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10 Attorneys for Defendants

11 **UNITED STATES DISTRICT COURT**
12 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
13 **AND THE NORTHERN DISTRICT OF CALIFORNIA**
14 **UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES**
15 **PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE**
16

17 RALPH COLEMAN, et al.,
18 Plaintiffs,
19 v.
20 EDMUND G. BROWN, JR., et al.,
21 Defendants.

CASE NO. 2:90-cv-00520 LKK JFM P
THREE-JUDGE COURT

22 MARCIANO PLATA, et al.,
23 Plaintiffs,
24 v.
25 EDMUND G. BROWN, JR., et al.,
26 Defendants.
27

CASE NO. C01-1351 TEH
THREE-JUDGE COURT
**DEFENDANTS' SUPPLEMENTAL
REPORT IN RESPONSE TO JUNE 30,
2011 ORDER**

1 The California Department of Corrections and Rehabilitation (CDCR) has now
2 completed its updated population projections that take into account more recent
3 population numbers, subsequent legislative modifications to Assembly Bill 109, and
4 better data on the impact of other recent crowding reduction measures. (Decl. of Jay
5 Atkinson in Support of Defs.' Supplemental Report in Response to June 30, 2011 Order
6 ¶¶ 3-5.) According to these projections, CDCR will be two percentage points shy of
7 achieving the December 2011 benchmark of 167% of design capacity, but will meet the
8 June 27, 2012 benchmark of 155% of design capacity. (See Decl. of Ross Meier in
9 Support of Defs.' Supplemental Report in Response to June 30, 2011 Order ¶¶ 3-4.) In
10 terms of actual numbers, CDCR is projected to reduce its in-state prison population by
11 about 9,200 inmates by the end of the year, and by about 20,000 inmates by the end of
12 next June. (*Id.*) The accompanying declarations of Jay Atkinson and Ross Meier explain
13 these new projections in greater detail.

14 Of course, it is important to keep in mind that some uncertainty is inherent in any
15 projections no matter how good they are. (See Decl. of Atkinson ¶ 6.) And trying to
16 predict the precise impact of AB 109 before it has even been implemented is difficult.
17 (*Id.*) CDCR's projections demonstrate that realignment will reduce prison crowding in a
18 substantial way, although perhaps not in a way that is exactly in line with each
19 benchmark. (*Id.*) At this point, though, there appears to be no need to implement
20 additional measures or to ask that the benchmark dates be extended, when Defendants'
21 best projections show that they will achieve the June 2012 benchmark on time.¹ (See
22 Decl. of Meier ¶ 5.) If it reaches a point where it becomes clear that modification of the
23 order is appropriate, Defendants will seek one at that time. (*Id.*) As realignment begins
24 in October, Defendants will closely monitor its actual impact on prison crowding and
25

26 ¹Because AB 109 has not yet been implemented and the reliability of projections based in large part on the
27 trends associated with implementation of AB 109 are by their very nature somewhat premature,
28 Defendants do not believe offering projections beyond next June would be useful at this point. (Decl. of
Meier ¶ 6.)

1 adjust their projections as appropriate. (*Id.*) Defendants will also continue to keep the
2 Court apprised of their updated projections. (*Id.*)

3 DATED: August 16, 2011

HANSON BRIDGETT LLP

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By: /s/ Paul B. Mello

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PAUL B. MELLO

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Attorneys for Defendants

Edmund G. Brown, Jr., et al.

8 DATED: August 16, 2011

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Attorney General of the State of California

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By: /s/ Debbie Vorous

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DEBBIE VOROUS

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Deputy Attorney General

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Edmund G. Brown, Jr., et al.

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 14 **UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES**
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16 RALPH COLEMAN, et al.,
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CASE NO. 2:90-cv-00520 LKK JFM P
THREE-JUDGE COURT

21 MARCIANO PLATA, et al.,
 22 Plaintiffs,
 23 v.
 24 EDMUND G. BROWN, JR., et al.,
 25 Defendants.

CASE NO. C01-1351 TEH
THREE-JUDGE COURT
**DECLARATION OF JAY ATKINSON IN
 SUPPORT OF DEFENDANTS'
 SUPPLEMENTAL REPORT IN
 RESPONSE TO JUNE 30, 2011 ORDER**

1 I, JAY R. ATKINSON, declare as follows:

2 1. I am the Acting Deputy Director of the Office of Research for the California
3 Department of Corrections and Rehabilitation (CDCR). I have been employed in this
4 position since January 1, 2011. I have been with the Office of Research and the
5 Offender Information Services Branch of CDCR since 1999, and have assisted in
6 gathering data maintained by CDCR on numerous occasions. I am competent to testify
7 to the matters set forth in this declaration, and if called upon to do so, I would and could
8 so testify. I submit this declaration in support of Defendants' Supplemental Response to
9 the Court's June 30, 2011 order.

10 2. As Acting Deputy Director for the Office of Research, I am responsible for
11 management and oversight of the Offender Information Services Branch that supplies
12 research and analysis to CDCR and outside agencies regarding population estimates
13 and projections. I am responsible for the development of CDCR's Spring and Fall
14 population projections and I know how they are developed.

15 3. CDCR expedited its efforts to complete its Fall 2011 projections so that the
16 projections could be used as a baseline to project the in-state institution population in
17 response to the Court's order. Fall projections are normally completed at the end of
18 August but we were able to complete the Fall 2011 projections in early August. The
19 official "Fall 2011 Adult Population Projections" publication will be released soon.

20 4. The development of the Fall 2011 projection was a complex process.
21 Specifically, the Fall 2011 projections required evaluation and modification of a simulation
22 model that included many variables and recent trends affecting population, including the
23 impact of prior legislation. After starting with CDCR's June 30, 2011 population, CDCR
24 forecasted population levels by using a simulation model, which employed data trends
25 and projected new admissions, to determine how long the new admissions will stay, the
26 number of offenders who will be returned to prison, and how long they and the current
27 inmates will stay. The inputs to the simulation model were then modified from the

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1 previous Spring 2011 projection to account for recent trends and data, including the
2 impact of prior legislation affecting population. This simulation was repeated for each
3 individual inmate until the total population was projected. After the Fall 2011 projection
4 was completed, staff in the Office of Research projected the impact on CDCR's
5 population that AB 109 realignment legislation could have. In doing so, past conviction
6 and parole revocation data have been analyzed to make projections about what portion
7 of the offender population will be diverted to county jail or alternatives to incarceration –
8 i.e., will not be eligible to serve their time in CDCR institutions. From this projection,
9 Ross Meier, from CDCR's Population Management Unit, developed a plan to place this
10 population in available capacity and determined the in-state population.

11 5. As a general matter, the projection developed for this report and the
12 projection developed for the prior July 20, 2011 report use the same methodology. This
13 projection included recent realignment legislative changes that did not exist when the
14 prior projection was prepared. Specifically, the current projection includes additional
15 crimes that are excluded from realignment. If subsequent realignment legislation is
16 enacted, there may be additional factors that could potentially impact CDCR's population
17 that would not be included in the current projection.

18 6. Our projection of the impact of AB 109 is based upon reasonable
19 assumptions from the language of the legislation. However, the model is developed
20 without the added benefit of any data trends, which will only become available over time
21 as the AB 109 realignment legislation takes effect after October 1. In preparing prior
22 projections where a particular legislative change had been in effect for some time, CDCR
23 staff had the benefit of looking back at prior assumptions and contrasting those projected
24 figures with actual population counts in the various categories used to model the
25 population forecast. In essence, past experience informed decisions about assumptions
26 going forward. While CDCR has considered Legislative changes in making prior
27 projections, the scope of change brought about by AB 109 realignment is unprecedented.

1 This historic realignment impacts the analysis of new admissions for both parolees facing
2 revocation and individuals convicted of new offenses, since large numbers of these
3 individuals will be housed in county jails instead of CDCR prisons. While these
4 projections are based on reasonable assumptions, the projections cannot predict CDCR's
5 future population with certainty. Despite this inherent uncertainty with projections, we do
6 know that realignment will reduce prison crowding in a substantial way, even if we cannot
7 determine future population with precision on specific dates.

8 I declare under the penalty of perjury under the laws of the State of California that
9 the foregoing is true and correct. Executed in Sacramento, California on August 16
10 2011.

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13 JAY R. ATKINSON

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THREE-JUDGE COURT

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CASE NO. C01-1351 TEH

THREE-JUDGE COURT

**DECLARATION OF ROSS MEIER IN
SUPPORT OF DEFENDANTS'
SUPPLEMENTAL REPORT IN
RESPONSE TO JUNE 30, 2011 ORDER**

1 I, ROSS MEIER, declare as follows:

2 1. I am the Chief of the Population Management Unit of the Division of Adult
3 Institutions for the California Department of Corrections and Rehabilitation (CDCR). I
4 have been employed in this position since March 2010 and have been with the
5 Population Management Unit since 2003. I have assisted in gathering data maintained
6 by CDCR on numerous occasions. I am competent to testify to the matters set forth in
7 this declaration, and if called upon to do so, I would and could so testify. I submit this
8 declaration in support of Defendants' Supplemental Response to the Court's June 30,
9 2011 order.

10 2. As part of my duties, I manage the day-to-day intake of offenders from
11 county jails, and the movement and housing of inmates throughout the state prison
12 system. In addition to the plan I had developed in conjunction with the July 20, 2011
13 filing, I have been asked by CDCR to develop a revised population management plan
14 using Fall 2011 population projections to forecast in-state institution population in
15 response to the Court's June 30, 2011 order.

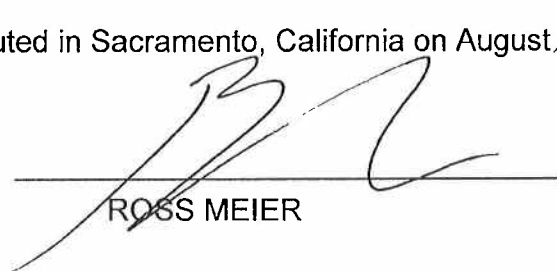
16 3. The population management plan takes the overall CDCR population from
17 the Fall 2011 population projections and allocates this population to the various available
18 placements including institutions, fire camps, new construction, and contracted facilities.
19 Based on this plan, on December 27, 2011, CDCR's in-state institution population is
20 projected to be about 134,400 inmates, or 169% of design capacity. This is a projected
21 reduction of approximately 9,200 inmates compared to today's in-state institution
22 population. Additionally, the plan forecasts that CDCR will achieve 167% of design
23 capacity in its in-state institutions around January 27, 2012.

24 4. Likewise, CDCR's updated population reduction projections demonstrate
25 that Defendants anticipate that on June 27, 2012, Defendants will reach 155.1% of
26 design capacity. According to the current population management plan, on June 27,
27 2012, CDCR's in-state institution population is projected to be about 123,450 inmates.
28 This is a projected reduction of approximately 20,000 inmates from July 27, 2011.

1 5. By the end of December, CDCR would have the added benefit of evaluating
2 more data and would be in a better position to assess the impact of AB 109 on the prison
3 population. At this point, though, there appears to be no need to implement additional
4 measures or to ask that the benchmark dates be extended, when Defendants' best
5 projections show that they will be at 155.1% of design bed capacity at the time of the
6 June 2012 benchmark. Once realignment is implemented if it becomes clear that
7 modification of the Court's order is warranted, CDCR will seek one at that time.

8 6. Because AB 109 has not yet been implemented and the reliability of
9 projections based in large part on the trends associated with implementation of AB 109
10 are by their very nature somewhat premature, Defendants do not believe offering
11 projections beyond next June would be useful at this point.

12 I declare under the penalty of perjury under the laws of the State of California that
13 the foregoing is true and correct. Executed in Sacramento, California on August 16,
14 2011.

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16 _____
17 ROSS MEIER