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6 **UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN FRANCISCO DIVISION**

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10 **MARCIANO PLATA, and others,**

11 **Plaintiffs,**

12 **v.**

13 **EDMUND G. BROWN, and others,**

14 **Defendants.**

Case No. 01-cv-01351 TEH (NC)

**ORDER DENYING
PLAINTIFFS' REQUESTS FOR
ADMISSIONS**

Re: Dkt. No. 2676

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17 The long history of this case about medical care in California prisons is well-
18 known to the parties, so a short summary of the discovery dispute presented will suffice.
19 On February 14, 2013, plaintiffs filed an emergency motion seeking to re-open discovery.
20 The stated purpose of the request was that defendants intended to move for termination of
21 the court orders in this case imminently, and plaintiffs therefore needed “an opportunity
22 to investigate the current conditions in the California state prisons.” Dkt. 2534 at 2. The
23 district court granted plaintiffs’ motion, allowing plaintiffs “an opportunity to prepare for
24 a potential termination motion at the same time as Defendants.” Dkt. 2542 at 1; Dkt.
25 2546 at 3.

26 Plaintiffs then served two requests for admissions. The requests ask Governor
27 Brown to admit that two newspaper articles “accurately reflect” statements he made.
28 Plaintiffs later specified that the statements at issue are as follows:

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1 1. “During the life of these lawsuits, the prison health care budget has gone from
2 \$700 million to \$2 billion. . . . That money is coming out of the university, it’s coming out
3 of child care. It’s a situation you wouldn’t dream anyone would want.”

4 2. Gov. Jerry Brown said Friday his administration will not comply with a federal
5 court order rejecting his effort to avoid reducing California’s prison population, pledging
6 to litigate “until the Supreme Court tells us that we’re not on the right track.”

7 Defendants object to the requests on several grounds: (1) the requests are not
8 relevant to the constitutionality of the prison health care system and are not reasonably
9 calculated to lead to the discovery of admissible evidence; and (2) the requests are
10 harassing and burdensome. On the burden objection, defendants assert that the Governor
11 speaks to the press almost daily, and requiring him to admit what he said would be unfair.
12 Furthermore, newspaper articles about the Governor’s statements are self-authenticating
13 under Federal Rule of Evidence 902(6), so it should not be necessary for the Governor to
14 formally admit the statements.

15 This dispute is resolved through a straightforward application of the Federal Rules
16 of Civil Procedure. Rule 36 permits a party to request another party to admit the truth of
17 facts of any matters within the scope of Rule 26(b)(1). Rule 26(b)(1), in turn, permits
18 discovery of nonprivileged matter that is relevant to a claim or defense. Relevant
19 information need not be admissible at trial if the discovery appears reasonably calculated
20 to lead to the discovery of admissible evidence.

21 Here, the requested admissions are not relevant because they are outside the scope
22 of the discovery that the plaintiffs requested and the court permitted. Specifically,
23 plaintiffs requested “an opportunity to investigate the current conditions in the California
24 state prisons.” The Governor’s statements to the press about the prisons are not probative
25 of the actual conditions of the prisons. The court might take judicial notice that the
26 Governor has made many statements to the press about California’s prisons. As the
27 saying goes, talk is cheap. The imminent termination motion will not be decided based
28 on press conferences, but rather by evidence from the prisons.

1 In sum, because the requested admissions seek information that is not relevant, the
2 defendants were justified in objecting. The plaintiffs' motion to compel answers to the
3 requests is therefore denied.

4 Under Federal Rule of Civil Procedure 72, any party may object to this
5 nondispositive ruling, but must do so within fourteen days of being served with the order.

6 IT IS SO ORDERED.

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8 DATE: July 25, 2013

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10 NATHANAEL M. COUSINS
11 United States Magistrate Judge
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