of:

Charles Scott, M.D.

Coleman v. Brown

March 8, 2013

Volume I

THORSNES LITIGATION SERVICES, LLC
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, ET AL.,)	
)	
Plaintiffs,)	
)	CASE NO.:
vs.)	S 90-0520 LKK-JFM
)	
EDMUND G. BROWN, JR., ET AL.,)	
)	
Defendants.)	
_____)	

The Deposition of CHARLES SCOTT, M.D., taken on behalf of the Plaintiffs, before Megan F. Alvarez, Certified Shorthand Reporter No. 12470, Registered Professional Reporter, for the State of California, commencing at 9:06 a.m., Friday, March 8, 2013, at the UC Davis Immigration Law Clinic, Building TB-34, Davis, California.

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APPEARANCES OF COUNSEL:

FOR PLAINTIFFS:

BY: ERNEST J. GALVAN, ESQ.
ROSEN, BIEN, GALVAN & GRUNFELD, LLP
315 MONTGOMERY STREET, TENTH FLOOR
SAN FRANCISCO, CALIFORNIA 94104
415.433.6850
415.433.7104 FAX
EGALVAN@RBGG.COM

FOR DEFENDANTS:

BY: PATRICK RICHARD MCKINNEY, ESQ.
OFFICE OF THE ATTORNEY GENERAL
STATE OF CALIFORNIA
455 GOLDEN GATE AVE., SUITE 11000
SAN FRANCISCO, CALIFORNIA 94102-7004
415.703.3035
415.703.5843 FAX
PATRICK.MCKINNEY@DOJ.CA.GOV

1 Debbie Vorous. And then other administrative officials
2 from CDCR, but I don't remember their names.

3 Q. Is it possible that Dr. Belavich was there?

4 A. It's possible, but I don't recall.

5 Q. How long was that meeting?

6 A. My best recollection was two or three hours
7 all totaled.

8 Q. What did you discuss?

9 A. An overview of the prison system in
10 California. A discussion of the electronic medical
11 record system that they now have. A review and overview
12 of a program called MHTS.net. Policies and procedures
13 that had -- that had been developed over time. And --
14 and also that there was a general program guide for the
15 provision of care to mental health clients.

16 Q. Did you discuss the litigation?

17 A. The litigation was clearly discussed in the
18 sense that we were asked to do an objective and
19 independent review of the care provided and was the
20 California system deliberately indifferent to the
21 serious medical needs of the inmates, medical and/or
22 mental.

23 Q. Did you discuss the judge and the special
24 master?

25 A. Not to my recollection.

1 collecting data and tabulating it in some way?

2 A. I don't recall if on the very first meeting
3 there was an organized data collection procedure
4 finalized on the first meeting.

5 Q. Okay. Did you ever work up an organized data
6 collection procedure?

7 A. Yes.

8 Q. When did that happen?

9 A. Over several months following that first
10 meeting, a tool to help look at different components
11 important to care, or potentially important to care, was
12 developed. And my input was primarily into the
13 medication piece. And to the degree that that also
14 related to the mental health crisis bed, I had input
15 into that as well.

16 Q. And was the plan to tabulate data from that
17 collection and include it in your report?

18 MR. McKINNEY: Objection. Vague and
19 ambiguous.

20 THE WITNESS: No, the plan wasn't to per se
21 include all the data collection pieces in the final
22 report.

23 BY MR. GALVAN:

24 Q. What were you going to do with the data
25 collection pieces?

1 A. Have them available for review should we have
2 an opinion that people would want to know the basis for
3 the opinion.

4 Q. And did you actually do that? Do you have
5 them available for review?

6 A. I turned them over, I believe, yes.

7 Q. When you say "turned them over" -- ask a
8 different question.

9 When you talk about having something for
10 review, do you mean something in which you -- you broke
11 out or rolled up the results of your tabulation in terms
12 of percentages or scores in some way?

13 A. I provide the entire data set so someone could
14 verify it for themselves rather than rely on my own
15 summary.

16 Q. Did you ever make your own summary?

17 A. I have a general impression from having
18 reviewed the data. So having been at the institutions
19 and collected the data, it's easy to learn it as you do
20 it.

21 Q. Do you have a document with a summary of the
22 data?

23 A. No, just what's in my head.

24 Q. Is it possible -- or do you know whether
25 Dr. Bobb has a document with a summary of the data?

1 speculation. Vague and ambiguous.

2 THE WITNESS: I don't know.

3 BY MR. GALVAN:

4 Q. Down at the bottom, Point 17 says: "Given the
5 inefficiencies of reviewing the EUHR, there is a strong
6 concern that the MAPIP project in mental health will
7 require a minimum of 30 minutes per EUHR that is
8 reviewed for data. Our experience is that it is closer
9 to 60 minutes."

10 This was a concern that you shared regarding
11 the MAPIP project?

12 MR. McKINNEY: Objection. Vague and
13 ambiguous.

14 THE WITNESS: I think it's reflected in my
15 report, yes.

16 BY MR. GALVAN:

17 Q. And have you received any information
18 regarding how this concern is being addressed?

19 A. Yes.

20 Q. What information have you received?

21 A. One, because the MAPIP started, there was a
22 start time from when information got scanned into EUHR.
23 And so, therefore, information that was collected, such
24 as informed consents or labs, if it was before the
25 scan-in date, it may not be in EUHR, even if you

1 could -- even if it was done and you could document that
2 in the paper record.

3 As time has progressed, more information now
4 is available in EUHR because if a person gets started on
5 a medicine after the scan-in date, then it's easier to
6 access.

7 So this facility I reviewed in 2012, February
8 time frame, and so the EUHR scan-in process had only --
9 had not -- some of the data couldn't be accessed because
10 it hadn't been scanned in yet.

11 So one sort of common sense thing you learn is
12 that as time passes, when -- more information now for
13 the inmates are scanned in because when they come into
14 the system, the EUHR is up and running already.

15 Q. Wouldn't that aggravate the problem he's
16 talking about? If there's more information to read in
17 the EUHR, it's going to take longer to do it.

18 A. Not necessarily. Because if, for example, you
19 find something versus you're searching for something
20 that's not there, that can be the difference.

21 Q. So still in -- on the Vacaville tour, I'd like
22 to show you the disc that we marked as Exhibit 4, at
23 least show you the content of it.

24 I know you will not have seen it in this form
25 before, but it was produced to us with some folders

1 because you can have a decrease in the white blood cell
2 count.

3 The were also monitoring his weight, which is
4 metabolic monitor. They did not do a waist
5 circumference.

6 I couldn't find a blood pressure on him, but
7 it could have been I just ran out of the time in the
8 EUHR. And I couldn't find the fasting glucose and
9 metabolic panel.

10 He had informed consent both for Clozaril and
11 that it was a heat medication. They had done AIMS
12 monitoring.

13 So they were monitoring the most important
14 risks, which was white blood cell count and his weight,
15 which is the monitor for metabolic syndrome.

16 Q. If you could only find weight but not fasting
17 glucose and not metabolic panel and they didn't do waist
18 circumference -- so if I understand your testimony
19 correctly, there's a constellation of things you can do
20 for metabolic syndrome: Weight, fasting glucose,
21 metabolic panel, waist circumference. And you only
22 found one of the four. Is one of the four enough?

23 A. This was one of those cases that they had not
24 yet scanned in all the records from July 2011 when the
25 scanning started. So he had been on clozapine, as I

1 understand it, a while for schizophrenia.

2 So the way that EUHR was set up, you couldn't
3 go back past that six or seven months.

4 So everything else was in the protocol. The
5 weights were monitored. He had his white blood cell
6 count monitored within that six month frame. He had an
7 AIMS done on 10/13/2011 that I found. So I felt that
8 was adequate based on the available information and his
9 safety.

10 Q. You're there on February 29th, 2012?

11 A. Right.

12 Q. And you testified that the absence of the
13 glucose and the metabolic panel could have been because
14 they hadn't scanned material from July 2011 and
15 previously. So July 2011 is eight months before
16 February 2012.

17 Do you not have to do these things for
18 clozapine more than every eight months?

19 A. It's recommended more than eight months. But
20 the other thing that's important about CSP SAC, there
21 were monitoring -- and you can see it in my notes early
22 on -- the labs through Quest 360 versus EUHR.

23 So this is towards the end of my review. I'm
24 not near the Quest 360 computer. So they -- I did ask
25 them to take me to a Quest 360 computer document, and

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CERTIFICATE OF REPORTER

I, MEGAN F. ALVAREZ, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the events of this cause, and that I am not related to any of the parties hereto.

DATED: March 11, 2013

MEGAN F. ALVAREZ

RPR, CSR 12470

Exhibit 4



Transcript of the Testimony of:

Jacqueline Moore, R.N., Ph.D.

Coleman v. Brown

February 21, 2013

Volume I

THORSNES LITIGATION SERVICES, LLC
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, ET AL.,)
)
 Plaintiffs,)
)
 vs.) CASE NO.:
) S 90-0520 LKK-JFM
)
 EDMUND G. BROWN, JR., ET AL.,)
)
 Defendants.)
 _____)

DEPOSITION OF
JACQUELINE MOORE, RN, PH.D.
THURSDAY, FEBRUARY 21, 2013, 8:50 A.M.
SAN FRANCISCO, CALIFORNIA

REPORTED BY: MEGAN F. ALVAREZ, RPR, CSR NO. 12470
THORSNES LITIGATION SERVICES, LLC

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, ET AL.,)
)
Plaintiffs,)
)CASE NO.:
vs.)S 90-0520 LKK-JFM
)
EDMUND G. BROWN, JR., ET AL.,)
)
Defendants.)
_____)

The Deposition of JACQUELINE MOORE, RN, PH.D.,
taken on behalf of the Plaintiffs, before Megan F.
Alvarez, Certified Shorthand Reporter No. 12470,
Registered Professional Reporter, for the State of
California, commencing at 8:50 a.m., Thursday,
February 21, 2013, at the Rosen, Bien, Galvan &
Grunfeld, LLP, 315 Montgomery Street, 10th Floor, San
Francisco, California.

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APPEARANCES OF COUNSEL:

FOR PLAINTIFFS:

BY: AARON J. FISCHER, ESQ.
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FOR DEFENDANTS:

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1 new. People weren't -- it wasn't just you presented it.
2 It was people presenting joint in a conversation. It
3 wasn't one person did a presentation, then someone else
4 did.

5 Q. Was there a leader to the meeting?

6 A. If there is, I don't recall who it was.

7 Q. On Exhibit 3, your notes from that meeting, on
8 the third page, 102025 --

9 A. Yes.

10 Q. Can you just give me an overview of what the
11 content of your notes on this page?

12 A. They were talking about the trial and that the
13 case had six elements that had been identified by the
14 courts. And they said that the case had expanded beyond
15 that, that there was a cost component to the monitoring
16 of the -- the monitoring.

17 Q. At this point, had you read any -- any
18 documents to -- that CDCR provided you?

19 A. I have a huge bin. I read everything that
20 they gave me. Whether I read it before or after this, I
21 couldn't tell you. I know I did read the trial. I did
22 read the monitoring reports. But at what time, I don't
23 know.

24 Q. So this was your instruction to the case?

25 A. This was my introduction to the case.

1 Q. On the middle of the page about halfway down,
2 it says "Overmonitoring." And can you just read what
3 you have in that note? The 11th line.

4 A. "Overmonitoring in number of prisons looked
5 at."

6 Q. What does that refer to? Do you remember?

7 A. There was a lot of monitoring going on in the
8 prisons, that they were going back several times looking
9 at things, that they felt -- whoever related this felt
10 that there was an overmonitoring on the part.

11 Q. And this was someone from CDCR or the AG's
12 office?

13 A. It was someone. I don't know who.

14 Q. Okay. And they said they felt that there was
15 overmonitoring being done?

16 A. Being done, yes.

17 Q. Further down, you mention cost drivers, the
18 fourth line from the bottom. It says "Cost Drivers."
19 Can you read the rest of that?

20 A. "Attorneys and their own law firms and the
21 monitors."

22 Q. Do you remember what this refers to?

23 A. To the cost of the Coleman monitors and the
24 attorneys that are the -- that handle the reports.

25 Q. What did they tell you about this

1 specifically?

2 A. That they bill a lot of money.

3 Q. On the next page, 101026.

4 On this page at the top says "Presiding Judge
5 Karlton."

6 Do you recall what they told you about
7 presiding Judge Karlton at this meeting?

8 A. I think that's the judge on the case.

9 Q. What else did they tell you about him?

10 A. Well, anything else I would have written down
11 if I thought that it was important. I mean, they didn't
12 really tell me much. This was the presiding judge.

13 Q. And the fifth line says: "Karlton does not
14 like state AG office."

15 A. Yeah. Someone said that, so I wrote it down.

16 Q. Did they say anything else about that?

17 A. No. If they said something else, I would have
18 written it. I'm a Catholic school schoolgirl; I write
19 down everything.

20 Q. And the line below, can you read what the line
21 below says?

22 A. "Rules of evidence not applied uniformly."

23 Q. Do you recall what that is?

24 A. It meant that sometimes the monitors would
25 pick certain things up at one institution and not bring

1 the same things together at another institution.

2 Q. Here were they talking about the monitors or
3 were they talking about the court?

4 A. I think -- I think it was the court. It was
5 the court.

6 Q. And so what did they -- what was being related
7 as far as the court here?

8 A. That it was an uphill battle for the attorney
9 general.

10 Q. Two lines below what you just read, what does
11 that say?

12 A. "Takes plaintiff's finding as truth."

13 Q. And the next line?

14 A. Words the plaintiff would use, like
15 "languishing" or "dying," you know, they were
16 descriptive terms that would be in a plaintiff's report.

17 Q. This is again talking about Judge Karlton?

18 A. Judge Karlton.

19 Q. What was being related here?

20 A. Other than what I have written here -- and
21 this was many, many, many months ago, and it was just an
22 overview meeting -- quite frankly, I never referred to
23 these notes again.

24 Q. Do you remember this meeting?

25 A. I remember being there. I remember all of the

1 the end of your tour?

2 A. I told them that we were here in the
3 institution and that we were going to various housing
4 units and interviewing various inmates at random, and
5 that -- you know, they were just happened to be picked
6 and would it be all right. I mean, I always asked for
7 permission before I just assumed that they were going to
8 talk to me.

9 Q. Sure.

10 A. And I didn't put down any particular inmate in
11 my report.

12 Q. Okay. But they didn't know you were there to
13 write a report at the end of your tour?

14 A. They knew we were doing an evaluation of that
15 facility, so...

16 Q. A few more questions and then we can take a
17 break.

18 A. I mean, these inmates were so used to being
19 talked to.

20 Q. They were used to being talked to?

21 A. Yeah. I mean, when I would walk through the
22 yard, they would sometimes say, "Oh, she's with
23 Coleman."

24 Q. Who would say that?

25 A. The inmates.

1 I mean, if they saw a suit, that was their
2 assumption.

3 Q. Did any inmates ever mistake you for being
4 with the special master team for Coleman?

5 A. I never asked them what they thought.

6 Q. Okay. You said that you asked them a number
7 of questions about their clinician and their
8 medications. And in the report, I noticed that you said
9 that their knowing their clinicians or their medications
10 was unusual.

11 Do you recall that?

12 A. I didn't think it was unusual. I thought it
13 was great.

14 Q. Thought it was great.

15 Did you think that it indicated that they were
16 receiving an appropriate level of care?

17 A. Yes, because they knew who the people were.
18 They knew who they had access to.

19 Q. Are you aware of any studies that show that
20 whether the patient knows their psychiatrist or their
21 primary clinician is a -- an appropriate measure for
22 quality of care?

23 A. I'm not aware of quality assurance studies as
24 such.

25 Q. Are you aware of any quality assurance studies

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CERTIFICATE OF REPORTER

I, MEGAN F. ALVAREZ, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the events of this cause, and that I am not related to any of the parties hereto.

DATED: February 25, 2013

MEGAN F. ALVAREZ

RPR, CSR 12470

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I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the events of this cause, and that I am not related to any of the parties hereto.

DATED: February 25, 2013



MEGAN F. ALVAREZ

RPR, CSR 12470

Exhibit 5

From: Patrick McKinney
To: Dvoskin, Joel; Moore, Jackie; Scott, Charles; Steve Martin <smart@sb...
CC: Downer, William; McKinney, Patrick; Russell, Jay; Vorous, Debbie
Date: 7/20/2012 3:51 PM
Subject: Coleman - Reports and Meeting in Sacramento

All:

We wanted to follow up with you about the decisions made during our conference call last month, and to schedule a meeting with the clients in Sacramento to discuss the tours and your recommendations for the system.

Preparation of Reports

This message will confirm our discussion that you will proceed to write reports addressing whether there are systemic constitutional violations in the delivery of mental health care services in the California prison system, i.e., whether there is deliberate indifference to serious mental health needs. We understand that you will prepare separate reports, but will coordinate to make sure the issues are appropriately addressed. We anticipate that the reports will be organized by issue; discussion and examples from the institutions should inform discussion of the issues, but we do not anticipate that the reports will be organized by institution. Consistent with our discussions and the audit tool, the major systemic issues are the following:

- Screening/Evaluation of Mental Health Issues
- Access to Care
- Medication Administration/Management
- Medical Records
- Suicide Prevention
- Quality Management / Quality Assurance
- Use of Force / Consideration of Mental Health in the RVR Process

We understand that some of you have work to complete, for example, Steve is finishing his review of the use of force/RVR documents for CIM and Joel is following up on the suicide reports and related issues. We are also finishing up the quantitative portions of the audit tools, and will be sending you audit tools that are tailored to each institution. While we would like to have the audit tools completed, as always the audit tool was designed to identify the issues and organize your analysis for purposes of writing the reports. Accordingly, we do not expect that the audit tools will be used as an attachment to your final reports.

Please let us know if any of you have additional work that needs to be completed. Otherwise, please prepare your reports in draft.

Meeting with the Clients in Sacramento

Let us know your availability for a one-day meeting with the clients in August to further debrief about the site visits and to share your recommendations to CDCR for improving the system.

Thank you for all of your work to date, and please let me know if you have any questions or would like to discuss.

Patrick
Patrick R. McKinney II

Deputy Attorney General
Direct: (415) 703-3035

DEXP 000022

Exhibit 6

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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RALPH COLEMAN, et al.,)	
)	
)	
Plaintiffs,)	
)	
vs.)	No. Civ S 90-0520 LKK-JFM
)	
EDMUND G. BROWN, JR., et al.,)	Volume I
)	
)	Page 1 - 300
Defendants.)	
)	

DEPOSITION OF
STEVE J. MARTIN
THURSDAY, FEBRUARY 28, 2013

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

REPORTED BY:
HOLLY THUMAN, CSR No. 6834, RMR, CRR

JAN BROWN & ASSOCIATES
WORLDWIDE DEPOSITION & VIDEOGRAPHY SERVICES
701 Battery Street, 3rd Floor, San Francisco, CA 94111
(415) 981-3498 or (800) 522-7096

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Deposition of STEVE J. MARTIN, taken by the
Plaintiffs, at K&L GATES LLP, Four Embarcadero Center,
Suite 1200, San Francisco, California 94111, commencing
at 9:27 a.m., on THURSDAY, FEBRUARY 28, 2013, before me,
HOLLY THUMAN, CSR, RMR, CRR.

--o0o--

APPEARANCES

FOR THE PLAINTIFFS:

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(Present when indicated.)

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Deputy Attorney General
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Patrick.McKinney@doj.ca.gov

ALSO PRESENT: ELDON VAIL

1 agenda, I'll give you an opportunity to tell me, maybe I
2 should ask this or I failed to ask that or some other
3 observation you want to make, and that's typically the
4 approach I would take.

5 Q. Did you use the word "Coleman" at all in how
6 you introduced yourself to the inmates?

7 A. Gosh. I know I at times said that I've been
8 retained to look at how, you know, inmates with mental
9 health designations or inmates with mental impairments
10 are managed in this system.

11 Now, whether -- you know, whether -- and I said
12 related to the Coleman lawsuit -- I don't remember. It
13 certainly wasn't something that was on my mind that I
14 had to say to announce, I'm associated with the Coleman
15 litigation.

16 Q. But it was something you probably said?

17 MR. MCKINNEY: Objection. Asked and answered.
18 You know what, Counsel? I'm not going to allow this
19 to -- you know, if you want -- you know, if you're
20 suggesting that the State can't examine its own system,
21 you can make that argument in court. This is -- has
22 nothing to do with anything in this case. I mean, it's
23 a silly agenda, frankly. I'm not going to restrict you
24 from asking these questions, but it's inappropriate, to
25 say the least.

1 MR. BORNSTEIN: Q. Go ahead. Did you say
2 that, do you think?

3 I wasn't there, so I'm just trying to get your
4 best memory.

5 **A. I know.**

6 MR. McKINNEY: Asked and answered.

7 THE WITNESS: I -- all I can say, Counsel, is,
8 I didn't have a set script. I don't recall having been
9 told, you know, when you introduce yourself to an
10 inmate, say such-and-such. So I -- you know.

11 MR. BORNSTEIN: Q. Were some of the people
12 that you interviewed people that the State has pending
13 charges against because of their actions while they've
14 been in custody?

15 **A. You mean criminal charges?**

16 Q. Yeah.

17 **A. I have no idea.**

18 Q. Did that come up at all?

19 **A. No. Immaterial to me.**

20 Q. Well, you do know that some of the use-of-force
21 incidents get referred for criminal prosecution, don't
22 you?

23 **A. Sure. Yes, it's routine.**

24 Q. And in fact, there could have been some of
25 those people that you interviewed that were referred,

1 could there not?

2 **A. I guess you're right. Probably could, yeah.**

3 **I -- because I didn't look at that, I'm not aware**

4 **whether they were or not. I can't answer it. But yeah,**

5 **possibility exists.**

6 Q. Okay. I'm assuming that had you realized, you

7 wouldn't have talked to them?

8 **A. I sure would have.**

9 Q. You would have anyway?

10 **A. I sure would have.**

11 Q. Okay. Why?

12 **A. I wanted some answers to some questions.**

13 Q. Did you share your notes of your interactions
14 with the State?

15 **A. In a particular case, to the extent that it was**
16 **relevant to my determination of what occurred in that**
17 **incident, that this is -- he probably was struck or, you**
18 **know, there's some evidence of such-and-such.**

19 Q. Well, let's talk about some of your -- some of
20 the things that you did in terms of your
21 recommendations. And I want to start with this next in
22 order.

23 (Deposition Exhibit 4 was marked for
24 identification.)

25 MR. BORNSTEIN: Q. So Exhibit 4 is a -- it's

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CERTIFICATE OF REPORTER

I, HOLLY THUMAN, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein state, and that the testimony of said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition review of the transcript was was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: March 4, 2013



HOLLY THUMAN, CSR

Exhibit 7

From: Patrick McKinney
To: Dvoskin, Joel; Moore, Jackie; Scott, Charles; Steve Martin <smart@sb...
CC: Spagnolo, David; Vorous, Debbie
Date: 2/24/2012 1:33 PM
Subject: Site Visits this Week

All, I just wanted to give you a head's up that we will be joined on next week's site visits by Jeffrey Beard, a consultant who has been retained directly by CDCR and is advising the department on issues related to *Coleman* and other cases.

Some of you may know Jeff, but for those who do not, Jeff was with the Pennsylvania Department of Corrections for approximately 30 years in a number of positions, including most recently Secretary of the Department. He retired within the last couple of years and is now doing consulting work, including with CDCR.

We expect that Jeff will be observing the programs and the tours, but will not be taking a hands-on approach. Accordingly, we do not expect that this should change anything you are doing to evaluate the program and use the audit tool.

Please give me a call if you have any questions or concerns. I will see you on Monday.

Patrick

Patrick R. McKinney II
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