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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
10 **AND FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11 RALPH COLEMAN, et al.,
12 *Plaintiffs,*

v.

13 ARNOLD SCHWARZENEGGER, et al.,
14 *Defendants.*

Case No. CIV S-90-0520 LKK JFM P

15 MARCIANO PLATA, et al.,
16 *Plaintiffs,*

v.

17 ARNOLD SCHWARZENEGGER, et al.,
18 *Defendants.*

Case No. C01-1351 TEH

19 CARLOS PEREZ, et al.,
20 *Plaintiffs,*

v.

21 MATTHEW CATE, et al.,
22 *Defendants.*

Case No. C05-05241 JSW

23 JOHN ARMSTRONG, et al.,
24 *Plaintiffs,*

v.

25 ARNOLD SCHWARZENEGGER, et al.,
26 *Defendants.*

Case No. C94-2307 CW

27
28 **UPDATED ANALYSES REGARDING PROJECTED NEED FOR
LONG-TERM CARE FACILITIES FOR CDCR INMATE-PATIENTS**

1 INTRODUCTION

2 The parties have expressed concern regarding the methodology employed by Abt
3 Associates Inc. in projecting long-term chronic care bed needs for California Department of
4 Corrections and Rehabilitation patient-inmates. Questions have also arisen concerning the
5 impact of a one-time prisoner release initiative relative to the long-term care bed needs and
6 whether the Americans with Disabilities Act (“ADA”) applies to the target group of patient-
7 inmates to be housed in the long-term care facilities. To address these issues, the Receiver
8 commissioned the reports discussed below.

9 SUMMARY OF REPORT FINDINGS

10 Receiver Clark Kelso files herewith four reports. Because of the relevance of these
11 reports to the other California health care class action case, these reports are filed concurrently
12 with the *Armstrong*, *Coleman*, and *Perez* courts. The four reports are as follows:

13 1) Exhibit 1: A January 16, 2009 report entitled “Independent Review of Abt
14 Associates Inc. Needs Assessment Report” prepared by Steven Raphael, Ph.D.; Professor of
15 Public Policy; Goldman School of Public Policy; University of California, Berkeley. Professor
16 Raphael finds that “the sampling strategy employed by Abt is certainly sensible” and “the
17 methods employed in the Abt study are certainly sound and, given the practical constraints on the
18 research estimate, represent a sensible set of compromises.” Professor Raphael also finds that
19 the early release of 20,000 inmates will have an immaterial impact on the Receiver’s long-term
20 care needs. “Absent fundamental change in sentencing policy, the impact of this release on the
21 overall prison population will be quickly undone. In light of this fact, I believe it would be a
22 mistake to reduce estimated future needs based on a proposed one-time early release.”

23 2) Exhibit 2: A January 5, 2009 Abt Analysis Brief entitled “Update to the
24 California Prison Long-term Care Needs Assessment: Impact of Prison Population Reductions.”
25 The Abt Analysis Brief indicates that a one-time prisoner release of 50,000 inmates may reduce
26 the Receiver’s long-term care bed needs by 940; however, given the California Department of
27 Corrections and Rehabilitation’s current recidivism rate, over time this temporary reduction of
28 long-term care bed needs will be reduced to approximately 500.

1 3) Exhibit 3: A December 9, 2008 Abt Analysis Brief entitled “Functional
2 Impairment and the Need for Long-term Care in California Prisons”. This Abt Analysis Brief
3 finds that 99 percent of the target population for the Receiver’s long-term care facilities (10,000
4 bed) have significant medical and/or mental health functional impairment.

5 4) Exhibit 4: A January 5, 2009 Memorandum from Hooper, Lundy & Bookman,
6 Inc. entitled “Evaluation of Proposed Medical and Mental Health Beds under the Americans with
7 Disabilities Act.” This memorandum opines that 99 percent of the medical patients targeted for
8 placement in the Receiver’s long-term care facilities would qualify as disabled under the ADA.
9 It further opines that all patients with mental health problems who require Enhanced Outpatient
10 Program (“EOP”) level of care and intermediate inpatient care would qualify as disabled under
11 the ADA.

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Dated: February 3, 2009

FUTTERMAN & DUPREE LLP

By: /s/ Martin H. Dodd
 Martin H. Dodd
 Attorneys for Receiver J. Clark Kelso