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10 Attorneys for Plaintiffs

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12 UNITED STATES DISTRICT COURT  
13 EASTERN DISTRICT OF CALIFORNIA  
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15 RALPH COLEMAN, et al.,  
16 Plaintiffs,  
17 v.  
18 GAVIN NEWSOM, et al.,  
19 Defendants.

Case No. 2:90-CV-00520-KJM-DB

**PLAINTIFFS' STATUS UPDATE  
REGARDING JUNE 25, 2020  
EVIDENTIARY HEARING**

Judge: Hon. Kimberly J. Mueller  
Date: June 12, 2020  
Time: 10:00 a.m.

1 Plaintiffs submit this update in advance of the June 12, 2020 status conference to  
2 appraise the Court of various disputes pertaining to the upcoming June 25, 2020  
3 evidentiary hearing regarding class members' access to inpatient psychiatric  
4 hospitalization at DSH.

5 On May 13, 2020, the parties stipulated to continue by thirty days the May 19, 2020  
6 evidentiary hearing, which the Court granted on May 18, 2020. *See* ECF No. 6676.  
7 Plaintiffs' agreement to do so was specifically predicated on Defendants' agreement to  
8 produce written guidelines, developed with the Special Master's guidance, that "make  
9 clear that no additional clinical criteria will be imposed on top of existing Program Guide  
10 requirements aside from COVID-19 screening and consideration of individualized  
11 COVID-19 risk factors affecting potential patient transfers to DSH." *Id.* at 2. The Court's  
12 order granting the stipulation made clear those written guidelines were to be updated  
13 "promptly." *Id.* at 4.

14 Although nearly a month has passed since the Court's Order, however, Plaintiffs to  
15 date have received no updated written guidance governing transfers to DSH inpatient  
16 programs whatsoever, even in draft form. And Plaintiffs are growing increasingly  
17 concerned that Defendants are failing to fully comply with the April 24, 2020 order (ECF  
18 No. 6639) and the Program Guide, as the number of *Coleman* class members receiving  
19 inpatient psychiatric hospitalization at Atascadero State Hospital has continued to decline  
20 in recent weeks instead of increasing, despite the fact that Defendants have reported that  
21 hundreds of *Coleman* class members are currently waiting for inpatient care.

22 Additionally, Defendants have added a prescreening clinical evaluation step at the  
23 front end of their referral process that they refuse to account for in their calculation of the  
24 thirty-day transfer timeline required by the Program Guide and enforced upon threat of  
25 sanction by this Court's April 19, 2017 Order. *See* ECF No. 5610 at 13-14.

26 As such, Plaintiffs at this point anticipate that the June 25, 2020 evidentiary hearing  
27 will proceed as scheduled and have begun their preparations. In particular, Plaintiffs  
28 requested on June 2, 2020 that, consistent with Federal Rule of Civil Procedure 26(e)(1),

1 Defendants supplement their responses to Plaintiffs’ discovery requests authorized by this  
2 Court’s April 10, 2020 Order, given that the previous production was completed nearly six  
3 weeks ago and the most up to date information is current only through mid-April. *See*  
4 ECF No. 6600 at 3-4. After meeting and conferring, Defendants informed Plaintiffs  
5 yesterday that they will not be able complete their supplementation to provide updated  
6 information that is current through May 31, 2020 until June 22, 2020 – less than three days  
7 before the evidentiary hearing. Such a late production prejudices Plaintiffs’ ability to  
8 adequately prepare for trial, including preparation of their expert witness as appropriate.  
9 Indeed, assuming the Court follows the procedure outlined in its May 7, 2020 order of  
10 requiring exchange of trial exhibits four days before the evidentiary hearing, *see* ECF No.  
11 6612 at 3, Defendants’ production of documents and information responsive to discovery  
12 requests on June 22 would preclude Plaintiffs’ use of those documents at trial.

13       Because of the time-sensitive nature of this dispute and the upcoming evidentiary  
14 hearing, Plaintiffs apprised Defendants that they intended to raise the issue with this  
15 Court in conjunction with the June 12, 2020 status conference. Plaintiffs request that the  
16 dispute be addressed either at the status conference, or in a separate proceeding as soon as  
17 practicable thereafter.

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DATED: June 11, 2020

Respectfully submitted,  
  
ROSEN BIEN GALVAN & GRUNFELD LLP  
  
By: /s/ Lisa Ells  
Lisa Ells  
  
Attorneys for Plaintiffs