

IN THE UNITED STATES DISTRICT COURTS  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
AND THE NORTHERN DISTRICT OF CALIFORNIA  
UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES  
PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

RALPH COLEMAN, et al.,  
Plaintiffs,  
v.  
ARNOLD SCHWARZENEGGER,  
et al.,  
Defendants

NO. CIV S-90-0520 LKK JFM P  
**THREE-JUDGE COURT**

MARCIANO PLATA, et al.,  
Plaintiffs,  
v.  
ARNOLD SCHWARZENEGGER,  
et al.,  
Defendants.

NO. C01-1351 TEH

**THREE-JUDGE COURT**

**ORDER RE: DEFENDANTS'**  
**REQUEST FOR EVIDENCE**  
**FROM THE CALIFORNIA**  
**PRISON HEALTH CARE**  
**RECEIVERSHIP CORPORATION**

20 On August 29, 2008, Defendants filed a request for this Court to permit Defendants to  
21 obtain “updated, authenticated, and admissible factual evidence regarding the delivery of  
22 medical care at CDCR [California Department of Corrections and Rehabilitation] institutions  
23 for use at trial.” Req. at 3. In particular, Defendants “seek all reports, memoranda, and any  
24 other documents providing factual data and/or current information regarding the following”:

1. The status of the URS/Bovis 10,000 bed project, including accomplishments, timelines, and goals, as of August 30, 2008.
2. The status of the information technology system, including timelines, capabilities, and goals, as of August 30, 2008.

- 1       3. The status of the Clinical Data Repository/Clinical Portal  
2       project, including accomplishments and timelines, as of  
3       August 30, 2008.
- 4       4. Staffing and staffing vacancies for medical positions both  
5       statewide and at each CDCR institution as of August 30,  
6       2008, including but not limited to, registered nursing  
7       positions, physician and surgeon positions, physician  
8       assistant positions, Chief Medical Officer positions, Chief  
9       Physician and Surgeon positions, and licensed vocational  
10      nursing positions.
- 11      5. Current statistics regarding the number of physicians who  
12      were fired and/or retired due to actions taken by the  
13      Receiver in accordance with the State Personnel Board.
- 14      6. Current status of the Receiver's physician clinical  
15      competency policies and implementation plan, including  
16      timelines for completion and goals.
- 17      7. Current status of any and all training and supervision plans  
18      for any and all medical staff positions, including but not  
19      limited to, registered nurses, physicians and surgeons,  
20      physician assistants, Chief Medical Officers, Chief  
21      Physicians and Surgeons, and licensed vocational nurses.
- 22      8. Current status of the Receiver's Career Executive  
23      Assignment program, including number of positions  
24      created and filled.
- 25      9. Current statistics regarding the number of preventable  
26      and/or possibly preventable deaths statewide, as of  
27      August 30, 2008.
- 28      10. The status of each institution's adoption of the Emergency  
19      Medical Response System policy.
- 20      11. The status of implementation of a central fill pharmacy.
- 21      12. The status of implementation of a standardized health  
22      records practice.
- 23      13. The status of the Receiver's efforts to improve radiology  
24      and laboratory services.
- 25      14. The status of the Receiver's "Construction Upgrade  
26      Program."
- 27      15. The status of the Receiver's plans to improve the  
28      screening of incoming prisoners at all reception centers,  
1       including the status of the San Quentin pilot program and  
2       plans for a statewide roll-out.

1 Part of the rationale for Defendants' request is that this Court ordered that "[n]o  
2 evidence of changed prison conditions after August 30, 2008, shall be admitted at trial,"  
3 July 2, 2008 Order for Pretrial Prep. at 3, but that the Receiver's next quarterly report is not  
4 due to be filed until September 15, 2008. Defendants argue that without the information they  
5 request, they will be prejudiced because they will be forced to rely at trial on the Receiver's  
6 previous quarterly report, filed on June 17, 2008, instead of being permitted to introduce  
7 evidence of prison conditions as of the Court-ordered August 30, 2008 deadline.

8        The Court agrees that the Receiver has made progress between the date of the last  
9 quarterly report and August 30, 2008, and that evidence of such progress may be relevant to  
10 the issues to be presented at trial. However, the Court has consulted with the Receiver and  
11 determined that it would be unduly burdensome on the Receiver to produce both his next  
12 quarterly report and information on the above items as of August 30, 2008. The Receiver has  
13 further informed the Court that the September 15, 2008 quarterly report will cover all of the  
14 fifteen items included in Defendants' request for evidence.

15           Accordingly, with good cause appearing, IT IS HEREBY ORDERED that the  
16 Receiver's September 15, 2008 quarterly report shall be admissible at trial as to the fifteen  
17 items identified in Defendants' request for evidence. To be clear, the Court will permit a  
18 limited exception to the August 30, 2008 cut-off for evidence of changed prison conditions  
19 and, subject to the Federal Rules of Evidence, will allow the Receiver's September 15, 2008  
20 quarterly report, and any exhibits thereto, to be admitted into evidence at trial as to the fifteen  
21 items listed above. Consequently, the Defendants' request for information is DENIED as  
22 moot.

24 || IT IS SO ORDERED.

26 | Dated: 09/05/08

/s/  
**STEPHEN REINHARDT**  
UNITED STATES CIRCUIT JUDGE  
NINTH CIRCUIT COURT OF APPEALS

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3 Dated: 09/05/08

  
4 LAWRENCE K. KARLTON  
5 SENIOR UNITED STATES DISTRICT JUDGE  
6 EASTERN DISTRICT OF CALIFORNIA

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9 Dated: 09/05/08

  
10 THELTON E. HENDERSON  
11 SENIOR UNITED STATES DISTRICT JUDGE  
12 NORTHERN DISTRICT OF CALIFORNIA

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