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RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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

MARCIANO PLATA, et al.,  
Plaintiffs,

v.

ARNOLD SCHWARZENEGGER,  
et al.,  
Defendants.

NO. C01-1351 TEH

CLASS ACTION

ORDER SETTING SCHEDULE RE  
RECEIVER'S MOTION FOR  
WAIVER OF STATE LAW RE  
PHYSICIAN CLINICAL  
COMPETENCY  
DETERMINATIONS

United States District Court  
For the Northern District of California

The Court is in receipt of the Receiver's "Motion for Waiver of State Law Re Physician Clinical Competency Determinations" and supporting exhibits. By this motion, the Receiver seeks to implement a new peer review system that would govern physicians practicing medicine within the California Department of Corrections and Rehabilitation ("CDCR"). The purpose of this system is to address the issues concerning physician competency identified in this Court's Findings of Fact and Conclusions of Law, filed October 30, 2005. Specifically, the Receiver seeks the following relief:

(1) an order directing him to commence implementation of a "single hearing privileges and employment physician peer review program," as detailed in Exhibit 3 to his motion,<sup>1</sup>

<sup>1</sup> The proposed program would create a "standardized mechanism to determine (1) when clinical privileges should be suspended, revoked or restricted; and (2) when remedial

(2) an order establishing staff privileges as defined by California Business and Professions Code § 805(a)(4) as a condition of employment for physicians providing clinical care in the CDCR, and


(3) a waiver of a number of provisions of the California Government Code, and one provision of the California Code of Regulations “insofar as they foreclose on consolidated evidentiary hearings regarding privileges and employment through peer review proceedings as outlined in Exhibit 3 to the Receiver’s motion.” *See* Receiver’s Mot. at 20-21.

Pursuant to the Court’s Order of February 14, 2006 at ¶ II(D), the Court sets forth the following procedure for consideration of this matter. All parties shall file their response to this motion no later than 21 days from the date of this Order. In addition, the Court shall permit, no later than 21 days from the date of this Order, amici curiae responses from the following entities that were served with this Motion by the Receiver but are not parties to this action: The State Personnel Board and the Union of American Physicians and Dentists (“UAPD”). *See* Proof of Service to Receiver’s Motion.

Upon receipt of the above responses, the Court shall determine whether further proceedings, such as additional briefing or oral argument, are appropriate, and if so notify the parties and amici. If the Court issues no further procedural orders, the matter shall be deemed submitted on the papers.

**IT IS SO ORDERED.**

Dated: 5/1/07

  
THELTON E. HENDERSON  
UNITED STATES DISTRICT JUDGE

measures in lieu of or in addition to those impacting privileges are appropriate.” *See* Ex. 3 to Receiver’s Mot. at 1.

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

PLATA et al,

Plaintiff,

v.

SCHWARZENEGGER, et al,

Defendant.

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Case Number: CV01-01351 TEH

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 1, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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