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8 Attorneys for Defendants
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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**

14 MARCIANO PLATA, et al.,

15 Plaintiffs,

16 v.

17 GAVIN NEWSOM, et al.,

18 Defendants.

CASE NO. 01-1351 JST

**DEFENDANTS' APPLICATION FOR AN
EXTENSION OF TIME TO COMPLY
WITH DEADLINE TO PREPARE
ISOLATION AND QUARANTINE SPACE
FOR OCCUPANCY**

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24 On July 22, the Court issued an order directing Defendants to identify the spaces that the
25 California Department of Corrections and Rehabilitation (CDCR) would reserve for isolation and
26 quarantine at each prison in response to the public health recommendations, and required that
27 those spaces be ready for occupancy by September 2, 2020. (ECF No. 3401 at 4.) On August 27,
28 Defendants identified the spaces CDCR would reserve, and most of those spaces were already

1 prepared for occupancy. But, at thirteen prisons, some of the identified spaces that are needed to
2 satisfy the public health recommendations cannot be prepared for occupancy until after inmates
3 are transferred from them.¹

4 Defendants requested Plaintiffs' stipulation for additional time to prepare these spaces for
5 occupancy, but Plaintiffs refused, and asserted that Defendants should instead release more
6 inmates. (Decl. McClain, Ex. A.) Defendants have already released 19,827 inmates from CDCR
7 institutions and camps since the beginning of March 2020. ECF No. 3436 at 3:19-20. Additional
8 releases are ongoing and significant, but they will not bring Defendants into compliance with the
9 September 2 deadline. Accordingly, in the absence of a stipulation, and because the necessary
10 transfers cannot be completed safely by September 2, Defendants request an extension of time to
11 prepare some of the identified spaces for occupancy at the thirteen prisons. (Decl. Gipson ¶ 2.)

12 CDCR must work with the Receiver and comply with the transfer matrix to accomplish the
13 needed transfers. (Decl. Gipson ¶ 2.) CDCR believes it can accomplish the transfers for ten of the
14 prisons² in compliance with the movement matrix by September 25, 2020, and requests an
15 extension of time to that date to complete them. (Decl. Gipson ¶ 5.) In the meantime, each of
16 these ten prisons already has a substantial amount of quarantine and isolation space ready for
17 occupancy. (Decl. Gipson ¶ 3, Ex. A.)

18 The transfers from California Medical Facility, California Institution for Men, and
19 California State Prison—Los Angeles County are more complex and will take longer to complete.
20 CDCR requires additional time to place inmates from these locations because their disability,
21 medical, and mental health status makes many of them much more difficult to place in other
22 prisons. (Decl. Gipson ¶ 6.) CDCR believes it can complete the transfers of inmates from these
23

24 _____
25 ¹ Two additional prisons—Salinas Valley State Prison and Valley State Prison—have already set
26 aside and prepared for occupancy more than enough space to satisfy the public health
27 recommendations. But they have each identified additional space beyond the recommendations
28 that they will reserve once those spaces have been vacated. (Decl. Gipson Ex. A.)

² The ten prisons are Calipatria State Prison, California State Prison—Centinela, Chuckawalla
Valley State Prison, High Desert State Prison, Kern Valley State Prison, Sierra Conservation
Center, Wasco State Prison, Avenal State Prison, California Correctional Institution, and
California State Prison—Solano.

1 three prisons by October 31, 2020. Pending the transfers, each of these three prisons already has a
2 substantial amount of quarantine and isolation space ready for occupancy. (Decl. Gipson ¶ 3, Ex.
3 A.)

4 Accordingly, Defendants request an extension of time to September 25, 2020, to prepare
5 isolation and quarantine spaces at ten prisons for occupancy, and an extension of time to October
6 31, 2020, to prepare isolation and quarantine spaces at California Medical Facility, California
7 Institution for Men, and California State Prison—Los Angeles County for occupancy.

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9 DATED: September 2, 2020

HANSON BRIDGETT LLP

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11

By: /s/ Paul B. Mello

12

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KAYLEN KADOTANI
Attorneys for Defendants

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14

15 DATED: September 2, 2020

XAVIER BECERRA
Attorney General of California

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By: /s/ Damon McClain

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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**

13 MARCIANO PLATA, et al.,
14 Plaintiffs,
15 v.
16 GAVIN NEWSOM, et al.,
17 Defendants.

CASE NO. 01-1351 JST

**DECLARATION OF DAMON MCCLAIN
IN SUPPORT OF DEFENDANTS'
APPLICATION FOR AN EXTENSION OF
TIME TO COMPLY WITH DEADLINE
TO PREPARE ISOLATION AND
QUARANTINE SPACE FOR
OCCUPANCY**

Judge: Hon. Jon S. Tigar

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21 I, Damon McClain, declare:

22 1. I am a Supervising Deputy Attorney General and an attorney of record for
23 Defendants in this matter.

EXHIBIT A

RE: Isolation/Quarantine Deadline

 Don Specter <dspecter@prisonlaw.com>
 Today, 4:21 PM
 Damon McClain; Steven Fama <sfama@prisonlaw.com>; +11 more v

Inbox

Damon,

We believe that the extension you are proposing could potentially cause significant harm to our clients and that there are other alternatives such as reducing the population further. Therefore we can't agree to your request. If you would like to discuss this, please let us know.

Don

From: Damon McClain <Damon.McClain@doj.ca.gov>
Sent: Tuesday, September 1, 2020 3:44 PM
To: dspecter@prisonlaw.com; Steven Fama <sfama@prisonlaw.com>; Alison Hardy <ahardy@prisonlaw.com>; Sophie Hart <sophieh@prisonlaw.com>; Rana Anabtawi <rana@prisonlaw.com>; Sara Norman (snorman@prisonlaw.com) <snorman@prisonlaw.com>
Cc: Paul B. Mello <Pmello@hansonbridgett.com>; Samantha Wolff <SWolff@hansonbridgett.com>; Ryan Gille <Ryan.Gille@doj.ca.gov>; Iram Hasan <Iram.Hasan@doj.ca.gov>; Nasstaran Tara Ruhparwar <Nasstaran.Ruhparwar@doj.ca.gov>; Neill, Jennifer@CDCR <Jennifer.Neill@cdcr.ca.gov>; Stafford, Carrie C.@CDCR <Carrie.Stafford@cdcr.ca.gov>
Subject: Isolation/Quarantine Deadline

Hi Don and all,

I'm writing to meet and confer about the September 2 deadline set in the Court's July 22 order for CDCR to make identified isolation and quarantine spaces ready for occupancy. As you know, CDCR will need to transfer inmates between prisons to prepare identified quarantine and isolation spaces at thirteen prisons (these are identified in the CMC statement and in the table I sent to you last Thursday) ready for occupancy. Will Plaintiffs stipulate that Defendants have until September 25, 2020, to complete the transfers and prepare the identified spaces for occupancy at ten of the thirteen prisons?

Because of characteristics of the inmates that will need to be transferred from the remaining three prisons—CMF, CIM, and LAC—it will be more difficult to move them, and Defendants will need additional time to find appropriate placements. Will Plaintiffs stipulate that Defendants have until October 31, 2020, to complete the transfers for those three prisons and prepare the identified spaces for occupancy?

If these extensions are acceptable to Plaintiffs, I will circulate a proposed stipulation and order. I would be happy to jump on a call to discuss this further. Please let me know by 6:00 p.m. today so that I can timely submit a stipulation or a request for an extension of time by tomorrow. Thank you.

-Damon

Damon G. McClain
Supervising Deputy Attorney General

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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**

13 MARCIANO PLATA, et al.,
14
15 Plaintiffs,
16 v.
17 GAVIN NEWSOM, et al.,
18 Defendants.

CASE NO. 01-1351 JST

**DECLARATION OF CONNIE IPSON
IN SUPPORT OF DEFENDANTS'
APPLICATION FOR AN EXTENSION OF
TIME TO COMPLY WITH DEADLINE
TO PREPARE ISOLATION AND
QUARANTINE SPACE FOR
OCCUPANCY**

Judge: Hon. Jon S. Tigar

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20 I, Connie Gipson, declare:

21 1. I am the Director of the California Department of Corrections and Rehabilitation's
22 (CDCR) Division of Adult Institutions. On August 27, 2020, CDCR provided to Plaintiffs and the
23 Receiver a document that identified isolation and quarantine spaces that CDCR would reserve at
24 the thirty-five prisons for use in the event of an outbreak of COVID-19. CDCR has worked
25 incredibly hard to complete this monumental task and has already made vast quantities of space
26 ready for occupancy. In fact, at twenty-two of the prisons identified on the document CDCR
27 produced, the identified isolation and quarantine spaces are ready for use during an outbreak.
28 Attached as Exhibit A is a true copy of the document that identifies isolation and quarantine

1 spaces at the prisons

2 2. At thirteen prisons, however, inmate transfers will be required to open up some of
3 the identified spaces needed to satisfy public health recommendations. For the safety of inmates
4 and staff, these transfers should not be rushed, should only be conducted with the cooperation and
5 participation of the Receiver, and must comply with the transfer matrix, which was only recently
6 finalized and implemented. Consequently, for these thirteen prisons, CDCR cannot comply with
7 the Court’s September 2 deadline to prepare identified spaces for occupancy.

8 3. Even though not all of the identified spaces at these thirteen prisons is currently
9 ready for occupancy, each of these prisons has a portion of the identified space ready and available
10 for use during an outbreak. For example, at High Desert State Prison, guidance from the public
11 health experts called for 71 reserved beds for isolation and quarantine. High Desert has already
12 set aside 64 cells that can house up to 128 inmates, and those cells are ready for occupancy. High
13 Desert also identified an additional 100 cells that it will reserve for isolation and quarantine, but it
14 will not be able to make those additional cells ready for occupancy until after inmates are
15 transferred from that housing unit. The last column of Exhibit A identifies the particular spaces
16 that will not be ready for occupancy until after inmate transfers take place.

17 4. Additionally, it is important to note that CDCR can augment isolation and
18 quarantine spaces at the prisons any time by installing tents, which can be ready for occupancy
19 within 72 hours.

20 5. CDCR has determined that it should be able to complete the needed inmate
21 transfers at ten of the thirteen prisons by September 25, 2020. Those ten prisons are Calipatria
22 State Prison, California State Prison—Centinela, Chuckawalla Valley State Prison, High Desert
23 State Prison, Kern Valley State Prison, Sierra Conservation Center, Wasco State Prison, Avenal
24 State Prison, California Correctional Institution, and California State Prison—Solano.

25 6. It will take longer to complete the transfers at the remaining three prisons—
26 California Medical Facility, California Institution for Men, and California State Prison—Los
27 Angeles County. CDCR requires additional time to place inmates from these locations because
28 their disability, medical, and mental health status makes many of them much more difficult to

1 place in other prisons. CDCR believes it should be able to complete the transfers of inmates from
2 these three prisons by October 31, 2020, but will make efforts to transfer them sooner if possible.

3 I declare under penalty of perjury that I have read this document, and its contents are true
4 and correct to the best of my knowledge. Executed on September 2, 2020, in Sacramento,
5 California.


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CONNIE GIPSON

EXHIBIT A

| Institution | Location and type of reserved space | Number of Beds | Spaces that Must Still Be Vacated |
|-------------|---|--|--|
| ASP | Facility A, Housing Unit 120 (191 dorm beds); Facility A, Housing Unit 140 (200 cell beds) | Dorm Beds - 191 Cell Beds - 200 double or 100 single CCHCS QM - 248 | HU 140 must be vacated |
| CAC | Facility A, Building 2, A and B Pod - (168 cell beds) | Cell Beds - 168 double or 84 single CCHCS QM - 4 | n/a |
| CAL | Facility A, Building 5 (200 cell beds); Facility B, Building 5 (200 cell beds) | Cell Beds - 400 double or 200 single CCHCS QM - 180 | Facility B, Building 5 must be vacated |
| CCC | Facility C, Building 3 (200 cell beds) | Cell Beds - 200 double or 100 single CCHCS QM - 48 | n/a |
| CCI | Facility A, Housing Unit 8 (124 cell beds); Facility C Housing, Unit 1 (200 cell beds); Facility E, Davis Hall (94 dorm beds); Facility D, Housing Unit 9 (48 cell beds); Facility D Gym (60 beds) | Dorm/Gym Beds - 154 Cell Beds - 248 double or 124 single CCHCS QM - 235 | Facility A, Housing Unit 8 must be vacated |
| CCWF | Facility A, Building 503 (200 cell beds) | Cell Beds - 200 double or 100 single CCHCS QM - 16 | n/a |
| CEN | Facility A, Building 5 (200 cell beds); Facility D, Building 5 (200 cell beds) | Cell Beds - 400 double or 200 single CCHCS QM - 193 | Facility D, Building 5 must be vacated |
| CHCF | Facility E, Main Yard Tents (100 beds); Facilities A, B, C and D Negative Pressure Rooms (NPR) (92 NPR beds) | NPR Beds - 92 Tent Beds - 100 CCHCS QM - 277 | n/a |
| CIM | Facility B, Birch Hall(102 single cell beds); Facility C, Del Norte (200 cell beds) | Cell Beds - 200 double or 100 single Single Cell Beds - 102 CCHCS QM - 188 | Facility C, Building 4 must be vacated |
| CIW | Housing Unit A RCU (220 cell beds) | Cell Beds - 220 double or 110 single CCHCS QM - 4 | n/a |
| CMC | Facility C, Building 5 (300 single cell beds) | Single Cell Beds - 300 CCHCS QM - 143 | n/a |

| Institution | Location and type of reserved space | Number of Beds | Spaces that Must Still Be Vacated |
|-------------|---|--|---|
| CMF | S-3 Housing Unit (18 cell beds); W-1 Housing Unit (41 cell beds); W-3 Housing Unit (42 cell beds); H-1 Housing Unit (21 cell beds, 26 dorm beds); I-1 Housing Unit (10 dorm beds, 36 cell beds) | Single Cell Beds - 158 Dorm Beds - 36 CCHCS QM - 162 | Housing Units H-1 and I-1 must be vacated |
| COR | Facility 3B, Building 02 (200 cell beds) | Cell Beds - 200 double or 100 single CCHCS QM - 46 | n/a |
| CRC | Facility D, Dorm 410 (78 dorm beds); Facility D, Dorm 311 (77 dorm beds); Facility D, Gym (78 beds) | Dorm Beds - 155 Gym Beds - 78 CCHCS QM - 187 | n/a |
| CTF | Central Facility, Y wing (258 cell beds) | Cell Beds - 258 double or 129 single CCHCS QM - 127 | n/a |
| CVSP | Facility D, Building 11 (192 dorm beds); Facility A, Building 3 (200 cell beds) | Cell Beds - 200 double or 100 single Dorm Beds - 192 CCHCS QM - 91 | Facility A, Building 3 must be vacated |
| DVI | Facility A, G-wing (264 cell beds) | Cell Beds - 264 double or 132 single CCHCS QM - 66 | n/a |
| FOL | Facility A, Unit IV, Tier 2, A & B side cells (88 cell beds); Facility B, FWF A Dorm Pods 3/4 (126 dorm beds); MSF Dorm 500/600 (32 dorm beds) | Cell Beds - 88 double or 44 single Dorm Beds - 158 CCHCS QM 1380 | n/a |
| HDSP | Facility C, Building 1 (128 cell beds); Facility A, Building 4 (200 cell beds) | Cell Beds - 328 double or 164 single CCHCS QM - 71 | Facility A, Building 4 must be vacated |
| ISP | Facility C, Building 1 (200 cell beds) | Cell Beds - 200 double or 100 single CCHCS QM - 63 | n/a |
| KVSP | Facility D, Building 6 (128 cell beds); Facility A, Building 1, Section B (20 cell beds) | Cell Beds - 148 double or 74 single CCHCS QM - 66 | Facility A, Building 1, Section B must be vacated |

| Institution | Location and type of reserved space | Number of Beds | Spaces that Must Still Be Vacated |
|-------------|--|---|--|
| LAC | Facility C, Building 5 (200 cell beds); Facility B, Building 2 (200 cell beds); Facility B Gym (24 beds) | Cell Beds - 400 double or 200 single Gym Beds - 24 CCHCS QM - 210 | Facility B, Building 2 must be vacated |
| MCSF | Facility A, Building 2 (200 cell beds) | Cell Beds - 200 double or 100 single CCHCS QM - 29 | n/a |
| NKSP | Facility D, Building 3 (198 cell beds) | Cell Beds - 198 double or 99 single CCHCS QM - 78 | n/a |
| PBSP | Facility A, Building 1 (128 cell beds) | Cell Beds - 128 double or 64 single CCHCS QM - 49 | n/a |
| PVSP | Facility D-5 Building (200 cell beds) | Cell Beds - 200 double or 100 single CCHCS QM - 78 | n/a |
| RJD | Facility D, Housing Unit 20 (200 cell beds) | Cell Beds - 200 double or 100 single CCHCS QM - 39 | n/a |
| SAC | Facility A, Building 2 (20 cell beds); Facility B, Building 1 (48 cell beds); Facility C, Building 8 (128 cell beds) | Cell Beds - 196 double or 98 single CCHCS QM - 11 | n/a |
| SATF | Facility E, Building 2 (200 cell beds); | Cell Beds - 200 double or 100 single CCHCS QM - 16 | n/a |
| SCC | Facility C, Building 3 (200 cell beds) | Cell Beds - 200 double or 100 single CCHCS QM 63 | Facility C, Building 3 must be vacated |
| SOL | Facility B, Building 7 (200 cell beds); Facility B, Building 9 (200 cell beds); Facility B Gym (64 beds) | Cell Beds - 400 double or 200 single Gym Beds - 64 CCHCS QM - 211 | Facility B, Building 9 must be vacated |
| SQ | Gym (108 beds) | Gym Beds - 108 CCHCS QM 1550 | n/a |
| SVSP | Facility C, Building 7 (182 cell beds); Facility D, Building 6, Section B (40 cell beds) | Cell Beds - 222 double or 111 single CCHCS QM - 78 | Facility D, Building 6 must be vacated |
| VSP | Facility A, Building 4 (88 cell beds); Facility A, Building 3 (199 cell beds) | Cell Beds - 287 double or 143 single CCHCS QM - 16 | Facility A, Building 3 must be vacated |
| WSP | Facility B, Building 1 (200 cell beds); Facility B, Building 5 (200 cell beds) | Cell Beds - 400 double or 200 single CCHCS QM - 152 | Facility B, Building 5 must be vacated |

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

| | |
|-----------------------|-------------|
| MARCIANO PLATA | Plaintiffs, |
| EDMUND ROWN | |
| | Defendants. |

Case No. 01-cv-01351-JST
PROPOSED ORDER

On July 22, 2020, the Court issued an order directing Defendants to identify the spaces that the California Department of Corrections and Rehabilitation (CDCR) would reserve for isolation and quarantine at each prison, and required that the spaces be ready for occupancy by September 2, 2020. (ECF No. 3401 at 4.) On August 27, Defendants identified the spaces CDCR would reserve in response to public health recommendations, and most of those spaces are currently ready for occupancy. But CDCR cannot prepare some of the identified spaces identified until after inmates are transferred from them. Defendants request an extension of time to prepare some of the identified spaces for occupancy at thirteen prisons requiring transfers because the necessary transfers will take some time to complete and cannot be completed by September 2, 2020.

1 Defendants request that CDCR have until September 25, 2020, to prepare spaces for
2 occupancy at Calipatria State Prison, California State Prison—Centinela, Chuckawalla Valley
3 State Prison, High Desert State Prison, Kern Valley State Prison, Sierra Conservation Center,
4 Wasco State Prison, Avenal State Prison, California Correctional Institution, and California State
5 Prison—Solano. And Defendants further request an extension of time to October 31, 2020, for
6 CDCR to prepare some spaces for occupancy at California Medical Facility, California Institution
7 for Men, and California State Prison—Los Angeles County.

8 The Court agrees that the necessary transfers should be conducted carefully and safely
9 with the participation of the Receiver and in compliance with the transfer matrix. Accordingly,
10 the Court finds that there is good cause for the requested extensions of time and grants CDCR's
11 request.

12 IT IS SO ORDERED

13 Dated:

14 The Honorable Jon S. Tigar
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