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10 **UNITED STATES DISTRICT COURT**  
 11 **EASTERN DISTRICT OF CALIFORNIA**  
 12 **SACRAMENTO DIVISION**

14 RALPH COLEMAN, et al.,  
 15 Plaintiffs,  
 16 v.  
 17 GAVIN NEWSOM, et al.  
 18 Defendants.

Case No. 2:90-CV-00520- KJM-DB  
**NOTICE OF UNAVAILABILITY AND  
 REQUEST TO BE EXCUSED;  
 ORDER**  
 Judge: Hon. Kimberly J. Mueller

20 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

21 **PLEASE TAKE NOTICE** that California Department of Corrections and Rehabilitation  
 22 (CDCR) Secretary Jeff Macomber, CDCR Staff Counsel Nicholas Weber, and Dr. Leidner will be  
 23 unavailable for the March 28 status conference, and Secretary Macomber will be unavailable for  
 24 the March 29 mediation, due to pre-planned family travel that week. Defendants request that both  
 25 Secretary Macomber and Mr. Weber be excused from the Status Conference set for March 28 (*see*  
 26 ECF No. 8152); that Dr. Leidner be permitted to attend the Status Conference remotely, and that  
 27 Secretary Macomber be excused from the mediation on March 29 (*see* ECF No. 8147 at 8:18-19;  
 28 *see also* 8146).

1 On March 12, 2024, Defendants informed the mediator, Mr. Saltiel, and Plaintiffs' counsel  
2 of Secretary Macomber's unavailability on March 29. Both Mr. Saltiel and Mr. Bien indicated  
3 that they did not object to Secretary Macomber's absence on March 29 (but Mr. Saltiel did note  
4 that Defendants should obtain relief from the court, which Defendants had planned to do).

5 Principals representing Defendants with full authority and similar knowledge as Messrs.  
6 Macomber and Weber will be present in their stead on both March 28 (including Dr. Toche,  
7 Jennifer Neill, and Dr. Cartwright) and 29 (Ms. Neill and David Sapp). Dr. Leidner is able to  
8 attend the Status Conference remotely. Secretary Macomber can also be available by phone as the  
9 need arises at mediation on March 29.

10 Secretary Macomber did not previously bring his unavailability to the court's attention,  
11 having intended to raise it through his counsel with Mr. Saltiel at the parties' first discussion on  
12 March 12, 2024.

13 In light of Secretary Macomber, Mr. Weber, and Dr. Leidner's unavailability due to pre-  
14 planned vacations, and the fact that individuals with full authority and knowledge will be present  
15 in their stead, Defendants respectfully request that Secretary Macomber and Mr. Weber be  
16 excused from the Status Conference on March 28, that Dr. Leidner be permitted to attend  
17 remotely, and that Secretary Macomber be excused from the mediation on March 29.

18 Defendants informed Plaintiffs' counsel of these individuals' unavailability, and Plaintiffs'  
19 counsel indicated that they do not object to Defendants' request to excuse Secretary Macomber  
20 and Mr. Weber from attending the March 28 Status Conference, nor do they object to Dr. Leidner  
21 attending the Status Conference remotely. Plaintiffs' counsel also do not object to the request to  
22 excuse Secretary Macomber from attending mediation on March 29.

23 DATED: March 13, 2024

ROB BONTA  
Attorney General of California

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25  
26 By: /s/ Elise Owens Thorn  
DAMON MCCLAIN  
Supervising Deputy Attorney General  
27 ELISE OWENS THORN  
Deputy Attorney General  
28 *Attorneys for Defendants*

1 DATED: March 13, 2024

HANSON BRIDGETT LLP

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By:           /s/ Samantha Wolff            
LAWRENCE M. CIRELLI  
PAUL B. MELLO  
SAMANTHA D. WOLFF  
*Attorneys for Defendants*

**ORDER**

GOOD CAUSE APPEARING, Secretary Macomber and Nicholas Weber are excused from appearing at the March 28, 2024 Status Conference.

Dr. Leidner is excused from attending the March 28, 2024 Status Conference in person. While the court disfavors hybrid proceedings, in this instance it grants Dr. Leidner's request to appear remotely on the condition that Dr. Leidner make arrangements in advance with Courtroom Deputy Casey Schultz to appear by video conference.

Secretary Macomber is excused from attending the March 29, 2024 mediation in-person on the condition that he remain available to the Ninth Circuit Mediator Mr. Saltiel by telephone for the duration of the mediation and that he provide to the court and the mediator beforehand the phone number where he can be reached.

IT IS SO ORDERED.

DATED: March 21, 2024

  
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CHIEF UNITED STATES DISTRICT JUDGE