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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, et al.,  
Plaintiffs,  
v.  
EDMUND G. BROWN, JR., et al.,  
Defendants.

No. CIV. S-90-520 LKK/DAD (PC)

**ORDER**

By order filed August 30, 2012, defendants were directed to, over a six month period, review and assess their existing quality assurance process and "develop an improved quality improvement process by which they can address issues with the quality of care that is delivered, as described in the Special Master's Twenty-Fourth Round Monitoring Report." Order filed August 30, 2012 (ECF No. 4232) at 5. This was to take place "under the guidance of the Special master and his staff, with participation and input" from plaintiffs. Id. at 6.

Subsequently, the Special Master informed the court that compliance with the August 30, 2012 order had been interrupted by motions filed by defendants in 2013 to terminate this action and

1 to vacate or modify the population reduction order of the three-  
2 judge court. See Order filed April 23, 2013 (ECF No. 4561) at 1.  
3 For that reason, the court extended the time for compliance with  
4 the August 30, 2012 order to July 1, 2013 and directed the  
5 Special Master to report to the court on the outcome of the  
6 process by August 2, 2013. Id. at 2.

7 On August 2, 2013, the Special Master filed his Report on  
8 Defendants' Quality Improvement Process (hereafter Report). (ECF  
9 No. 4730.) The Report includes recommendations for further work  
10 on the quality improvement process. The Special Master also  
11 reports that defendants had agreed with him to refine the  
12 Continuous Quality Improvement Tool (CQIT) tool and re-pilot the  
13 tool at the same eight institutions as the original pilot.<sup>1</sup>  
14 Report (ECF No. 4730) at 29. The Special Master did not  
15 recommend any specific orders by this court in the Report.

16 On August 16, 2013, plaintiffs filed a response to the  
17 Report. (ECF No. 4757.) Therein, plaintiffs request an order by  
18 this court extending the quality improvement monitoring process  
19 through the end of 2013, requiring defendants' full cooperation  
20 therein, and requiring a further report from the Special Master  
21 on said process. Pursuant to court order, on September 3, 2013,  
22 defendants filed a response to plaintiffs' request. (ECF No.  
23 4780.)

24 Plaintiffs' request arises from a letter from counsel for  
25 defendants to the Special Master responding to the Report. In

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26 <sup>1</sup> The Special Master also reported that "[t]o facilitate this re-  
27 pilot, CDCR and the special master have agreed to suspend  
28 commencement of the upcoming twenty-sixth round of monitoring  
until the re-pilot has been completed." Id. at 31.

1 relevant part, counsel for defendants states that “[t]he time  
2 period specified by the Court [in the August 30, 2012 and April  
3 23, 2013 orders] has ended, and both CDCR and the Special Master  
4 have completed their required duties under the order. CDCR has  
5 agreed to a re-pilot of CQIT, and while Defendants will cooperate  
6 with your staff during the re-piloting process, these continuing  
7 joint efforts go above and beyond the Court’s requirements.” Ex.  
8 B to Pls. Resp. (ECF No. 4757-2) at 3. Plaintiffs seek the  
9 requested order both because of the “critical importance of the  
10 quality improvement process” and to avert possible further delays  
11 in the Special Master’s twenty-sixth round of monitoring. Pls.  
12 Resp. (ECF No. 4757) at 5.

13 In their response, defendants contend that (1) the “current  
14 quality assurance process is constitutionally adequate, and an  
15 order directing Defendants’ [sic] to revise further a  
16 presumptively constitutional process is not needed”; and (2)  
17 defendants “have been working, and remain willing to cooperate  
18 fully, with the Special Master to improve the quality improvement  
19 process without a coordinator.” Defs. Resp. (ECF No. 4780) at 2.  
20 Defendants represent that they will continue to work with the  
21 Special Master to assess the quality improvement process but they  
22 object to anything from plaintiffs’ counsel beyond “input” and  
23 they “object to any order that either expressly states or implies  
24 that the CQIT is to serve at [sic] a new benchmark for  
25 determining Defendants’ compliance with the Constitution.” Id.

26 At this juncture, for the reasons set forth infra the court  
27 has determined that, while defendants’ objections to the orders  
28 requested by plaintiffs miss the mark, issuance of the requested

1 orders will not adequately serve the underlying goal of the  
2 court's August 30, 2012 order and the Special Master's  
3 recommendation on which that order is based.

4 By its terms, the order is directed at ending federal court  
5 oversight of the delivery of mental health care in California's  
6 prisons.<sup>2</sup> Defendants did not object to the Special Master's  
7 recommendation that they be ordered to review and assess their  
8 existing quality assurance process and develop an improved  
9 quality improvement process as part of the transition to self-  
10 monitoring and the end of federal court oversight; indeed, as the  
11 court noted in the August 30, 2012 order, they acquiesced in the  
12 recommendation. See id. at 3.

13 The dispute at bar apparently arises from the fact that the  
14 August 30, 2012 order set a six-month period for compliance, see  
15 id. at 6, which was extended by April 23, 2013 order. The six-  
16 month time frame was set in an effort to effect a level of "focus  
17 and diligence" on that task and the other tasks remaining to  
18 complete the remedy in this action. See id. at 5. It was not  
19 set with the view that compliance would become voluntary if the  
20 task was not completed within six months. As it turns out, the  
21 task was not completed within six months for reasons explained by  
22 the Special Master in his Report and well known to the parties  
23 and this court.

24 Rather than set a new deadline, the court will reiterate  
25 that defendants' development and implementation of an improved


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26 <sup>2</sup> This is also made clear in the Special Master's Twenty-Fourth  
27 Round Monitoring Report, on which the order is based. See  
28 Twenty-Fourth Round Monitoring Report (ECF No. 4205) at, e.g.,  
71, 74.

1 quality improvement process is fundamental to ending federal  
2 court oversight in this action. It is grounded in this court's  
3 obligation to end its supervision of defendants' delivery of  
4 mental health care to members of the plaintiff class when  
5 defendants have implemented a *durable* remedy for the Eighth  
6 Amendment violations in the delivery of that care. See Horne v.  
7 Flores, 557 U.S. 433, 450 (2009). A key component of a durable  
8 remedy is the development and implementation of an adequate  
9 quality improvement process by which defendants will self-monitor  
10 and, as necessary, self-correct inadequacies in the delivery of  
11 mental health care to the thousands of seriously mentally ill  
12 inmates incarcerated in California's prisons. Defendants are  
13 required to work under the guidance of the Special Master, with  
14 input from plaintiffs' counsel, on this task until it is  
15 completed. The court expects that the Special Master will report  
16 to the court in due course when this necessary step has been  
17 accomplished.

18 IT IS SO ORDERED.

19 DATED: February 27, 2014.

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23 LAWRENCE K. KARLTON  
24 SENIOR JUDGE  
25 UNITED STATES DISTRICT COURT  
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