

JAMIE L. DUPREE (SBN: 158105)  
jdupree@fddcm.com  
JAIME G. TOUCHSTONE (SBN: 233187)  
jtouchstone@fddcm.com  
FUTTERMAN DUPREE DODD CROLEY MAIER LLP  
601 Montgomery Street, Suite 333  
San Francisco, California 94111  
Telephone: (415) 399-3840  
Facsimile: (415) 399-3838

BRAD D. BRIAN (State Bar No. 79001)  
brad.brian@mto.com  
KATHERINE M. FORSTER (State Bar No. 217609)  
katherine.forster@mto.com  
JACOB S. KREILKAMP (State Bar No. 248210)  
jacob.kreilkamp@mto.com  
ROBERT E. BOWEN (State Bar. No. 335932)  
robert.bowen@mto.com  
MUNGER, TOLLES & OLSON LLP  
350 South Grand Avenue  
Fiftieth Floor  
Los Angeles, California 90071-3426  
Telephone: (213) 683-9100  
Facsimile: (213) 687-3702  
Attorneys for Receiver  
J. Clark Kelso

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

MARCIANO PLATA, et al.,  
Plaintiffs,  
vs.  
GAVIN NEWSOM, et al.,  
Defendants.

Case No. 4:01-cv-01351-JST

**REPORT OF MEET AND CONFER ON  
IMPLEMENTATION PLAN (ECF 3705).**

1 On August 4, 2021, the Receiver submitted a Report to the Court containing a  
2 recommendation that the Court order mandatory vaccination for workers who visit institutions and  
3 for incarcerated persons with outside contacts. The Receiver made this recommendation in  
4 response to the unprecedented challenge COVID-19 has posed to his mission to cure constitutional  
5 insufficiencies in the delivery of healthcare in California Department of Corrections and  
6 Rehabilitation (CDCR) institutions. On September 27, 2021, the Court found that CDCR was  
7 deliberately indifferent to a substantial risk of serious harm to incarcerated persons by failing to  
8 act reasonably to control COVID-19 and ordered that the Receiver's recommendation be  
9 implemented. ECF No. 3684.

10 Twenty-three days after this Court issued its order, implementation has not yet begun.  
11 After two weeks of cooperation between CCHCS and CDCR developing the framework for  
12 implementing the Court's order, on October 11, 2021, counsel for Defendants informed the  
13 Receiver's counsel that Defendants wanted to delay the implementation plan by three weeks.  
14 Forster Decl. ¶ 4, Ex. C. The Receiver declined to agree to the delay, and Defendants and the  
15 Receiver submitted a joint implementation plan committing to full compliance with this Court's  
16 order by November 29, 2021, though Defendants also noted their preference for a later  
17 implementation date. Forster Decl. ¶ 6, Ex. C; ECF No. 3694 at 5. Four days later, Defendants  
18 suggested to this Court that they were not bound to follow the agreed-upon and submitted  
19 timeframe. ECF No. 3703 at 2-3 ("[A]s noted in the implementation plan . . . Defendants and the  
20 Receiver disagreed about the appropriate timeframe for implementation. It does not appear that  
21 any specific timeframe governs compliance with this Court's September 27 order . . .").

22 After the Court ordered Defendants and the Receiver to meet and confer over this apparent  
23 misunderstanding, Defendants indicated during an October 18, 2021 meet and confer that they  
24 would not commit to *any* date for implementation. Forster Decl. ¶ 9. Defendants stated that they  
25 needed additional time to consult with CDCR's labor relations staff, have them confer with  
26 CCHCS labor relations staff, and determine a way to implement this Court's order in compliance  
27 with the Dills Act. *Id.* Defendants also asserted, for the first time, that they were unwilling to  
28

1 implement this Court's order prior to meeting and conferring with bargaining units under the Dills  
2 Act. *Id.* They offered two reasons for this position.

3 First they contended that, despite having filed an implementation plan with this Court  
4 committing to compliance by a certain date, there was no specific date by which Defendants were  
5 obligated to comply with the Court order. Forster Decl. ¶ 10. *See also* ECF No. 3703 at 3 ("no  
6 specific timeframe governs compliance with this Court's September 27 order . . ."). They further  
7 suggested that, in the absence of a Court-ordered deadline, they may have to meet and confer with  
8 bargaining units prior to implementation. *Id.*

9 Second, Defendants suggested that COVID-19 may not currently constitute an emergency  
10 permitting implementation prior to bargaining.<sup>1</sup> *Id.*

11 In that October 18 meet and confer over the timeline for implementation, Defendants also  
12 asserted that they need more time in order to have their motion for a stay decided prior to  
13 implementation. Forster Decl. ¶ 11. But that motion still has not been filed, more than three  
14 weeks after this Court's order. Asked about the timing of that filing, Defendants declined to say  
15 any more than that it "may" come this week. *Id.* In any event, whether implementation of the  
16 Court's order should be delayed is the precise question that would be posed by Defendants'  
17 anticipated motion for a stay. Delaying implementation until Defendants eventually ask this Court  
18 for a stay would in effect grant Defendants the relief they state they intend to seek without this  
19 Court deciding that a stay is warranted.

20 At the Receiver's urging, a further meet and confer was scheduled to include the pertinent  
21 labor relations staff. Forster Decl. ¶¶ 12, 13. At that conference, Defendants stated definitively  
22 that, absent a court order or emergency, they would need to provide notice to the unions and an  
23 \_\_\_\_\_

24 <sup>1</sup> The Dills Act requires that a government employer meet and confer with all bargaining units  
25 about a change within the scope of their representation prior to implementation, except in cases of  
26 emergency. Gov. Code § 3516.5. Defendants have the discretion to invoke an emergency  
27 exception obviating the need to provide notice and bargain prior to implementation. "In cases of  
28 emergency *when the employer determines* that a law, rule, resolution, or regulation must be  
adopted immediately without prior notice or meeting . . . the administrative officials . . . shall  
provide such notice and opportunity to meet in confer in good faith at the earliest practical time  
following the adoption of such law, rule, resolution, or regulation." Gov. Code § 3516.5  
(emphasis added).

1 opportunity to bargain over impacts prior to implementation. *Id.* Defendants reiterated that a  
 2 court order would allow implementation to begin immediately. *Id.* Defendants also stated that  
 3 they have not reached a decision on whether they would be willing to invoke the Dills Act's  
 4 emergency exception. *Id.*

5 In light of Defendants' statement that they would proceed with the implementation plan of  
 6 the Court's September 27, 2021 order immediately if this Court ordered implementation on a  
 7 particular timeline, but that they will not cooperate on implementation prior to bargaining absent  
 8 this Court ordering a specific timeline, the Receiver is lodging with the Court a Proposed Order  
 9 that the parties' previously-submitted implementation plan be adopted, with dates slightly  
 10 modified given the delay that has already occurred, as reflected in the accompanying proposed  
 11 order.

12 Any claim that there is no ongoing emergency is strongly contradicted by the facts. In just  
 13 the last two weeks, there were major outbreaks in California State Prison Corcoran (93 cases);  
 14 Wasco State Prison (51 cases); High Desert State Prison (23 cases); Centinela State Prison (16  
 15 cases); and North Kern State Prison (10 cases).<sup>2</sup> The Governor's Proclamation of a State of  
 16 Emergency from COVID-19 remains in effect.<sup>3</sup>

17 As this Court previously found, remedying the ongoing violation of the Eighth  
 18 Amendment rights of every incarcerated person in CDCR custody, and protecting incarcerated  
 19 persons from an ongoing public health emergency, is a matter of great urgency warranting the  
 20 implementation of this Court's prior order. Defendants have made clear that implementation will

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22 //

23 //

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 25 \_\_\_\_\_  
 26 <sup>2</sup> California Department of Corrections and Rehabilitation, Population COVID-19 Tracking  
 (accessed Oct. 19, 2021), <https://www.cdcr.ca.gov/covid19/population-status-tracking/>.

27 <sup>3</sup> See Executive Department, State of California, Proclamation of a State of Emergency (Mar. 4,  
 28 2020), <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>.

1 not proceed in a timely manner absent another order from this Court ordering implementation of  
2 the Court's order on a specific timeline.

3  
4  
5 DATED: October 20, 2021

MUNGER, TOLLES & OLSON LLP

6  
7 By: /s/ Katherine M. Forster

KATHERINE M. FORSTER

8 Attorneys for Receiver J. Clark Kelso  
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**Declaration of Katherine Forster**

I declare, under penalty of perjury and pursuant to 28 U.S.C. § 1746, as follows:

1. I am Katherine M. Forster, counsel to the Receiver, J. Clark Kelso, in the above captioned matter. Since the Court's September 27 order, I have been involved in negotiations over implementation of the order. CCHCS was represented in these negotiations by Lara Saich and Migdalia Siaca at the staff level, and by myself in conferences to meet and confer. I submit this declaration to inform the Court of the progress of efforts to meet and confer with Defendants regarding a timeline to implement the Court's order.
2. On October 11, 2021, at 2:12 pm, Linda Ostling transmitted CDCR's proposed Joint Implementation plan on behalf of Defendants. A copy of the correspondence transmitting this draft and asking for the Receiver's approval or concerns is attached as Exhibit A. A copy of the attached draft, containing the November 29 implementation date, is attached as Exhibit B. This correspondence and the attached draft were provided to me by Roscoe Barrow, Chief Counsel, CCHCS.
3. CDCR's proposed joint implementation plan reflected the agreement to implement the Court's order prior to bargaining subject to the Dills Act's emergency exception. The draft joint implementation plan required full vaccination of all individuals covered by the order by November 29, 2021. This timeline of just under seven weeks for full implementation left no time for notice and an opportunity to meet and confer prior to beginning implementation. It therefore reflected CDCR and CCHCS's agreement that implementation would proceed prior to bargaining pursuant to the Dills Act emergency exception.
4. Later on October 11, 2021, Lara Saich transmitted the Receiver's edits to the plan proposed by CDCR. On October 12, 2021, at 11:51 am, Damon McClain transmitted a revised joint implementation plan, accepting the Receiver's edits. However, Mr. McClain also proposed delaying implementation by three weeks. The parties agreed to a conference to meet and confer over Defendants' proposal at noon on October 12, 2021. Correspondence between the parties regarding this proposed change and coming to final agreement on the joint filing is attached as Exhibit C.
5. During the noon conference on October 12, 2021, to meet and confer over the implementation deadline at noon, Mr. McClain stated that Defendants wanted to delay implementation for three weeks in order to create sufficient time for a possible motion to stay, which they had not yet decided whether or not to file, to be ruled on before implementation began. At that time, Mr. McClain indicated that if the Receiver did not agree to extend time, Defendants would like to include a footnote indicating that Defendants had requested additional time and that the Receiver did not agree to that request.
6. On October 12, 2021, at 12:28 pm, I corresponded with Mr. McClain indicating that the Receiver did not agree to delay implementation by three weeks and would review a

version including the footnote that Defendants had orally requested. That correspondence is also included in Exhibit C. The Receiver and Defendants subsequently jointly filed an implementation plan requiring full compliance with the order by November 29, 2021.

7. Following the decision of Kern County Superior Court Judge Bernard C. Barmann, Jr. to issue a temporary restraining order enjoining implementation of the California Department of Public Health (CDPH) August 19 order as to Bargaining Unit 6, on October 14, 2021, at 12:22 pm, Receiver's counsel requested to meet and confer with Defendants regarding how implementation of this Court's order should proceed. At 6:55 pm, citing statements by Receiver's counsel earlier that day in court that he intended to seek clarification that the temporary restraining order did not prohibit implementation of this Court's order, Defendants declined to meet and confer over implementation. This correspondence is attached as Exhibit D.
8. On October 18, 2021, at 8:45 am, following the Court's October 15 order instructing the Receiver and Defendants to meet and confer over a timeline for implementation of the Court's September 27 order, Receiver's counsel requested to meet and confer with Defendants. Defendants agreed to meet at 3:00 pm that day. This correspondence is also included in Exhibit D.
9. Defendants refused to commit to any date for implementation at the October 18, 2021 conference. Defendants stated that they would need additional time to consult with CDCR's labor relations staff, have them confer with CCHCS labor relations staff, and determine a way to implement this Court's order in compliance with the Dills Act. Asked with which individuals Defendants would need to confer, Defendants said they did not know. Defendants, for the first time, after weeks of negotiations over implementation, said they may need to meet and confer with bargaining units under the Dills Act prior to implementation.
10. Defendants gave two reasons at the October 18 conference for why they may need to meet and confer with bargaining units prior to implementation. First, they contended that there was no specific date by which they were obligated to be in compliance with the Court's September 27 order. In the absence of such a date, they asserted they would have to bargain prior to implementation. Second, they suggested that COVID-19 may not currently constitute an emergency permitting implementation prior to bargaining.
11. Defendants asserted one additional reason for delaying implementation at the October 18 conference: they needed more time to have their anticipated motion for a stay decided prior to beginning implementation. Asked about the timing of filing that motion, Defendants declined to say any more than that it may be filed this week.
12. At the conclusion of the October 18 conference, at the urging of Receiver's counsel, it was agreed that a conference including labor relations staff would be necessary to determine whether agreement on a timeframe for implementation was possible. Receiver's counsel requested to meet that afternoon and confirmed that both Receiver's counsel and Migdalia Siaca, Deputy Director, Labor Relations, CCHCS, were prepared to

attend a conference that afternoon. Receiver's counsel also asked whether Defendants could confirm a time during the conference when CDCR labor relations staff would be available to meet. Defendants said that they would have to follow up with a time. Counsel for the Receiver asked that the meeting occur as soon as possible, on the afternoon of October 18, or the morning of October 19. At 6:08 pm, Mr. McClain wrote to offer a meeting at 3:00 pm the following day, October 19. Receiver's counsel accepted that meeting. This correspondence is also included in Exhibit D.

13. Counsel for the Receiver and Defendants, as well as CDCR and CCHCS labor relations staff met and conferred again on October 19, 2021 at 3:00 pm. At the meet and confer, Defendants asserted definitively that, absent a court order or emergency, they believed that notice and an opportunity to bargain over impacts would be required prior to implementation. Defendants said that they could begin implementation immediately if the Court ordered compliance by a particular date. When pressed for their position as to whether implementation could begin immediately under the emergency exception in the Dills Act, Defendants stated that they have not yet reached a decision whether they would be willing to invoke the Dills Act emergency exception to proceed with implementation prior to bargaining.

Executed on this 20th day of October, 2021, at Solvang, California.

/s/ Katherine M. Forster

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Katherine M. Forster

# **Exhibit A**

**EXHIBIT A**

**From:** [Ostling, Linda](#)  
**To:** [Barrow, Roscoe@CDCR](#)  
**Cc:** [Neill, Jennifer@CDCR](#); [Renteria, Simone@CDCR](#); ["damon.mcclain@doj.ca.gov"](#); [Paul B. Mello](#); [Stafford, Carrie@CDCR](#); [Scofield, Bryant](#)  
**Subject:** Joint Implementation Plan RE: Mandatory Vaccines  
**Date:** Monday, October 11, 2021 2:12:40 PM  
**Attachments:** [Mandatory Vaccines Joint Implementation Plan\\_DRAFT\\_10.11.2021.docx](#)

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Good afternoon Roscoe,

Attached please CDCR's proposed Joint Implementation Plan to be in line with Judge Tigar's Order dated September 27, 2021. The pieces removed from this plan are being contemplated for the memo that is being drafted. Please let us know if Clark approves of this revised Plan, or if he has any questions or concerns with the Plan.

The *Plata* Litigation team would appreciate your response by tomorrow October 12<sup>th</sup> at 10:00 a.m. so they can complete the joint filing timely.

Best regards,

***Linda V. Ostling***

**Attorney IV**

**Office of Legal Affairs**

California Dept. of Corrections & Rehabilitation

1515 S St. Suite 314-South Bldg.

Sacramento, CA. 95811

Cell: **(916) 217-7245**

Fax: **(916) 324-7117**

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# **Exhibit B**

**EXHIBIT B**

**JOINT IMPLEMENTATION PLAN FOR MANDATORY VACCINATION**

**CALIFORNIA DEPARTMENT OF CORRECTIONS (CDCR) AND REHABILITATION AND CALIFORNIA  
CORRECTIONAL HEALTH CARE SERVICES (CCHCS)**

The following joint implementation plan is submitted in order to comply with the *Order Re: Mandatory Vaccinations* issued on September 27, 2021 by the Honorable Jon S. Tigar, District Judge for the United States District Court for the Northern District of California, in the *Plata vs. Newsom* class action lawsuit. (ECF No. 3684.)<sup>1</sup>

**APPLICATION OF ORDER RE: MANDATORY VACCINATION**

1. Mandatory vaccination shall apply to the following individuals identified as workers:
  - All CDCR/CCHCS and CALPIA employees, retired annuitants, health care registry workers, and contract workers (who work directly with incarcerated persons) who enter CDCR institution grounds for the performance of job duties, including Headquarters and Regional staff who may enter CDCR institution grounds for any purpose including the performance of job duties.
  - All CDCR/CCHCS peace officers, including retired annuitants, who may need to perform work at an institution, regardless of work location.
  - All volunteers who enter CDCR institution grounds to provide services or programming.

Mandatory vaccination shall apply to the following incarcerated persons identified as workers:

- All Inmate/Ward Labor Program casual tradespersons, who may work outside their institution.
  - All incarcerated persons who perform job duties outside of a CDCR institution.
2. Mandatory vaccination shall apply to all incarcerated persons who have in-person visitation.
  3. Mandatory vaccination does not apply to individuals who may enter CDCR institution grounds for official business and are not CDCR/ CCHCS or CalPIA employees. However, these individuals shall comply with all applicable California Department of Public Health (CDPH) mandates and guidelines that govern high-risk settings, congregate facilities, or correctional facilities and that are in effect at the time of entry into the institution.

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<sup>1</sup> This submission is made by CDCR in a good faith effort to comply with the Court's Order (ECF No. 3684). Nothing set forth herein is intended to act as or to indicate forfeiture or voluntary relinquishment by CDCR of any and all issues cognizable in any appeal of the Order. Indeed, CDCR continues to have serious reservations about the impact of implementing this plan on staffing and operations statewide.

## **TIMEFRAME AND VERIFICATION PROCESS TO COMPLY WITH JOINT IMPLEMENTATION PLAN FOR MANDATORY VACCINATION**

All individuals and incarcerated persons identified above (refer to 1 and 2) shall be fully vaccinated<sup>2</sup> before November 29, 2021.<sup>3</sup> Vaccinations are provided at no cost to CDCR/CCHCS workers and incarcerated persons and may be obtained onsite from scheduled vaccination clinics. Alternatively, CDCR/CCHCS workers opting to obtain vaccination outside CDCR/CCHCS may select another clinic listed on the website [myturn.ca.gov](https://myturn.ca.gov) or their personal health care provider and shall follow the established process for submitting proof of vaccination to CDCR/CCHCS.

### **TIMEFRAME FOR NEW EMPLOYEES**

Newly-hired CDCR/CCHCS and CALPIA civil service employees, retired annuitants, health care registry providers, contract workers (who work directly with the incarcerated population), and peace officers shall obtain their first dose of a two-dose vaccine, or single dose of a one-dose vaccine, or submit a request for religious or reasonable accommodation, within 10 business days of their start date. New and current advertisements for civil service jobs and registry/contract assignments will be updated to reflect the mandatory vaccination requirement.

### **REQUESTS FOR ACCOMMODATIONS FROM MANDATORY VACCINATION**

All individuals and incarcerated persons identified as workers (refer to 1 and 2, above) may submit an accommodation request to be exempted from mandatory vaccination based on a sincerely-held religious belief.

With the exception of health care registry and contract workers, individuals and incarcerated persons identified as workers (refer to 1 and 2, above) may submit an accommodation request to be exempted from mandatory vaccines due to a qualifying medical reason(s). Health care registry and contract workers shall direct requests for medical accommodations to their respective contractor/employer.

Requests for religious or reasonable medical accommodation should be submitted on or before October 29, 2021 for timely processing. If the accommodation is denied, the worker has 10 days to initiate a vaccination.

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<sup>2</sup>Fully vaccinated is two weeks after the second of two Moderna or Pfizer vaccines, or two weeks after the single Johnson and Johnson vaccine.

<sup>3</sup> In order to meet this deadline, November 14, 2021 is the latest date that the second of the two-dose Moderna or Pfizer vaccines, or the single dose of the Johnson & Johnson vaccine can be received.

**CONSEQUENCES OF NON-COMPLIANCE**

Employees identified as workers (refer to 1, above) shall be subject to progressive discipline if they do not comply with the vaccination requirement and timeframe for compliance and do not have a request for accommodation for religious or medical reason(s) in process or approved. Progressive discipline shall commence on November 15, 2021.

Effective November 29, 2021, incarcerated persons identified in 1 and 2 shall receive vaccine counseling and, if out-of-compliance after [time period], to reduce the risk of introduction of COVID-19 into CDCR institutions, shall lose eligibility to hold jobs outside of institutions or conduct in-person visitation, until such time as they are in compliance.

All health care registry, contract, or volunteer workers who do not comply with the vaccination requirement and timeframe for compliance and do not have a request for accommodation for religious or medical reason(s) in process or approved may have their assignments ended on or after November 15, 2021.

# **Exhibit C**

**EXHIBIT C**

**From:** [Damon McClain](#)  
**To:** [Jamie Dupree](#)  
**Cc:** [Forster, Katherine](#); [Bowen, Robert](#); [Brian, Brad](#); [Meltzer, Jonathan](#); [Doyen, Michael](#); [Kreilkamp, Jacob](#); [Barrow, Roscoe@CDCR](#); [Stafford, Carrie C.@CDCR](#); [Ostling, Linda](#); [Scofield, Bryant](#); [Iram Hasan](#); [Paul B. Mello](#); [Samantha Wolff](#)  
**Subject:** RE: Plata Implementation Plan  
**Date:** Tuesday, October 12, 2021 6:56:18 PM

---

Got it. Thanks. We'll get it filed.

---

**From:** Jamie Dupree <JDupree@FDDCM.com>  
**Sent:** Tuesday, October 12, 2021 6:53 PM  
**To:** Damon McClain <Damon.McClain@doj.ca.gov>  
**Cc:** Forster, Katherine <Katherine.Forster@mto.com>; Bowen, Robert <Robert.Bowen@mto.com>; Brian, Brad <Brad.Brian@mto.com>; Meltzer, Jonathan <Jonathan.Meltzer@mto.com>; Doyen, Michael <Michael.Doyen@mto.com>; Kreilkamp, Jacob <Jacob.Kreilkamp@mto.com>; Barrow, Roscoe@CDCR <Roscoe.Barrow@cdcr.ca.gov>; Stafford, Carrie C.@CDCR <Carrie.Stafford@cdcr.ca.gov>; Ostling, Linda <Linda.Ostling@cdcr.ca.gov>; Scofield, Bryant <Bryant.Scofield@cdcr.ca.gov>; Iram Hasan <Iram.Hasan@doj.ca.gov>; Paul B. Mello <Pmello@hansonbridgett.com>; Samantha Wolff <SWolff@hansonbridgett.com>  
**Subject:** Re: Plata Implementation Plan

<p><b>EXTERNAL EMAIL:</b> This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.</p>
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You have my authorization to sign on my behalf. Thx.

Jamie L. Dupree

Futterman Dupree Dodd Croley Maier LLP

Please excuse typos. I am typing with my thumbs. Sent from my iPhone

On Oct 12, 2021, at 6:45 PM, Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)> wrote:

Would you like to create a new pdf with your signatures? Or should we simply use /s/, which is our usual practice?

---

**From:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>  
**Sent:** Tuesday, October 12, 2021 6:43 PM  
**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>  
**Cc:** Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda

<[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

That's fine, Damon. Please get it on file. Thanks.

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**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>

**Sent:** Tuesday, October 12, 2021 6:27 PM

**To:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>

**Cc:** Stafford, Carrie [C.@CDCR](mailto:C.@CDCR) <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

Sorry all, I missed this.

We wanted to add the word *possible* to our footnote 3 so it reads:

Defendants sought to extend the vaccination deadline in this plan to December 20, 2021, to allow time for the Court to consider a possible motion seeking to stay the September 27 order pending appeal, but the Receiver declined that request.

Any objection to that? Here is the revised draft.

-Damon

---

**From:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>

**Sent:** Tuesday, October 12, 2021 6:05 PM

**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>

**Cc:** Stafford, Carrie [C.@CDCR](mailto:C.@CDCR) <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

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Hi Damon,

Thank you for drafting this and for handling filing. Please find a signed copy of the cover pleading attached. You have our authorization to file.

Thank you,

Robert

---

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>  
**Sent:** Tuesday, October 12, 2021 4:16 PM  
**To:** Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>  
**Cc:** Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** RE: Plata Implementation Plan

Hi everyone,

Here is a draft cover pleading. We included place holders in the caption and in the signature block for you to add the Receiver's Counsel's information.

We are happy to handle the filing if you approve the documents.

-Damon

---

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>  
**Sent:** Tuesday, October 12, 2021 3:54 PM  
**To:** Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>  
**Cc:** Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram

Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>;  
Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

Hi Jamie and all,

Sorry for the delay. Here is the revised plan. I added footnote three, and moved footnote 4 to the next sentence so they would not be on top of each other. Please let us know if the Receiver is okay with that change.

I will send the draft cover pleading shortly. Thank you!

---

**From:** Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>

**Sent:** Tuesday, October 12, 2021 3:44 PM

**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>

**Cc:** Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

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Hi Damon,

When will you get us the draft pleading and the final implementation plan with your proposed footnote? We need to file today.

Thanks.

Jamie

<image001.gif>

**Jamie L. Dupree | Attorney**  
**Futerman Dupree Dodd Croley Maier LLP**

**visit** 601 Montgomery Street, Suite 333  
San Francisco, CA 94111

**direct** 415 399 3843

**fax** 415 399 3838

**view** [www.fddcm.com](http://www.fddcm.com)

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---

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>  
**Sent:** Tuesday, October 12, 2021 12:57 PM  
**To:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>  
**Cc:** Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** RE: Plata Implementation Plan

Will do.

---

**From:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>  
**Sent:** Tuesday, October 12, 2021 12:28 PM  
**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>  
**Cc:** Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** RE: Plata Implementation Plan

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Damon, the Receiver does not agree to the proposal to delay implementation by three weeks. Please send us a clean version with your footnote and the cover pleading as soon as possible.

Thank you,  
Katherine

**Katherine M. Forster** ([she/her](#)) | **Munger, Tolles & Olson LLP**  
350 South Grand Ave., 50th Floor | Los Angeles, CA 90071  
Tel: 213.683.9538 | Fax: 213.593.2838 | [katherine.forster@mto.com](mailto:katherine.forster@mto.com) | [www.mto.com](http://www.mto.com)

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---

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>

**Sent:** Tuesday, October 12, 2021 11:51 AM

**To:** Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>  
**Cc:** Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** Plata Implementation Plan

All,

I attach a revised draft of the implementation plan that accepts the Receiver's last round of revisions. In this draft we have moved the implementation deadline by three weeks, which is what we would like to discuss with you. I have highlighted all changes. I look forward to talking at noon.

-Damon

**Damon G. McClain**  
**Supervising Deputy Attorney General**  
**455 Golden Gate Avenue, Suite 11000**  
**San Francisco, CA 94102-7004**  
tel.: (415) 510-3596  
fax: (415) 703-5843  
[damon.mcclain@doj.ca.gov](mailto:damon.mcclain@doj.ca.gov)

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# **Exhibit D**

EXHIBIT D

**From:** [Forster, Katherine](#)  
**To:** [Damon McClain](#)  
**Cc:** [Jamie Dupree](#); [Bowen, Robert](#); [Brian, Brad](#); [Meltzer, Jonathan](#); [Doyen, Michael](#); [Kreilkamp, Jacob](#); [Barrow, Roscoe@CDCR](#); [Stafford, Carrie C.@CDCR](#); [Ostling, Linda](#); [Scofield, Bryant](#); [Iram Hasan](#); [Paul B. Mello](#); [Samantha Wolff](#)  
**Subject:** Re: Plata Implementation Plan  
**Date:** Monday, October 18, 2021 8:16:05 PM

---

We can be available then.

Sent from my iPhone

On Oct 18, 2021, at 6:08 PM, Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)> wrote:

Hi Katherine,

We are available to meet tomorrow at 3:00 with CDCR's labor relations personnel. If that works for you, we will send a meeting notice.

-Damon

---

**From:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>  
**Sent:** Monday, October 18, 2021 5:22 PM  
**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>  
**Cc:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>; Stafford, Carrie C.@CDCR <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** RE: Plata Implementation Plan

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Damon, as we discussed on our 3 pm call, we need to set up a further call including the labor relations personnel this evening or in the morning tomorrow. As we confirmed earlier, Migdalia Siaca from CCHCS is available. Please let us know what time works for CDCR's labor relations personnel.

Thank you,

Katherine

---

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>  
**Sent:** Monday, October 18, 2021 12:28 PM  
**To:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>  
**Cc:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>; Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** RE: Plata Implementation Plan

Please go ahead and send an invite. Thank you.

-Damon

---

**From:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>  
**Sent:** Monday, October 18, 2021 12:25 PM  
**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>  
**Cc:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>; Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** RE: Plata Implementation Plan

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Yes, we can be available at 3 pm. We can send an invite, unless you would prefer to do so.

---

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>  
**Sent:** Monday, October 18, 2021 12:13 PM  
**To:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>

**Cc:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>; Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

Hi Katherine,

We can be available to discuss this at 3:00. Does that work?

-Damon

---

**From:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>

**Sent:** Monday, October 18, 2021 8:45 AM

**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>

**Cc:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>; Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

**Importance:** High

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Good morning, Damon. Now that Judge Tigar has ordered the parties to meet and confer over the implementation plan and associated deadline we would like to schedule a call as soon as possible. Please let us know your availability today, preferably this morning.

Thanks,  
Katherine

---

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>

**Sent:** Thursday, October 14, 2021 6:55 PM

**To:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Jamie Dupree

<JDupree@FDDCM.com>

**Cc:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>; Stafford, Carrie C.@CDCR <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

Good evening, Katherine,

We are declining your request to meet and confer about the TRO. After asking to confer with us about this issue, today at the hearing, Mr. Brian took the initiative to state to the Court the Receiver's position on the legal significance of the Davis TRO, and previewed the filing that the Receiver will make with the Court next week. Those actions make clear that the Receiver's representatives have already decided to move forward independently and without good-faith discussions with Defendants on an appropriate path forward. Consequently, we see no value in further discussions toward a joint filing. We will confer with our clients and determine appropriate next steps.

-Damon

---

**From:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>

**Sent:** Thursday, October 14, 2021 3:10 PM

**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>

**Cc:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>; Stafford, Carrie C.@CDCR <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

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Either works, but we prefer later today if the order comes out by the end of the court day. I imagine we all agree that it would be ideal to speak after the order issues.

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>

**Sent:** Thursday, October 14, 2021 1:40 PM

**To:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>

**Cc:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>; Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

Hi Katherine,

We don't have additional information on the status of the order. Like you, we are waiting to see a written order, and we hope it issues soon. We could probably find some time to talk before the end of the day, or sometime tomorrow morning. Let us know your preference.

-Damon

---

**From:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>

**Sent:** Thursday, October 14, 2021 12:22 PM

**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>

**Cc:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>; Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

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We wanted to follow up with this group about the implementation plan and how, if at all, it may be impacted by the Kern Country TRO ruling. We do not have a copy of that ruling and understand that the Court may be awaiting (or have been awaiting) a revised proposed order. We would appreciate any light you can shed on the status of the TRO ruling and would welcome dialogue on this subject as soon as possible.

Katherine M. Forster ([she/her](#)) | Munger, Tolles & Olson LLP  
350 South Grand Ave., 50th Floor | Los Angeles, CA 90071  
Tel: 213.683.9538 | Fax: 213.593.2838 | [katherine.forster@mto.com](mailto:katherine.forster@mto.com) |  
[www.mto.com](http://www.mto.com)

MTO is committed to our environment. Please join us and consider not printing this e-mail unless necessary.

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---

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>  
**Sent:** Tuesday, October 12, 2021 6:55 PM  
**To:** Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>  
**Cc:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>; Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR) <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** RE: Plata Implementation Plan

Got it. Thanks. We'll get it filed.

---

**From:** Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>  
**Sent:** Tuesday, October 12, 2021 6:53 PM  
**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>  
**Cc:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>; Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR) <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** Re: Plata Implementation Plan

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attachments that appear suspicious.

You have my authorization to sign on my behalf. Thx.

Jamie L. Dupree

Futterman Dupree Dodd Croley Maier LLP

Please excuse typos. I am typing with my thumbs. Sent from my iPhone

On Oct 12, 2021, at 6:45 PM, Damon McClain

<[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)> wrote:

Would you like to create a new pdf with your signatures? Or should we simply use /s/, which is our usual practice?

---

**From:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>

**Sent:** Tuesday, October 12, 2021 6:43 PM

**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>

**Cc:** Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

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That's fine, Damon. Please get it on file. Thanks.

---

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>

**Sent:** Tuesday, October 12, 2021 6:27 PM

**To:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR

<[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>

**Cc:** Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

Sorry all, I missed this.

We wanted to add the word *possible* to our footnote 3 so it reads:

Defendants sought to extend the vaccination deadline in this plan to December 20, 2021, to allow time for the Court to consider a possible motion seeking to stay the September 27 order pending appeal, but the Receiver declined that request.

Any objection to that? Here is the revised draft.

-Damon

---

**From:** Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>

**Sent:** Tuesday, October 12, 2021 6:05 PM

**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>

**Cc:** Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

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Hi Damon,

Thank you for drafting this and for handling filing. Please find a signed copy of the cover pleading attached. You have our authorization to file.

Thank you,

Robert

---

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>  
**Sent:** Tuesday, October 12, 2021 4:16 PM  
**To:** Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>  
**Cc:** Stafford, Carrie [C.@CDCR](mailto:C.@CDCR) <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** RE: Plata Implementation Plan

Hi everyone,

Here is a draft cover pleading. We included place holders in the caption and in the signature block for you to add the Receiver's Counsel's information.

We are happy to handle the filing if you approve the documents.

-Damon

---

**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>  
**Sent:** Tuesday, October 12, 2021 3:54 PM  
**To:** Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>  
**Cc:** Stafford, Carrie [C.@CDCR](mailto:C.@CDCR) <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** RE: Plata Implementation Plan

Hi Jamie and all,

Sorry for the delay. Here is the revised plan. I added footnote three, and moved footnote 4 to the next sentence so they would not be on top of each other. Please let us know if the Receiver is okay with that change.

I will send the draft cover pleading shortly. Thank you!

---

**From:** Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>  
**Sent:** Tuesday, October 12, 2021 3:44 PM  
**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>  
**Cc:** Stafford, Carrie <[C.@CDCR](mailto:C.@CDCR)> <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** RE: Plata Implementation Plan

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Hi Damon,  
When will you get us the draft pleading and the final implementation plan with your proposed footnote? We need to file today.  
Thanks.  
Jamie

<image001.gif>

**Jamie L. Dupree | Attorney**  
**Futterman Dupree Dodd Croley Maier LLP**

**visit** 601 Montgomery Street, Suite 333  
San Francisco, CA 94111

**direct** 415 399 3843

**fax** 415 399 3838

**view** [www.fddcm.com](http://www.fddcm.com)

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**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>

**Sent:** Tuesday, October 12, 2021 12:57 PM

**To:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>

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**Subject:** RE: Plata Implementation Plan

Will do.

---

**From:** Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>

**Sent:** Tuesday, October 12, 2021 12:28 PM

**To:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>

**Cc:** Stafford, Carrie [C.@CDCR](mailto:C.@CDCR) <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>

**Subject:** RE: Plata Implementation Plan

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Damon, the Receiver does not agree to the proposal to delay implementation by three weeks. Please send us a clean version with your footnote and the cover pleading as soon as possible.

Thank you,  
Katherine

**Katherine M. Forster** ([she/her](#)) | **Munger, Tolles & Olson LLP**  
350 South Grand Ave., 50th Floor | Los Angeles, CA 90071  
Tel: 213.683.9538 | Fax: 213.593.2838 | [katherine.forster@mto.com](mailto:katherine.forster@mto.com)  
| [www.mto.com](http://www.mto.com)

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**From:** Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>  
**Sent:** Tuesday, October 12, 2021 11:51 AM  
**To:** Jamie Dupree <[JDupree@FDDCM.com](mailto:JDupree@FDDCM.com)>; Brian, Brad <[Brad.Brian@mto.com](mailto:Brad.Brian@mto.com)>; Meltzer, Jonathan <[Jonathan.Meltzer@mto.com](mailto:Jonathan.Meltzer@mto.com)>; Doyen, Michael <[Michael.Doyen@mto.com](mailto:Michael.Doyen@mto.com)>; Bowen, Robert <[Robert.Bowen@mto.com](mailto:Robert.Bowen@mto.com)>; Kreilkamp, Jacob <[Jacob.Kreilkamp@mto.com](mailto:Jacob.Kreilkamp@mto.com)>; Forster, Katherine <[Katherine.Forster@mto.com](mailto:Katherine.Forster@mto.com)>; Barrow, Roscoe@CDCR <[Roscoe.Barrow@cdcr.ca.gov](mailto:Roscoe.Barrow@cdcr.ca.gov)>  
**Cc:** Stafford, Carrie [C.@CDCR](mailto:C.@CDCR) <[Carrie.Stafford@cdcr.ca.gov](mailto:Carrie.Stafford@cdcr.ca.gov)>; Ostling, Linda <[Linda.Ostling@cdcr.ca.gov](mailto:Linda.Ostling@cdcr.ca.gov)>; Scofield, Bryant <[Bryant.Scofield@cdcr.ca.gov](mailto:Bryant.Scofield@cdcr.ca.gov)>; Iram Hasan <[Iram.Hasan@doj.ca.gov](mailto:Iram.Hasan@doj.ca.gov)>; Paul B. Mello <[Pmello@hansonbridgett.com](mailto:Pmello@hansonbridgett.com)>; Samantha Wolff <[SWolff@hansonbridgett.com](mailto:SWolff@hansonbridgett.com)>  
**Subject:** Plata Implementation Plan

All,

I attach a revised draft of the implementation plan that accepts the Receiver's last round of revisions. In this draft we have moved the implementation deadline by three weeks, which is what we would like to discuss with you. I have highlighted all changes. I look forward to talking at noon.

-Damon

**Damon G. McClain**  
**Supervising Deputy Attorney General**  
**455 Golden Gate Avenue, Suite 11000**  
**San Francisco, CA 94102-7004**  
tel.: (415) 510-3596  
fax: (415) 703-5843  
[damon.mcclain@doj.ca.gov](mailto:damon.mcclain@doj.ca.gov)

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JAMIE L. DUPREE (SBN: 158105)  
jdupree@fddcm.com  
JAIME G. TOUCHSTONE (SBN: 233187)  
jtouchstone@fddcm.com  
FUTTERMAN DUPREE DODD CROLEY MAIER LLP  
601 Montgomery Street, Suite 333  
San Francisco, California 94111  
Telephone: (415) 399-3840  
Facsimile: (415) 399-3838

BRAD D. BRIAN (State Bar No. 79001)  
brad.brian@mto.com  
KATHERINE M. FORSTER (State Bar No. 217609)  
katherine.forster@mto.com  
JACOB S. KREILKAMP (State Bar No. 248210)  
jacob.kreilkamp@mto.com  
ROBERT E. BOWEN (State Bar. No. 335932)  
robert.bowen@mto.com  
MUNGER, TOLLES & OLSON LLP  
350 South Grand Avenue  
Fiftieth Floor  
Los Angeles, California 90071-3426  
Telephone: (213) 683-9100  
Facsimile: (213) 687-3702  
Attorneys for Receiver  
J. Clark Kelso

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

MARCIANO PLATA, et al.,

Plaintiffs,

vs.

GAVIN NEWSOM, et al.,

Defendants.

Case No. 4:01-cv-01351-JST

**NOTICE OF LODGING OF PROPOSED  
ORDER**

1 Receiver hereby lodges with the Court the attached Proposed Order in connection with the  
2 simultaneously filed Report of the Receiver's meet and confer discussions with Defendants'  
3 counsel and representatives. The Proposed Order would order the Receiver and Defendants to  
4 implement the Court's September 27 order according to the joint implementation plan they  
5 submitted to the Court on October 12, 2021, modified slightly to account for a delay in beginning  
6 implementation, with a full compliance date of December 16, 2021. Receiver respectfully  
7 requests the Court to enter the Proposed Order.

8  
9 DATED: October 20, 2021

MUNGER, TOLLES & OLSON LLP

10  
11 By: /s/ Katherine M. Forster

KATHERINE M. FORSTER

12 Attorneys for Receiver J. Clark Kelso  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

MARCIANO PLATA, et al.,

Plaintiffs,

vs.

GAVIN NEWSOM, et al.,

Defendants.

Case No. 4:01-cv-01351-JST

**[PROPOSED] ORDER RE:  
DEFENDANTS' REQUEST FOR  
CLARIFICATION**

Re: ECF No. 3703

On September 27, 2021, the Court ordered Defendants and the Receiver to:

Implement the Receiver's recommendations that (1) access by workers to CDCR institutions be limited to those workers who establish proof of full COVID-19 vaccination or have established a religious or medical exemption to vaccination and (2) incarcerated persons who desire to work outside of the institution or to have in-person visitation must be fully vaccinated against COVID-19 or establish a religious or medical exemption.

ECF No. 3684 at 21.

The Court also ordered Defendants and the Receiver to submit an implementation plan "including a deadline by which all covered persons must be vaccinated." *Id.* On October 12, 2021, Defendants and the Receiver filed an implementation plan providing for all individuals covered by the order to be fully vaccinated by November 29, 2021. ECF No. 3694 at 5. Defendants then submitted a request for clarification asserting "[i]t does not appear that any specific timeframe governs compliance with this Court's September 27 order . . . ." ECF No. 3703 at 3. The Court ordered Defendants and the Receiver to meet and confer regarding the implementation date for the order. ECF No. 3705 at 1.

1       The Court understands that, as of October 19, 2021, the Defendants have told the Receiver  
2 that they cannot implement this Court's order prior to bargaining unless the Court adopts the joint  
3 implementation plan as a Court order and sets a date for implementation. ECF No. 3707 at 4. The  
4 Court also understands that, in the absence of such an order, Defendants have declined to agree to  
5 any date for implementation. The Court also understands that the time necessary to implement the  
6 Court's order by the dates agreed to in the joint implementation plan has passed and  
7 implementation has not yet begun, requiring adjustment of the implementation dates included in  
8 the joint implementation plan.

9       THE COURT HEREBY ORDERS the parties to implement the joint implementation plan  
10 by the following dates:

- 11 • Latest date the first of two-dose Moderna vaccine shall be received: November 4, 2021
- 12 • Latest date the first of two-dose Pfizer vaccine shall be received: November 11, 2021
- 13 • Latest date the second of two-dose Moderna vaccine shall be received: December 2, 2021
- 14 • Latest date the second of two-dose Pfizer vaccine shall be received: December 2, 2021
- 15 • Latest date the single dose Johnson & Johnson vaccine shall be received: December 2,  
16 2021
- 17 • Date consequences of non-compliance—progressive discipline for workers, vaccine  
18 counseling followed by loss of eligibility for incarcerated persons, and assignments ended  
19 for health care registry, contract, or volunteer workers—shall commence: December 2,  
20 2021
- 21 • Date all individuals who comply with the foregoing requirements shall be considered fully  
22 vaccinated: December 16, 2021

23  
24 **IT IS SO ORDERED.**  
25  
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28

1 DATED: October 20, 2021

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JON S. TIGAR  
United States District Judge