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

13 RALPH COLEMAN, et al.,  
14 Plaintiffs,  
15 v.

16 GAVIN NEWSOM, et al.,  
17 Defendants.

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

18 MARCIANO PLATA, et al.,  
19 Plaintiffs,  
20 v.

21 GAVIN NEWSOM,  
22 Defendants.

Case No. C01-1351 JST  
**THREE JUDGE COURT**

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' EMERGENCY  
MOTION TO MODIFY POPULATION  
REDUCTION ORDER**

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1 Before this Court is Plaintiffs' Emergency Motion to Modify the Population  
2 Reduction Order. This Court, having considered the briefing, relevant legal authority, and  
3 the record in this case, including the expert declarations, **GRANTS** Plaintiffs' motion.

4 The Court finds that the requested relief therein meets the requirements of 18  
5 U.S.C. § 3626. In so doing, the Court finds that the relief is narrowly drawn, extends no  
6 further than necessary to ensure the protection of the federal constitutional and statutory  
7 rights of Plaintiffs, and is the least intrusive means necessary to accomplish those  
8 objectives. The Court also finds that previous orders for less intrusive relief failed to  
9 remedy the deprivation of Plaintiffs' rights, and Defendants have had a reasonable amount  
10 of time to comply with previous court orders. Finally, this Court finds that crowding is the  
11 primary cause of the violation of Plaintiffs' rights, and no other relief will remedy the  
12 violation of these rights.

13 **IT IS HEREBY ORDERED** that:

- 14 1. Defendants shall reduce the population density in crowded congregate living spaces  
15 to a level that will permit social distancing by releasing to parole or post-release  
16 community supervision those class members who (a) are at low risk as determined  
17 by CDCR's risk assessment instrument or are serving a term for a non-violent  
18 offense and (b) are paroling within the year. Within this group, people with six  
19 months or less to serve and people who are at high risk of severe illness from  
20 COVID-19 should be prioritized.
- 21 2. Defendants shall release or relocate class members who are at high risk of severe  
22 illness from COVID-19. High risk individuals include: (a) people aged 65 and  
23 over; (b) people with chronic lung disease or moderate to severe asthma; (c) people  
24 who have severe heart conditions; (d) people who are immunocompromised (for  
25 example, due to cancer treatment, bone marrow or organ transplantation, immune  
26 deficiencies, poorly controlled HIV or AIDS, or prolonged use of immune-  
27 weakening medications); (e) people with severe obesity; (f) people with  
28 uncontrolled diabetes; (g) people with renal failure; (h) people with liver disease;

1 and (i) people who are pregnant. *See* Bien Decl. ¶ 51, Exh. 37 (Centers for Disease  
2 Control and Prevention, *Coronavirus Disease 2019 (COVID-19): People Who are*  
3 *at Higher Risk*, [https://www.cdc.gov/coronavirus/2019-ncov/specific-  
5 groups/people-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/specific-<br/>4 groups/people-at-higher-risk.html) (last updated March 22, 2020)). Defendants may  
6 release these high-risk class members to parole or post-release community  
7 supervision and/or use the Governor’s emergency powers to temporarily relocate  
8 them. *See generally* Bien Decl. ¶ 52, Exh. 38 at ¶¶ 1-6 (Governor Newsom March  
4, 2020 Proclamation of a State of Emergency); Cal. Gov’t Code § 8658.

- 9 3. **In the alternative**, Defendants shall release to parole or post-release community  
10 supervision as many people as necessary to achieve safe social distancing and  
11 sufficient space for quarantines and isolations.
- 12 4. Defendants shall submit a plan to implement these orders to the Court on or before  
13 April 1, 2020.

14 **IT IS SO ORDERED.**

15 Dated: March \_\_, 2020

16 \_\_\_\_\_  
17 HON. KIM MCLANE WARDLAW  
18 UNITED STATES CIRCUIT JUDGE  
NINTH CIRCUIT COURT OF APPEALS

19 Dated: March \_\_, 2020

20 \_\_\_\_\_  
21 HON. KIMBERLY J. MUELLER  
22 CHIEF UNITED STATES DISTRICT  
JUDGE  
EASTERN DISTRICT OF CALIFORNIA

23 Dated: March \_\_, 2020

24 \_\_\_\_\_  
25 HON. JON S. TIGAR  
26 UNITED STATES DISTRICT JUDGE  
27 NORTHERN DISTRICT OF CALIFORNIA  
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