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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN ARMSTRONG, et al.,  
  
Plaintiffs,  
  
v.  
  
GAVIN NEWSOM, et al.,  
  
Defendants.

Case No. C94 2307 CW

**STIPULATION AND ~~PROPOSED~~  
ORDER PROHIBITING  
RETALIATION**

Judge: Hon. Claudia Wilken

Case No. C94 2307 CW

STIPULATION AND ~~PROPOSED~~ ORDER PROHIBITING RETALIATION AGAINST  
CLASS MEMBER DECLARANTS

On February 28, 2020, Plaintiffs filed their Motion to Stop Defendants from Assaulting, Abusing and Retaliating Against People With Disabilities at R.J. Donovan Correctional Facility (“Motion”). *See* Dkt. 2922. In support of the Motion, fifty-four incarcerated people (“Declarants”) submitted declarations. Some of the Declarants alleged instances in which correctional officers at R.J. Donovan Correctional Facility (“RJD”) retaliated against them or others for, among other things, submitting or threatening to submit complaints regarding staff misconduct or failures to provide disability accommodations. And some of the Declarants also alleged instances in which correctional officers at RJD retaliated against incarcerated people by charging incarcerated people with false rules violations reports.

Defendants wish to take measures to assure the Declarants, *Armstrong* class members, and other incarcerated people who participate in the Motion that they will not be retaliated against for their participation in the Motion or for testifying or otherwise participating in this proceeding. Additionally, Defendants wish to reiterate to their employees that retaliation against anyone, including the Declarants, *Armstrong* class members, and incarcerated people at RJD, for exercising their federal rights or for participating in the Motion will not be tolerated by the California Department of Corrections and Rehabilitation and that any such retaliation would be a violation of the law.

ACCORDINGLY, IT IS HEREBY STIPULATED AND AGREED by the parties, through their undersigned counsel, as follows:

1. The parties agree that Defendants and their employees are prohibited from retaliating against the Declarants, *Armstrong* class members at RJD, or incarcerated people at RJD for participating in the Motion.

2. Defendants agree to:

(a) Assess any allegations of retaliation against the Declarants, *Armstrong* class members, or incarcerated people at RJD for participating in the Motion, including by using staff from outside RJD to conduct the assessments;

(b) Refer instances of retaliation to the Office of Internal Affairs when criteria for referral is met, and issue discipline if warranted; and

(c) Post notices in the facilities at RJD explaining that incarcerated people have a right to be free from retaliation for exercising their federal rights, and that any retaliation against incarcerated people for exercising their rights under the ADA, for reporting staff misconduct, or for participating in the Motion would be a violation of the law.

3. Defendants further agree not to communicate with any of the Declarants regarding matters covered by their declarations or any alleged retaliation related to their participation in the Motion without first providing notice to Plaintiffs' counsel and an opportunity for Plaintiffs' counsel to participate in any interview or communications.

4. Defendants agree to respond to inquiries from Plaintiffs' counsel regarding Defendants' efforts to comply with the terms of this stipulation and any alleged retaliation against the Declarants, *Armstrong* class members, or incarcerated people at RJD for participating in the Motion.

5. The parties agree that if the Court finds that retaliation has occurred against the Declarants, *Armstrong* class members, or incarcerated people at RJD for participating in the Motion, the Court may issue appropriate relief.

6. This stipulation will expire six months after the Court's ruling on the Motion becomes final.

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1 any retaliation against incarcerated people for exercising their rights under the ADA, for  
2 reporting staff misconduct, or for participating in the Motion would be a violation of the  
3 law.

4 3. Defendants shall not communicate with any of the Declarants regarding  
5 matters covered by their declarations or any alleged retaliation related to their participation  
6 in the Motion without first providing notice to Plaintiffs' counsel and an opportunity for  
7 Plaintiffs' counsel to participate in any interview or communications.


8 4. Defendants shall respond to inquiries from Plaintiffs' counsel regarding  
9 Defendants' efforts to comply with the terms of this stipulation and any alleged retaliation  
10 against the Declarants, *Armstrong* class members, or incarcerated people at RJD for  
11 participating in the Motion.

12 5. If the Court finds that retaliation has occurred, the Court will issue  
13 appropriate relief.

14 6. This order will terminate six months after the Court's ruling on the Motion  
15 becomes final.

16 **IT IS SO ORDERED.**

17  
18 DATED: March 17, 2020

  
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Honorable Claudia Wilken  
United States District Judge