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9 *Attorneys for Defendants*

10 IN THE UNITED STATES DISTRICT COURT

11 FOR THE EASTERN DISTRICT OF CALIFORNIA

12 AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES

14 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

17 **RALPH COLEMAN, et al.,**

18 Plaintiffs,

19 v.

20 **EDMUND G. BROWN JR., et al.,**

21 Defendants

C 90-0520 LKK JFM P

THREE JUDGE COURT

22 **MARCIANO PLATA, ET AL.,**

23 Plaintiffs,

24 v.

25 **EDMUND G. BROWN JR., et al.,**

26 Defendants

C01 – 1351 TEH

THREE JUDGE COURT

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

To: Three-Judge Panel

1 Notice is given that Defendants Edmund G. Brown Jr., John Chiang, Ana J. Matosantos,
2 Jeffrey Beard, and Cliff Allenby appeal to the Supreme Court of the United States from the April
3 11, 2013 Orders of the Three-Judge Court, which imposed injunctive relief under the Prison
4 Litigation Reform Act. *See* 18 U.S.C. § 3626(a)(3), (g)(4). This appeal is taken under 28 U.S.C.
5 § 1253.

6 On April 11, 2013, the Three-Judge Court denied Defendants' motion to vacate or modify
7 the "Order to Reduce [the] Prison Population," (Jan. 12, 2010 Order, *Plata* ECF No. 2287,
8 *Coleman* ECF No. 3767 at 3) by which the State was ordered to reduce its prison population to
9 137.5% of design capacity. (April 11, 2013 Opinion and Order Denying Defendants' Mot. to
10 Vacate or Modify Pop. Reduction Order, *Plata* ECF No. 2590, *Coleman* ECF No. 4541.) In
11 doing so, the Court issued a further order, holding that Defendants must reduce the overall prison
12 population to 137.5% design capacity (April 11, 2013 Order Requiring List of Proposed
13 Population Reduction Measures, *Plata* ECF No. 2591, *Coleman* ECF No. 4542 at 1), and
14 imposing injunctive relief. (*Id.* at 1-4.)

15 The Court's new injunction required Defendants to submit a list of all prison population
16 reduction measures identified or discussed as possible remedies in the August 4, 2009 Order, the
17 April 11, 2013 Order denying Defendants' motion to vacate, by "plaintiffs or defendants in the
18 course of these proceedings," and "any additional measures that defendants may presently be
19 considering." (*Id.* at 1-2.) The new injunction also required Defendants to submit a plan to
20 further reduce the prison population to reach a population cap of 137.5% of design capacity by
21 the end of the year. (*Id.* at 3.) The Court ordered Defendants to estimate the number of prisoners
22 who would be released as a result of each measure in the plan. (*Id.*) Complying with the
23 injunction will require the state to further reduce the prison population by approximately 9,000
24 inmates in less than eight months. (*Plata* ECF No. 2591, *Coleman* ECF No. 4542 at 65.) Upon
25 submission of the plan, the injunction mandates that "[a]ll defendants, including the Governor,
26 shall use their best efforts to implement the plan," and that Defendants "shall immediately
27 commence taking the steps necessary" to implement any prison population reduction measure that
28 they have legal authority to undertake, and "shall forthwith attempt in good faith to obtain the

1 necessary authorization, approval, or waivers from the Legislature or any relevant administrative
2 body or agency” for the remaining population reduction measures. (*Id.* at 4.) Finally, the
3 injunction compels Defendants to develop a system for outright early release of prisoners to
4 achieve full compliance with the population cap if the court-ordered plan is unsuccessful. (*Id.* at
5 5.)

6 Defendants appeal from the Court’s April 11, 2013 orders because the Court did not fully or
7 fairly consider the evidence showing that the State’s prison health care now exceeds
8 constitutional standards, and because the Court otherwise erred in denying Defendants’ motion to
9 vacate or modify the population cap and in imposing further injunctive relief.

10 Dated: May 13, 2013

Respectfully submitted,

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12 Attorney General of California

13
14 */s/ Jay C. Russell*
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16 Supervising Deputy Attorney General
17 *Attorneys for Defendants*
18 Respectfully submitted,

Dated: May 13, 2013

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19 */s/ Paul B. Mello*
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