



# CALIFORNIA PRISON HEALTH CARE SERVICES

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## Media Advisory

### ***DEFENDANTS GOVERNOR SCHWARZENEGGER & CONTROLLER CHIANG: State Under Orders to Give the Judge a Plan for Paying \$250 Million "Down Payment" THE RECEIVER WILL BE AVAILABLE FOR COMMENTS AFTER THE HEARING***

**For Monday, October 27, 2008**

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(Sacramento, CA) Federal Receiver J. Clark Kelso and his Lead Attorney, James Brosnahan will be available for comments following the upcoming second hearing of the contempt motion against defendants Arnold Schwarzenegger, Governor of California, and State Controller John Chiang. The hearing is set for this coming **Monday, October 27, 2008 at 10am at 450 Golden Gate Ave. in San Francisco in Courtroom 12 on the 19<sup>th</sup> Floor**. The Receiver will meet reporters immediately after the hearing on the Golden Gate Avenue Courtroom steps.

Following the latest hearing, Judge Thelton Henderson issued his October 8<sup>th</sup> order. In that document, Judge Henderson ordered the second hearing "as an intermediate step short of a contempt finding." He further ordered that "Defendants shall inform the Court of their specific plans to transfer \$250 million of previously appropriated and unencumbered AB 900 funds to the Receiver."

### Case Background

These contempt proceedings stem from the Class Action Lawsuit known as Plata v Schwarzenegger. As a result of that case, on June 30, 2005 the Federal Court found the State of California to be in violation of the U.S. Constitution's prohibition against "cruel and unusual punishment." Judge Henderson appointed a receiver to remedy prison health care in the state. In early 2008, J. Clark Kelso was appointed as the second receiver in the "Plata" case. Mr. Kelso submitted a "Turnaround Plan of Action" as the master plan for remedying the problems involving the delivery of care to California's inmates. The plan was approved by the court. A key feature of that Master Plan includes the construction of 7 inmate nursing facilities totaling 10K medical and mental health bed spaces to provide access to basic medical care for California's chronically ill, injured, aged and/or mentally ill inmates. The total cost of construction is estimated at \$8 Billion. The California State Senate failed several times, (by a small partisan margin,) to pass legislation to seek bond financing for the construction. Had that plan passed, only a small fraction of the needed money would have come from the state's annual general funds. Since legally, the Governor and the (as a result of a recent motion) the State Controller, are ultimately responsible for funding of the remedial plan, the Receiver motioned to hold them in contempt of court for not securing and providing the funding.

Yet, in hopes of using the "least intrusive means" to continue work on the construction program, the Receivership recently suggested a step-by-step approach to the funding in these contempt proceedings. In a memo to the court, Kelso's attorneys wrote; "The Court may wish to issue orders designed to ensure that Defendants fund the capital projects through the end of this year, such as an order compelling Defendants to utilize the \$250 million in appropriated, but unencumbered, AB 900 funds that currently exist. And, the Court could, at the same time, require Defendants to come back to this Court in a reasonably short period of time with a demonstrably *workable* plan that intended to provide funding over the long term."