

EDMUND G. BROWN JR.
 Attorney General of the State of California
 DAVID S. CHANEY
 Chief Assistant Attorney General
 ROCHELLE C. EAST
 Senior Assistant Attorney General
 JONATHAN L. WOLFF
 Senior Assistant Attorney General
 LISA A. TILLMAN – State Bar No. 126424
 Deputy Attorney General
 KYLE A. LEWIS – State Bar No. 201041
 Deputy Attorney General
 455 Golden Gate Avenue, Suite 11000
 San Francisco, CA 94102-7004
 Telephone: (415) 703-5708
 Facsimile: (415) 703-5843
 lisa.tillman@doj.ca.gov
 kyle.lewis@doj.ca.gov

HANSON BRIDGETT LLP
 JERROLD C. SCHAEFER - 39374
 PAUL B. MELLO – 179755
 S. ANNE JOHNSON – 197415
 SAMANTHA D. TAMA – 240280
 RENJU P. JACOB - 242388
 425 Market Street, 26th Floor
 San Francisco, CA 94105
 Telephone: (415) 777-3200
 Facsimile: (415) 541-9366
 jschaefer@hansonbridgett.com
 pmello@hansonbridgett.com
 ajohnson@hansonbridgett.com
 stama@hansonbridgett.com
 rjacob@hansonbridgett.com

Attorneys for Defendants

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

AND THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES

PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

RALPH COLEMAN, et al.,
 Plaintiffs,
 v.

ARNOLD SCHWARZENEGGER, et al.,
 Defendants.

No. 2:90-cv-00520 LKK JFM P

THREE-JUDGE COURT

MARCIANO PLATA, et al.,
 Plaintiffs,

v.

ARNOLD SCHWARZENEGGER, et al.,
 Defendants.

No. C01-1351 TEH

THREE-JUDGE COURT

**DEFENDANTS' RESPONSE TO
 TENTATIVE RULING**

To: Three-Judge Panel

1 Defendants submit this response to the Court's tentative ruling that requested
2 each party "to advise the Court within 10 days of this tentative ruling whether they would
3 like the assistance of a court-appointed settlement referee to aid in their discussions
4 and, if so, whether they would have any objection to the appointment of the prior
5 settlement referees Justice Elwood Lui and Justice Peter Siggins for that purpose."
6 (Tentative Ruling, 2/9/09, *Plata* Dock. No. 2066 at 10:7-11.) Defendants respond as
7 follows:

8 The State welcomes constructive ideas and proposals to address prison
9 population concerns. But the parties have spent months and months negotiating a
10 possible settlement, and these negotiations have been ultimately unsuccessful and have
11 caused long delays.

12 Notwithstanding the proceedings in this lawsuit, the State continues to move
13 forward to address prison overcrowding. It has already transferred 6,600 inmates out of
14 state, and the Legislature has cleared the way for bond funding to dramatically increase
15 the state's capacity at both the state and local level to manage offenders in a more
16 productive way.¹

17 The State strongly disagrees with the three-judge panel's tentative order
18 suggesting that tens of thousands of inmates should be released. Accordingly, it does
19 not believe that further settlement negotiations will be fruitful, and it would prefer for the
20 three-judge panel to enter a final order that can be appealed to the United States
21 Supreme Court. A final decision from the Supreme Court is needed without delay to
22 clarify the State's constitutional obligations.

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27 ¹ On February 20, 2009 the Governor signed into law SB 14 which makes various technical and
28 programmatic statutory changes necessary to implement AB 900. See Senate Bill 14 attached to Request
for Judicial Notice in Support of Defendants' Response to Tentative Ruling, filed herewith.

1 DATED: February 25, 2009

HANSON BRIDGETT LLP

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3 By: /s/ Paul B. Mello

4 PAUL B. MELLO

Attorneys for Defendants

5 Arnold Schwarzenegger, et al.

6 DATED: February 25, 2009

EDMUND G. BROWN JR.

Attorney General of the State of California

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9 By: /s/ Lisa A. Tillman

LISA A. TILLMAN

Deputy Attorney General

10 Attorneys for Defendants

11 Arnold Schwarzenegger, et al.