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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;

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and (i) people who are pregnant. *See* Bien Decl. ¶ 51, Exh. 37 (Centers for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-19): People Who are at Higher Risk*, <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/people-at-higher-risk.html> (last updated March 22, 2020)). Defendants may release these high-risk class members to parole or post-release community supervision and/or use the Governor’s emergency powers to temporarily relocate 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.

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

IT IS SO ORDERED.

Dated: March __, 2020

HON. KIM MCLANE WARDLAW
UNITED STATES CIRCUIT JUDGE
NINTH CIRCUIT COURT OF APPEALS

Dated: March __, 2020

HON. KIMBERLY J. MUELLER
CHIEF UNITED STATES DISTRICT
JUDGE
EASTERN DISTRICT OF CALIFORNIA

Dated: March __, 2020

HON. JON S. TIGAR
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF CALIFORNIA