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

21 **MARCIANO PLATA, et al.,**
 22 Plaintiffs,
 23 v.
 24 **GAVIN NEWSOM, et al.,**
 25 Defendants.

01-cv-01351-JST
**NOTICE OF CDCR AND THE
 RECEIVER'S SUBMISSION OF A
 COVID-19 VACCINATION PLAN FOR
 CERTAIN CDCR WORKERS AND
 INCARCERATED PEOPLE IN
 COMPLIANCE WITH THE
 SEPTEMBER 27, 2021 ORDER**
Re: ECF Nos. 3638, 3684
 Judge: Hon. Jon S. Tigar

1 To the Court and Plaintiffs:

2 Please take notice that Defendant the California Department of Corrections and
3 Rehabilitation (CDCR) and Receiver J. Clark Kelso (the Receiver) jointly submit the attached
4 plan for implementing a COVID-19 vaccination policy consistent with the Receiver’s
5 recommendations (*see* ECF No. 3638), and as required by the Court’s September 27, 2021 order
6 (ECF No. 3684).¹

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8 Dated: October 12, 2021

HANSON BRIDGETT LLP

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10 By: 

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12 PAUL B. MELLO
13 SAMANTHA D. WOLFF
14 LAUREL O’CONNOR
15 DAVID C. CASARRUBIAS
16 Attorneys for Defendants

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18 Dated: October 12, 2021

ROB BONTA
Attorney General of California

19 By: 

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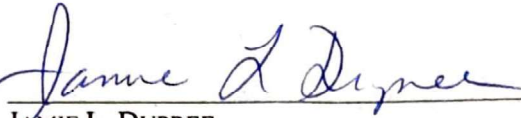
26 Attorneys for Defendants

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28 ¹ Defendants do not waive any rights to appeal the Court’s September 27, 2021 order by
filing this implementation plan or taking steps to implement a COVID-19 vaccination policy
pursuant to the order. Nor is submission of the attached plan, as required by the September 27,
2021 order, an admission that the order meets the requirements of the Prison Litigation Reform
Act. CDCR continues to have serious reservations about implementing the Receiver’s broad
mandatory vaccination recommendation due to the impact of implementing this plan on staffing
and operations statewide.

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Dated: October 12, 2021

FUTTERMAN DUPREE DODD CROLEY MAIER LLP

By: 
JAMIE L. DUPREE

Attorneys for Receiver J. Clark Kelso

Dated: October 12, 2021

MUNGER, TOLLES & OLSON LLP

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JOINT IMPLEMENTATION PLAN FOR MANDATORY VACCINATION

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) 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.)¹

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 enter CDCR institution grounds for the performance of job duties, 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 identified in 1 above. 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.

¹ 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 (refer to 1 and 2, above) shall be fully vaccinated² before November 29, 2021.³ Vaccinations are provided at no cost to CDCR/CCHCS workers and incarcerated persons and may be obtained onsite from scheduled vaccination clinics.⁴ Alternatively, CDCR/CCHCS workers opting to obtain vaccination outside CDCR/CCHCS may select another clinic listed on the website 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 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 medical accommodation, within 14 calendar 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 vaccination 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 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.

² Fully vaccinated is two weeks after the second of two Moderna or Pfizer vaccines or two weeks after the single-dose Johnson and Johnson vaccine.

³ 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.

⁴ 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 15, 2021, incarcerated persons (identified in 1 and 2, above) shall receive vaccine counseling and, if out-of-compliance after 14 calendar days, shall lose eligibility to hold jobs outside of CDCR institutions or have in-person visitation.

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.