1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 RALPH COLEMAN, et al., No. 2:90-cv-0520 KJM DB 12 Plaintiffs, ORDER 13 v. 14 GAVIN NEWSOM, et al., 15 Defendants. 16 17 The court has set this matter for hearing on September 29, 2023 at 10:00 a.m. in 18 Courtroom # 3 for consideration of findings of contempt and requirement of payment of fines that 19 have accumulated on or after May 16, 2017 for non-compliance with this court's April 19, 2017 20 order requiring defendants to come into full and permanent compliance with Program Guide 21 timelines for transfer of inmate-patients to acute and intermediate care facility inpatient programs. 22 See generally February 28, 2023 Order, ECF No. 7741; see also March 27, 2023 Order, ECF 23 No. 7786. On the same date, the court also will consider findings of contempt and requirement of 24 payment of finds that have accumulated on or after March 31, 2023 for non-compliance with this 25 court's October 10, 2017 order to fully implement defendants' 2009 staffing plan and 26 modifications thereto, see generally February 28, 2023 Order, ECF No. 7742; see also generally 27 March 17, 2023 Order, ECF No. 7766, April 11, 2023 Order, ECF No. 7806, June 12, 2023 28 Order, ECF No. 7856, and June 23, 2023 Order, ECF No. 7861.

The court has set certain parameters for the September 29, 2023 hearing. *See* ECF Nos. 7786, 7856, and 7861. Except as they may require further clarification, those orders are confirmed.

In a court-ordered joint report concerning the contempt proceedings as they pertain to fines resulting from non-compliance with timelines for transfer to inpatient care, filed March 21, 2023, the parties made the following representation:

The parties will file, on or before June 16, 2023, in separate submissions, their respective positions regarding contempt findings and fines. The parties are assessing the nature of the contempt described in the February order and reserve the right to request adjustments to the plan set forth below as the facts and issues are further developed. Additionally, Plaintiffs reserve the right to seek limited, expedited discovery if appropriate once Defendants' anticipated defenses are known. Defendants reserve the right to include briefing on the issue of whether the anticipated proceedings appear to be civil or criminal in nature.

ECF No. 7771, at 2. Neither party has filed a submission as represented.

Based on the court's review, and good cause appearing, the court will direct the parties to file on or before July 17, 2023 separate submissions containing their respective positions regarding contempt findings and fines with respect to both timelines for transfer to inpatient care and compliance with defendants' 2009 Staffing Plan and modifications thereto. Defendants shall include in their submission a brief statement of any defense they anticipate raising. Any additional discovery suggested by any party's submission shall be conducted so that it is completed by August 29, 2023. The contempt proceedings are civil in nature, *see* ECF No. 5610 at 9-10; ECF No. 7742 at 3, and the court will not entertain briefing disputing the civil nature of the proceedings or arguing they are in the nature of criminal proceedings.

In addition, on or before July 18, 2023, the parties shall file a joint statement addressing the following: (1) Their respective positions on whether the court should bifurcate the hearing to separate transfer timelines issues from staffing issues; and (2) If the parties agree the issues should be bifurcated, which issue should proceed first.

The court now confirms that the parties will be allowed ten minutes of opening statement for each issue. In addition, this matter will be set for pre-hearing status on Thursday August 10, 2023 at 10:00 a.m. in Courtroom # 3. On or before August 4, 2023, the parties shall file status

1	reports identifying with specificity the time each party anticipates for presentation of direct
2	evidence, cross-examination, and rebuttal evidence as to each issue and whether the hearing can
3	be completed in one day or, instead, whether the court will need to plan to continue the hearing
4	day by day.
5	In accordance with the above, IT IS HEREBY ORDERED that:
6	1. On or before July 18, 2023, the parties shall file the submissions and the joint
7	statement required by this order;
8	2. This matter is set for pre-hearing status conference on August 10, 2023 at 10:00 a.m.
9	in Courtroom #3. On or before August 4, 2023, the parties shall file the status reports
10	required by this order; and
11 12	3. The Clerk of the Court is directed to serve a courtesy copy of this order on:
13 14 15 16 17 18	Kerry K. Dean, Deputy Chief United States Department of Justice Civil Rights Division Special Litigation Section 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530.
19	DATED: July 10, 2023.
20	CHIEF INUTED STATES DISTRICT HIDGE
21	CHIEF UNITED STATES DISTRICT JUDGE