

1  
2  
3  
4  
5  
6  
7

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 RALPH COLEMAN, et al.,  
12 Plaintiffs,  
13 v.  
14 GAVIN NEWSOM, et al.,  
15 Defendants

No. 2:90-cv-0520 KJM DB

## ORDER

17  
18 Defendants have filed a motion to continue the briefing deadline and the hearing  
19 date set in this court’s July 30, 2020 order, ECF No. 6794, or in the alternative for reconsideration  
20 of that order. ECF No. 6830. Plaintiffs oppose the motion. ECF No. 6835. As requested, the  
21 court has considered defendants’ motion on an expedited basis. For the reasons explained below,  
22 the motion is denied. The court, however, will extend by fourteen days the briefing deadline and  
23 the hearing date set in the July 30, 2020 order, to September 14, 2020 by 5:00 p.m. and  
24 September 24, 2020 at 9:00 a.m., respectively. In addition, the third quarterly status conference  
25 will be set for September 24, 2020 immediately following the 9:00 a.m. hearing.

26 | I. BACKGROUND

27 The relevant history leading to the July 30, 2020 order is set out in numerous  
28 orders of this court, including but not limited to the July 30, 2020 order, ECF No. 6794, and the

1      October 10, 2017 order setting a deadline for defendants to comply with their 2009 Staffing Plan  
2      and the court-ordered maximum ten percent mental health staffing vacancy rate, ECF No. 5711.  
3      That history is incorporated by reference in this order.

4      **II. REQUIREMENTS OF THE JULY 30, 2020 ORDER**

5      In the July 30, 2020 order, the court reset the long-delayed hearing to enforce its  
6      October 10, 2017 order. ECF No. 6794 at 7-8. The court also required the parties to address the  
7      following in briefs due two weeks before hearing:

- 8            a. With specificity, the size of the reduction in the population of  
9            seriously mentally ill inmates in California's prison system at each  
10           level of care that would be required for defendants to come into  
                  compliance with the ratios in the 2009 Staffing Plan.
- 11           b. Whether defendants can, within thirty days of any court order  
12           directing them to do so or sooner if the task is promptly undertaken, develop a plan in consultation with the Special Master and, as  
13           necessary, plaintiffs' counsel that they will implement voluntarily  
14           and that will, not later than the end of one year, permanently reduce  
                  the number of seriously mentally ill inmates to the number that will  
                  bring defendants into compliance with the requirements of the  
                  October 10, 2017 order.
- 15           c. If the answer to question 1.b. is yes, a description of the general  
16           contours of such a plan.
- 17           d. As an alternative to a voluntary plan from defendants, what  
18           remedies are available to the court to enforce its October 10, 2017  
                  order with respect to defendants' 2009 Staffing Plan.
- 19           e. What remedies are available for the shortfall in staffing required  
20           for the psychiatric inpatient programs operated by the California  
                  Department of Corrections and Rehabilitation.

21      *Id.* at 8.

22      **III. DEFENDANTS' MOTION**

23      **A. Defendants' Motion**

24      Defendants seek an order continuing the dates set in the July 30, 2020 order and  
25      directing the parties instead to provide briefing in January 2021 addressing the scheduling of new  
26      dates. Defendants make several general arguments in support of their motion: (1) they need time  
27      to prepare a "proper defense" to the issues raised by the July 30, 2020 order, including but not  
28      limited to hiring and consulting with "subject matter experts in the area of correctional mental

1 health services and staffing," ECF No. 6830 at 7; (2) the court should reconsider the July 30,  
2 2020 order because the size of the mental health population has decreased, calling into question  
3 whether defendants' mental health staffing levels are in fact "insufficient to meet constitutional  
4 obligations," *id.* at 11; (3) defendants are preparing a new staffing plan as well as finalizing a  
5 staffing plan for the psychiatric inpatient programs (PIP), the latter of which at least requires  
6 input from the Special Master and his data expert before defendants can complete the plan, *id.* at  
7 11-12; and (4) neither the court nor the Special Master have clarified the constitutional  
8 benchmarks defendants must meet, *id.* at 13-14.

9       B.     Plaintiffs' Opposition

10       Plaintiffs contend defendants' motion is a thinly veiled attempt to relitigate settled  
11 questions and further delay enforcement of the staffing remedy. ECF No. 6835 at 2-4. Plaintiffs  
12 also contend defendants are not currently faced with defending against a potential order to reduce  
13 the population of seriously mentally ill state prisoners and are, instead, required to inform the  
14 court whether they are voluntarily considering measures to reduce that population. *Id.* at 4-5.  
15 They argue neither the current population reductions nor defendants' ongoing work on a new  
16 staffing plan are "new facts" that would support the motion: the population reduction measures  
17 were announced six weeks before the July 30, 2020 order, are not focused on the *Coleman* class  
18 and, in any event defendants have relevant class size data readily available; and defendants have  
19 been "working on a new staffing plan" since at least 2014 and have had ample time to develop  
20 such a plan. *Id.* at 5. Finally, plaintiffs contend the staffing requirements are "crystal clear" and  
21 that defendants' contention regarding lack of clear benchmarks is unavailing. *Id.* at 6.

22       IV.     ANALYSIS

23       The court made several key findings in its October 10, 2017 order, which it  
24 reiterated in the July 30, 2020 order, that guide the court's disposition of defendants' instant  
25 motion:

26       The October 10, 2017 order explains the need for enforcement of  
27 defendants' Staffing Plan and the June 13, 2002 order requiring a  
28 maximum ten percent vacancy rate in mental health staffing. *See*  
      ECF No. 5711, *passim*. The court found the 2009 Staffing Plan was  
      developed by defendants to meet their constitutional obligations to

1 the plaintiff class and the staffing ratios in that plan are properly  
2 viewed as the minima necessary to meet those constitutional  
3 obligations. *Id.* at 16-17. The court discussed defendants' heavy  
4 burden particularly where, as here, defendants have not come  
forward with any evidence that would justify further increases in  
those ratios, i.e., in the number of inmates per mental health staff  
person. *Id.* at 16-20.

5 ECF No. 6794 at 3-4. As plaintiffs correctly observe, answering the first question raised by the  
6 July 30, 2020 order requires "just arithmetic—applying the 2009 Staffing Plan ratios to determine  
7 how many patients the existing workforce can serve." ECF No. 6835 at 4. Defendants' assertion,  
8 that the population reductions to date are significant enough to "call into question the Court's  
9 underlying assumption in the October 2017 order that CDCR's current mental health staffing  
10 levels are insufficient to meet constitutional obligations," may be either proved or refuted by  
11 applying the results of the calculation plaintiffs describe to the existing population of seriously  
12 mentally ill inmates.

13 If application of the 2009 Staffing Plan ratios to the existing population of  
14 seriously mentally ill inmates shows that the existing workforce can serve that population, the  
15 issue posed by the court's second question then becomes the durability of those population  
16 reductions, i.e., forecasting whether the population of seriously mentally ill inmates will continue  
17 to decline, will stabilize or will rise again if and when the current population measures defendants  
18 have implemented in light of the COVID-19 pandemic are lifted.

19 If on the other hand application of the 2009 Staffing Plan ratios to the existing  
20 population of seriously mentally ill inmates shows the existing workforce is insufficient to serve  
21 that population, the court's second question requires defendants to focus on whether they will  
22 voluntarily undertake reducing the population of seriously mentally ill inmates to the size that can  
23 be served by the existing workforce.

24 All of the foregoing information can be gathered and analyzed within the original  
25 time frame set by the July 30, 2020 order, which the court modifies only slightly in light of the  
26 pending motion and plaintiffs' response. To the extent defendants implicitly seek reconsideration  
27 of the court's prior rulings, *see, e.g., Coleman v. Newsom*, 424 F. Supp. 3d 925, 927-28 (E.D. Cal.  
28 2019), the court declines to revisit those rulings or countenance a delay for that purpose.

1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. Defendants' August 21, 2020 motion, ECF No. 6830, is DENIED.

3 2. The date for filing briefs required by the court's July 30, 2020 order, ECF

4 No. 6794, is CONTINUED to September 14, 2020 at 5:00 p.m.

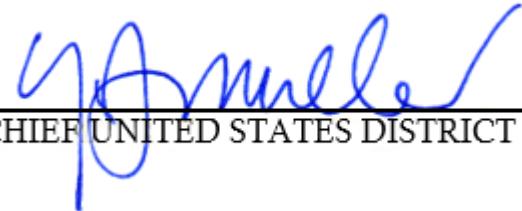
5 3. The videoconference hearing set for September 10, 2020 is CONTINUED

6 to September 24, 2020 at 9:00 a.m.

7 4. The third quarterly status conference is set for September 24, 2020

8 immediately following the hearing continued by this order.

9 DATED: August 25, 2020.

10   
11 CHIEF UNITED STATES DISTRICT JUDGE

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28