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28IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARCIANO PLATA, et al.,

Plaintiffs,

v.

EDMUND G. BROWN JR., et al.,

Defendants.

NO. C01-1351 TEH

ORDER EXTENDING TIME FOR  
COURT EXPERTS TO  
COMPLETE WRITTEN  
EVALUATIONS

On September 5, 2012, this Court ordered the three court experts to “complete a written evaluation of any institution that receives an overall third-round OIG [Office of Inspector General] score of 85% as soon as feasible, and no later than six months after the publication of the OIG report awarding that score.” Sept. 5, 2012 Order re: Receivership Transition Plan & Expert Evaluations at 9. The Court further provided that “[e]valuations may, at the Receiver’s and experts’ discretion, also be scheduled at institutions that have received overall OIG scores of between 75% and 85% in any round of the OIG inspections.”

*Id.* The Court anticipated the potential need for additional expert staff:

The court experts and the Receiver, in consultation with the parties, shall consider whether appointment of additional experts or hiring of other clinical personnel is necessary or desirable. Any proposed additional experts or personnel, along with proposed hourly rates, shall be presented to the Court for approval, preferably by stipulation. All such individuals shall follow the methodology adopted by the three original court experts when conducting their evaluations.

*Id.* at 10.

1 To date, the experts have timely completed written evaluations of four institutions.  
2 The experts have requested, and the Receiver and Plaintiffs have agreed to, the appointment  
3 of several additional clinical personnel to work under direction of the three original court  
4 experts. The primary impetus for the request has been the unexpected pace at which  
5 institutions have been receiving OIG scores of 85% or higher.<sup>1</sup> Defendants have not agreed  
6 to the request, and the Receiver has recommended that the Court appoint all of the requested  
7 additional personnel over Defendants' objections.

8 Upon careful consideration, this Court declines to adopt the Receiver's  
9 recommendation. As Defendants have observed, ensuring that all three of the original court  
10 experts evaluate each institution will promote uniformity among the evaluations, and the  
11 Court has confidence that the three experts will continue to produce detailed, comprehensive  
12 evaluations that will assist the Court and the parties in determining how to move this case  
13 forward. Declining to appoint additional experts also has the potential to save Defendants  
14 money, if the experts are ever able to recommend to the Court that a "particular overall OIG  
15 score or set of sub-scores is sufficient to establish the adequacy of care without a subjective  
16 evaluation," or they "conclude that they need not examine every institution individually to  
17 determine that the overall system is adequate." *Id.* However, the trade-off in having fewer  
18 expert staff and therefore greater consistency is delay; it is not possible for the three experts  
19 to conduct thorough investigations of all institutions within the original six-month time  
20 frame. In this instance, the Court defers to Defendants' choice of potential monetary savings  
21 over expediency.

22 Accordingly, with good cause appearing, IT IS HEREBY ORDERED that no  
23 additional expert staff will be appointed at this time. IT IS FURTHER ORDERED that the  
24 six-month deadline for the experts to complete their written evaluations is VACATED. The

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26 <sup>1</sup>Unfortunately, as demonstrated by the court experts' review of R.J. Donovan  
27 Correctional Facility, these relatively high OIG scores do not mean, in all cases, that inmates  
28 at those institutions are receiving adequate care. Given this disconnect, it may be helpful for  
the OIG to meet with the court experts with the goal of refining the OIG audit instrument to  
more accurately measure the adequacy of care.

1 experts shall proceed as quickly as possible to complete their evaluations of individual  
2 prisons. Any disputes over the timing of the court experts' evaluations will be mediated by  
3 the Receiver.

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5 **IT IS SO ORDERED.**

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7 Dated: 04/18/13



THELTON E. HENDERSON, JUDGE  
UNITED STATES DISTRICT COURT

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