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16 **UNITED STATES DISTRICT COURT**
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18 **NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

19 MARCIANO PLATA, et al.,

20 Plaintiffs,

21 v.

22 GAVIN NEWSOM, et al.,

23 Defendants.

CASE NO. 01-1351 JST

**[PROPOSED] ORDER RE: CDCR'S
STAFF TESTING PLAN FOR COVID-
19**

24 As the Receiver, this Court, and the parties have all recognized, staff are the most
25 significant vector for spreading COVID-19 in the state prisons. *See* Joint Case
26 Management Conference Statement (June 8, 2020), ECF No. 3345 at 3; Order Regarding
27 Staff Testing for COVID-19 (June 11, 2020), ECF No. 3353 at 1; Order to Show Cause re:
28 Baseline Staff Testing for COVID-19 (June 28, 2020), ECF No. 3366 at 1. As of July 23,
2020, more than 1500 CDCR employees had tested positive for COVID-19, with new

1 cases reported daily. *See CDCR, CDCR/CCHCS COVID-19 Employee Status,*
2 <https://www.cdcr.ca.gov/covid19/cdcr-cchcs-covid-19-status> (last updated July 23, 2020).

3 In recognition of the risk that staff will continue to spread the virus in the prisons,
4 this Court previously ordered Defendants to “produce a comprehensive plan for testing
5 staff at all prisons in the California Department of Corrections and Rehabilitation.” Order
6 Regarding Staff Testing for COVID-19 (June 11, 2020), ECF No. 3353 at 2
7 (memorializing an order issued from the bench on June 9, 2020). Having reviewed that
8 Plan, and the parties’ briefing regarding the Plan, this Court grants Plaintiffs’ request for
9 modification of that Plan.

10 IT IS HEREBY ORDERED:

11 1. Defendants shall modify the CDCR’s COVID-19 staff testing plan to state that if
12 a staff member reports symptoms while at work, the CDCR shall immediately test that
13 person. If the staff person reports symptoms from home, the CDCR shall direct the staff
14 person to obtain a test and report the results to the CDCR so that the CDCR can initiate
15 contact tracing and other measures designed to inhibit transmission of the virus. If a
16 symptomatic staff person declines to be tested, or is unable to obtain a test, the CDCR will
17 consider that staff member to have COVID-19 and initiate outbreak investigation testing.

18 2. Defendants shall modify CDCR’s COVID-19 staff testing plan to require re-
19 testing of all staff, not just those assigned to a particular yard, in response to an outbreak.

20 The Court finds that this Order is narrowly drawn, extends no further than necessary
21 to correct the violation of the Federal right, and is the least intrusive means necessary to
22 correct the violation of the Federal right.

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24 IT IS SO ORDERED.

25 Dated: August __, 2020

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THE HONORABLE JON S. TIGAR
U.S. DISTRICT COURT JUDGE

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