

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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

Case No. 01-cv-01351-JST

**ORDER SETTING DEADLINE FOR
MANDATORY VACCINATION**

On September 27, 2021, the Court ordered mandatory vaccination of certain persons and required Defendants and the Receiver to submit an implementation plan, including a deadline by which all covered persons must be vaccinated, by October 12, 2021. ECF No. 3684. Defendants and the Receiver jointly filed the required plan with a deadline for covered persons to be fully vaccinated by November 29, 2021. ECF No. 3694. Defendants subsequently indicated some confusion over whether the deadline was as stated in the filed plan, explaining that they had requested a December 20, 2021 deadline to which the Receiver did not agree. ECF No. 3703. The Court ordered Defendants to meet and confer to attempt to resolve any dispute that might exist over the implementation deadline. ECF No. 3705.

The Receiver has now requested an order setting a specific implementation deadline. ECF No. 3708. The Court has reviewed the Receiver's and Plaintiffs' filings in support of such an order, and Defendants' and Intervenor California Correctional Peace Officers' Association's filings in opposition. ECF Nos. 3707-08, 3710-13, 3720.

In light of the compelling public health considerations underlying the vaccination order, as well as the significant passage of time – thirty days since the Court issued its order – without any apparent action aside from the October 12 joint filing of an implementation plan, the Court agrees

United States District Court
Northern District of California

1 with the Receiver that it is appropriate to set a specific vaccination deadline at this time.¹ The
 2 Court now orders that full vaccination of the persons covered by the September 27, 2021 order
 3 occur no later than January 12, 2022.

4 Without deciding whether Defendants are required to meet and confer with CCPOA and
 5 other unions, the Court notes that this deadline allows ample time for such meeting and conferring.
 6 Defendants contend that they require 60 days to meet and confer with various unions, *e.g.*, ECF
 7 No. 3720-1 at 4, and CCPOA has argued that “a minimum period of six weeks . . . before any
 8 mandate takes effect” would be appropriate. ECF No. 3669 at 11. In addition, recent orders of the
 9 California Department of Public Health have required full vaccination in ten or eleven weeks from
 10 the date the mandates have been announced. ECF No. 3663-1 at 260-61 (August 5, 2021 CDPH
 11 order requiring first dose of one-dose regimen or second dose of two-dose regimen by
 12 September 30, 2021 – eight weeks later²); *id.* at 270 (August 19, 2021 CDPH order requiring first
 13 dose of one-dose regimen or second dose of two-dose regimen by October 14, 2021 – again, eight
 14 weeks later); CDPH, *Order of the State Public Health Officer re: Adult Care Facilities and Direct*
 15 *Care Worker Vaccine Requirement*, [https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Adult-Care-Facilities-and-Direct-Care-Worker-Vaccine-Requirement.aspx)
 16 [COVID-19/Order-of-the-State-Public-Health-Officer-Adult-Care-Facilities-and-Direct-Care-](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Adult-Care-Facilities-and-Direct-Care-Worker-Vaccine-Requirement.aspx)
 17 [Worker-Vaccine-Requirement.aspx](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Adult-Care-Facilities-and-Direct-Care-Worker-Vaccine-Requirement.aspx) (September 28, 2021 CDPH order requiring first dose of one-
 18 dose regimen or second dose of two-dose regimen by November 30, 2021 – nine weeks later).

19 ///

20 ///

21 ///

22 ///

23
 24 _____
 25 ¹ On October 25, 2021, Defendants filed a motion to stay the Court’s September 27, 2021 order.
 26 ECF No. 3715. There has yet been no opportunity to oppose the motion, which the Court will
 consider once it is ripe. The Court will discuss a briefing and hearing schedule on Defendants’
 motion to stay at tomorrow’s case management conference.


27 ² A person is considered fully vaccinated two weeks after receiving either of these doses. CDPH,
 28 *Order of the State Public Health Officer re: Health Care Worker Protections in High-Risk*
Settings (July 26, 2021), [https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Unvaccinated-Workers-In-High-Risk-Settings.aspx)
[of-the-State-Public-Health-Officer-Unvaccinated-Workers-In-High-Risk-Settings.aspx](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Unvaccinated-Workers-In-High-Risk-Settings.aspx).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A January 12, 2022 deadline is eleven weeks from the date of this order, and more than fifteen weeks since the Court ordered mandatory vaccination on September 27, 2021.

IT IS SO ORDERED.

Dated: October 27, 2021



JON S. TIGAR
United States District Judge

United States District Court
Northern District of California