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10 UNITED STATES DISTRICT COURTS
EASTERN DISTRICT OF CALIFORNIA
11 AND NORTHERN DISTRICT OF CALIFORNIA
12 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES
13 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

14 RALPH COLEMAN, et al.,
15 Plaintiffs,

16 v.

17 GAVIN NEWSOM, et al.,
18 Defendants.

Case No. 2:90-CV-00520-KJM-DB
THREE JUDGE COURT

19 MARCIANO PLATA, et al.,
20 Plaintiffs,

21 v.

22 GAVIN NEWSOM,
23 Defendants.

Case No. C01-1351 JST
THREE JUDGE COURT
PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE

INTRODUCTION

Pursuant to Federal Rule of Evidence 201, and in connection with Plaintiffs’ Emergency Motion to Modify the Population Reduction Order, Plaintiffs respectfully request that the Court take judicial notice of the following orders and directives:

1. Advisory from Chief Justice Tani G. Cantil-Sakauye, Supreme Court of California, to Presiding Judges and Court Executive Officers of the California Courts (Mar. 20, 2020), attached hereto as Exhibit 1 (urging courts to grant early releases, lower bail amounts, drastically reduce or eliminate flash incarceration, and consider defendants’ health conditions when ordering confinement).
2. Order Authorizing Sacramento County Sheriff’s Department to Grant Release (Cal. Super. Ct. Mar. 25, 2020), attached hereto as Exhibit 2 (granting the Sheriff authority to release 421 people from county jail “because the parties agree that it is in the best interest of public health to reduce the population of the Sacramento County Jail System”).
3. Letter from Chief Justice Mike McGrath, Supreme Court of Montana, to Judges of the Montana Courts of Limited Jurisdiction (Mar. 20, 2020), attached hereto as Exhibit 3 (“Because of the high risk of transmittal of COVID-19, not only to prisoners within correctional facilities but staff and defense attorneys as well, we ask that you review your jail rosters and release, without bond, as many prisoners as you are able, especially those being held for non-violent offenses.”).
4. Consent Order, *In re Request to Commute or Suspend County Jail Sentences*, Docket No. 084230 (N.J. Mar. 22, 2020), attached hereto as Exhibit 4 (ordering the release of a large class of people incarcerated in county jail “in light of the Public Health Emergency” caused by COVID-19).
5. Memorandum re: Coronavirus from Chief Justice Donald W. Beatty, Supreme Court of South Carolina, to Magistrates, Municipal Judges, and

- 1 Summary Court Staff (Mar. 16, 2020), attached hereto as Exhibit 5 (directing
2 the release of defendants charged with non-capital crimes who do not pose
3 unreasonable danger to the community and are not extreme flight risks).
- 4 6. General Order Bond for Certain Offenses (Tex. Crim. Dist. Ct. Trial Div.
5 Mar. 21, 2020), attached hereto as Exhibit 6 (ordering “the immediate release
6 of people arrested and charged with certain non-violent state jail felony
7 offenses”).
- 8 7. Amended Order, *In re Statewide Response by Washington State Courts to the*
9 *COVID-19 Public Health Emergency*, No. 25700-B-607 (Wash. Mar. 20,
10 2020), attached hereto as Exhibit 7 (ordering courts to “hear motions for
11 pretrial release on an expedited basis” and “find[ing] that for those identified
12 as part of a vulnerable or at-risk population by the Centers for Disease
13 Control, COVID-19 is presumed to be a material change in circumstances”).
- 14 8. Order, *Xochihua-Jaimes v. Barr*, Case No. 18-71460 (9th Cir. Mar. 23,
15 2020), ECF No. 53, attached hereto as Exhibit 8 (*sua sponte* ordering
16 detainee immediately released from immigration detention “[i]n light of the
17 rapidly escalating public health crisis”).
- 18 9. Amended Order, *United States v. Perez*, Case No. 1:19-cr-297 (PAE)
19 (S.D.N.Y. Mar. 19, 2020), ECF No. 62, attached hereto as Exhibit 9
20 (ordering medically vulnerable defendant temporarily released from custody
21 because he faced a “heightened risk of dangerous complications should he
22 contract COVID-19”).
- 23 10. Opinion and Order, *United States v. Stephens*, Case No. 15-cr-95 (AJN)
24 (S.D.N.Y. Mar. 19, 2020), ECF No. 2798, attached hereto as Exhibit 10
25 (ordering defendant released in light of “the unprecedented and
26 extraordinarily dangerous nature of the COVID-19 pandemic”).
- 27 11. Order re: Second Motion for Reconsideration, *In re Manrique*, Case No.
28 3:19-mj-71055-MAG (N.D. Cal. Mar. 19, 2020), ECF No. 115, attached

1 hereto as Exhibit 11 (ordering defendant released due to “[t]he risk that this
2 vulnerable person will contract COVID-19 while in jail”).

3 12. Order Granting Emergency Motion to Temporarily Modify Intermittent
4 Confinement as a Condition of Probation Due to the COVID-19 Pandemic,
5 *United States v. Barkman*, Case No. 3:19-cr-0052-RCJ-WGC (D. Nev. Mar.
6 17, 2020), ECF No. 21, attached hereto as Exhibit 12 (suspending
7 defendant’s intermittent confinement because “[t]here is a pandemic that
8 poses a direct risk” to defendant “that is far greater” if he is incarcerated).

9 13. Order, *United States v. Matthaei*, Case No. 1:19-cr-243-BLW (D. Idaho Mar.
10 16, 2020), ECF No. 30, attached hereto as Exhibit 13 (extending the time for
11 defendant to self-surrender by 90 days because he “suffers from multiple
12 health problems, including COPD, which puts him at serious risk of
13 complications from COVID-19”).

14 14. Memorandum from U.S. Attorney General William Barr to the Director of
15 Bureau Prisons re: Prioritization of Home Confinement As Appropriate in
16 Response to COVID-19 Pandemic (March 26, 2020), attached hereto as
17 Exhibit 14 (directing BOP release to home confinement people who are low
18 risk and/or particularly vulnerable to COVID-19, in recognition that “for
19 some eligible inmates, home confinement might be more effective in
20 protecting their health”).¹

21 **LEGAL STANDARD**

22 Federal Rule of Evidence 201(b)(2) permits the court to take judicial notice of facts
23 that “can be accurately and readily determined from sources whose accuracy cannot
24 reasonably be questioned.” Courts regularly take judicial notice of “undisputed matters of
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26
27 ¹ The University of Michigan Law School is maintaining a list of court orders and
28 [directives for releases and other COVID-19 responses here:](https://clearinghouse.net/results.php?searchSpecialCollection=62)
<https://clearinghouse.net/results.php?searchSpecialCollection=62>.

1 public record, including documents on file in federal or state courts.” *Harris v. Cty. of*
2 *Orange*, 682 F.3d 1126, 1132 (9th Cir. 2012) (citing *Lee v. City of Los Angeles*, 250 F.3d
3 668, 689 (9th Cir. 2001) and *Bennett v. Medtronic, Inc.*, 285 F.3d 801, 803 n.2 (9th Cir.
4 2002)); *see also United States ex rel. Robinson Rancheria Citizens Council v. Borneo*, 971
5 F.2d 244, 248 (9th Cir. 1992) (“[W]e ‘may take notice of proceedings in other courts, both
6 within and without the federal judicial system, if those proceedings have a direct relation
7 to matters at issue.’” (citation omitted)).

8 The court orders and directives included in this request plainly meet this standard.
9 And, these documents are relevant to Plaintiffs’ Emergency Motion because they
10 demonstrate that courts across the nation have ordered the relief sought by Plaintiffs—
11 release of individuals from detention facilities due to the unprecedented risk posed by
12 COVID-19.

13 CONCLUSION

14 Plaintiffs respectfully request this Court grant their request for judicial notice.

15
16 Respectfully submitted,

17
18 DATED: March 26, 2020

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DATED: March 26, 2020

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