

1 PRISON LAW OFFICE  
2 DONALD SPECTER (83925)  
3 STEVEN FAMA (99641)  
4 ALISON HARDY (135966)  
5 SARA NORMAN (189536)  
6 SOPHIE HART (321663)  
7 1917 Fifth Street  
8 Berkeley, California 94710  
9 Telephone: (510) 280-2621  
10 Fax: (510) 280-2704  
11 dspecter@prisonlaw.com

12 *Attorneys for Plaintiffs*

13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

15  
16 MARCIANO PLATA, et al.,

17 Plaintiffs,

18 v.

19 GAVIN NEWSOM, et al.,

20 Defendants.  
21  
22

CASE No. 01-1351 JST

**~~PROPOSED~~ ORDER REGARDING  
STAFF COMPLIANCE WITH FACE  
COVERING AND PHYSICAL  
DISTANCING REQUIREMENTS**

1 On October 26, 2020, California’s Office of the Inspector General (OIG) released a  
 2 report reviewing CDCR’s distribution and use of personal protective equipment (PPE)  
 3 during the COVID-19 pandemic. *See* Office of the Inspector General, *COVID-19 Review*  
 4 *Series, Part Two: The California Department of Corrections and Rehabilitation*  
 5 *Distributed and Mandated the Use of Personal Protective Equipment and Cloth Face*  
 6 *Coverings; However, Its Lax Enforcement Led to Inadequate Adherence to Basic Safety*  
 7 *Protocols* (Oct. 2020), [https://www.oig.ca.gov/wp-content/uploads/2020/10/OIG-COVID-](https://www.oig.ca.gov/wp-content/uploads/2020/10/OIG-COVID-19-Review-Series-Part-2-%E2%80%93-Face-Coverings-and-PPE.pdf)  
 8 [19-Review-Series-Part-2-%E2%80%93-Face-Coverings-and-PPE.pdf](https://www.oig.ca.gov/wp-content/uploads/2020/10/OIG-COVID-19-Review-Series-Part-2-%E2%80%93-Face-Coverings-and-PPE.pdf). The OIG found  
 9 that, although CDCR had provided PPE and communicated face covering and physical  
 10 distancing requirements to staff, in practice staff frequently failed to adhere to both  
 11 requirements during the period monitored (between May 19, 2020 and July 29, 2020). *Id.*  
 12 at 2. The OIG directly observed staff’s failure to follow face covering requirements during  
 13 their monitoring visits. *Id.* at 2, 22-30. The OIG also surveyed more than 12,000 staff  
 14 members; 31% reported they had observed staff or incarcerated persons failing to properly  
 15 wear face coverings. *Id.* at 2, 31. The OIG concluded that the failure to follow these  
 16 requirements “was likely caused at least in part by the department’s supervisors’ and  
 17 managers’ lax enforcement of the requirements.” *Id.* at 2. The OIG observed that CDCR  
 18 had referred only seven employees (out of more than 63,000) for formal investigation or  
 19 punitive actions for misconduct relating to face covering or physical distancing  
 20 requirements since February 1, 2020. *Id.* at 2-3, 35.

21 The Court discussed the OIG’s report with the parties at a Case Management  
 22 Conference on November 5, 2020. During the Conference, the Court issued a tentative  
 23 order from the bench, directing Defendants to submit to Plaintiffs and the Receiver  
 24 biweekly reports of staff noncompliance with face covering and physical distancing  
 25 requirements. There were no objections to the Court’s tentative order. The Court  
 26 therefore issues the following order:


- 27 1. Defendants shall produce to Plaintiffs and the Receiver biweekly (every two

1 weeks) reports regarding staff noncompliance with face covering and physical distancing  
2 requirements as outlined in CDCR’s October 27, 2020 Memorandum for each of the 35  
3 prisons. At a minimum, each report shall include: (a) the classification of each staff person  
4 who failed to comply with CDCR’s October 27, 2020 Memorandum regarding face  
5 covering and physical distancing requirements, including whether it is a repeat offense; (b)  
6 the institution and unit where the violation occurred; (c) a summary of the specific  
7 violation, including date; and (d) a summary of the action taken, if any, by CDCR in  
8 response to the violation as of the date of the production of the report.

9 2. For the purposes of this order, “staff” refers to all non-incarcerated persons  
10 working in the prisons (including all healthcare, custody, non-uniformed workers, contract,  
11 and CDCR or CCHCS headquarters or regional staff when on site at an institution).

12 IT IS SO ORDERED.

13 Dated: November 20, 2020

14   
15 THE HONORABLE JON S. TIGAR  
16 UNITED STATES DISTRICT COURT  
17 JUDGE

18 *Approved as to form:*

19 Dated: November 19, 2020

20 XAVIER BECERRA  
21 Attorney General of California

22 */s/ Damon McClain*  
23 DAMON MCCLAIN  
24 Supervising Deputy Attorney General  
25 RYAN GILLE  
26 IRAM HASAN  
27 Deputy Attorney General  
28 Attorneys for Defendants

Dated: November 19, 2020

HANSON BRIDGETT LLP

*/s/ Samantha Wolff*

PAUL B. MELLO

SAMANTHA D. WOLFF

Attorneys for Defendants

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