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13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA**
15 **SACRAMENTO DIVISION**

17 LORENZO MAYS, RICKY
RICHARDSON, JENNIFER
18 BOTHUN, ARMANI LEE, and
LEERTESE BEIRGE on behalf of
19 themselves and all others similarly
situated,

20 Plaintiffs,

21 v.

22 COUNTY OF SACRAMENTO,
23 Defendant.
24

Case No. 2:18-cv-02081 TLN KJN

CLASS ACTION

**[PROPOSED] ORDER ON
APPOINTMENT OF COURT
EXPERTS**

Judge: Hon. Kendall J. Newman

Complaint Filed: July 31, 2018

25 The Consent Decree, Doc. No. 85-1, approved by the Court on January 13,
26 2020, Doc. No. 110, provides for the appointment of Court Experts to carry out certain
27 enumerated duties. The duties of the Court Experts are set forth in Paragraphs 13
28 through 20 and in Exhibit B of the Consent Decree. Doc. No. 85-1 at 5-6; 98-100.

1 In accordance with the Consent Decree and its remedial purposes, and pursuant
2 to the Court's inherent power, IT IS HEREBY ORDERED that the following
3 individuals are appointed as Court Experts, to be compensated by Defendant at the
4 rates set forth below:

5 The Court approves the appointment of Michael B. Rowe, M.D., as Court
6 Expert regarding Medical policies, procedures, and practices to be paid by Defendant
7 in the amount of \$350 per hour for work performed and \$175 per hour for time spent
8 traveling, and to be reimbursed by Defendant for reasonable associated costs of
9 professional services, including travel expenses.

10 The Court approves the appointment of Madeleine LaMarre, MN, FNP-BC, as
11 Court Expert regarding Medical policies, procedures, and practices to be paid by
12 Defendant in the amount of \$250 per hour for work performed and \$125 per hour for
13 time spent traveling, and to be reimbursed by Defendant for reasonable associated
14 costs of professional services, including travel expenses.

15 The Court approves the appointment of Dr. Mary Perrien as Court Expert
16 regarding Mental Health policies, procedures, and practices, to be paid by Defendant
17 in the amount of \$250 per hour for work performed, and to be reimbursed by
18 Defendant for reasonable associated costs of professional services, including travel
19 expenses.

20 The Court approves the appointment of Lindsay Hayes as Court Expert
21 regarding Suicide Prevention policies, procedures, and practices to be paid by
22 Defendant in the amount of \$250 per hour for work performed, and to be reimbursed
23 by Defendant for reasonable associated costs of professional services, including travel
24 expenses.

25 The Court Experts shall provide Defendant with a written itemization of the
26 claimed fees and costs, itemized by date, amount of time spent, and task, as well as
27 records and bills evidencing the costs claimed, on a quarterly basis or at an alternative
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1 interval as agreed upon by Defendant and the Court Expert. Invoices will be provided
2 to all parties for their review before payment.

3 Rule 706(b) of the Federal Rules of Evidence requires the Court to “inform the
4 expert of the expert’s duties.” IT IS HEREBY ORDERED that the Court Experts
5 shall have the responsibilities, powers, and protections set forth in the Consent Decree
6 and in this Order, including as follows:

7 1. Pursuant to Rule 706 of the Federal Rules of Evidence, the Court Experts
8 shall advise the parties and the Court on Defendant’s compliance or non-compliance
9 with each material component of the Remedial Plan within their respective area of
10 expertise, will assist with dispute resolution matters, and will provide testimony, if
11 required, in any proceedings before the Court.

12 2. Within 180 days from the Court’s entry of the Consent Decree, and then
13 every 180 days thereafter, during the term of the Consent Decree, the Court Experts
14 shall each complete a comprehensive review and report (“180-Day Report”) to advise
15 the parties and the Court on Defendant’s compliance or non-compliance with each
16 material component of the Remedial Plan within the expert’s subject matter area.

17 3. In each 180-Day Report, the Court Experts shall state their opinion as to
18 whether Defendant is or is not in substantial compliance with each material
19 component of the Remedial Plan within their area of expertise (*i.e.*, “Substantial
20 Compliance Determinations”). The 180-Day Reports shall be considered separate and
21 apart from any evaluations and reports prepared as part of the dispute resolution
22 process set forth in the Consent Decree and shall be admissible in evidence in any
23 proceedings before the Court.

24 4. Each Court Expert will prepare a draft written report on Defendant’s efforts
25 to meet the terms of the Consent Decree within thirty (30) days of the later of the
26 expert’s site inspection and the expert’s receipt of all requested documents and
27 information, and in no case later than forty-five (45) days after the inspection. The
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1 draft report will be delivered to all parties. If the Court Expert concludes that
2 Defendant has not substantially complied with any provision or provisions of the
3 Consent Decree, the Court Expert shall make recommendations as to actions they
4 believe to be necessary to achieve substantial compliance.

5 5. The parties will have thirty (30) days to provide written comments or
6 objections, or to cure identified issues, and seven (7) days to reply. The Court Expert
7 may re-inspect facilities or documents, or conduct additional interviews, before
8 issuing a final report. Final reports shall be due twenty (20) days after the later of the
9 Court Expert's receipt of any comments, objections or replies, or any additional
10 assessments.

11 6. In preparing reports, the Court Experts shall identify all sources of
12 information relied upon for facts and recommendations. If the source of information
13 is an interview or conversation, whether with staff, another Court Expert, or any other
14 person, the Court Expert shall identify the person who is the source of the
15 information. If the source of information is a class member, the Court Expert shall
16 identify the class member in a separate confidential document that is provided to
17 counsel for the parties. If the source of the information is a document, the Court
18 Expert shall make the document(s) available to counsel for all parties, or identify the
19 document(s) in a manner that makes it accessible to all parties.

20 7. With appropriate notice, the Court Experts shall have reasonable access to
21 all parts of any Sacramento County jail facility. Access to the facilities will not be
22 unreasonably restricted. The Court Experts shall have access to custody and health
23 care staff and people incarcerated in the jails, including confidential and voluntary
24 interviews as they deem appropriate. The Court Experts shall also have access to
25 documents, including budgetary, custody, and health care documents, and institutional
26 meetings, proceedings, and programs to the extent the Court Experts determine such
27 access is needed to fulfill their obligations. The Court Experts' tours shall be
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1 undertaken in a manner that does not unreasonably interfere with jail operations as
2 reasonably determined by jail administrators.

3 8. The Court Experts shall have reasonable access to individual health records,
4 including mental health records, and custody records.

5 9. If the Court Experts request to review any documents in conjunction with a
6 site visit, Defendant will provide these documents to the extent feasible no later than
7 twenty (20) days prior to the visit.

8 10. During each Court's Expert's first site inspection of the Jail, the parties
9 shall have the right to have counsel present during the tour. All subsequent tours
10 conducted by the Court Experts shall be conducted without counsel present, unless the
11 parties agree good cause exists for counsel to observe the subsequent tours. If the
12 parties cannot agree on the necessity for counsel to be present on subsequent tours by
13 the Court Experts, they shall submit the matter to Magistrate Judge Cousins (or his
14 designee) for decision.

15 11. The Court Experts shall be provided with and agree to be bound by any
16 protective or Court orders entered in this case.

17 12. The Court Experts may engage in *ex parte* communications with the parties.
18 However, all of the Court Experts' findings and recommendations shall be set forth in
19 writing in their reports.

20 13. The Court Experts may engage in *ex parte* communications with each other.
21 The Court Experts may engage in *ex parte* communications with the designated
22 dispute resolution judge, Magistrate Judge Cousins, or his designee if he is not
23 available. The Court Experts shall not engage in *ex parte* communications with the
24 Court.

25 14. Pursuant to the dispute resolution procedures set forth in the Consent
26 Decree, either party may request that the relevant Court Expert evaluate an issue in
27 dispute and prepare a report. The expert must provide the report regarding the area of
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1 disagreement to the parties and Magistrate Judge Cousins (or his designee) within
2 forty-five (45) days of the request. Defendant will pay the Court Expert's reasonable
3 fees for any reports prepared at the request of a party about a disputed issue.

4 15. The Court Experts shall be available to meet jointly with the parties in
5 person or by telephone in a manner that is reasonable and convenient for the purpose
6 of resolving disputes between the parties.

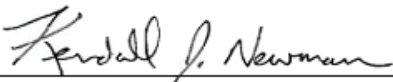
7 16. At the request of the Court, the Court Experts shall attend any negotiations,
8 mediation sessions, or court hearings.

9 17. If a Court Expert becomes unavailable to fulfill the duties set forth in this
10 Order, the parties will meet and confer, and propose to the Court a new expert to
11 monitor compliance with the Consent Decree for the respective areas of expertise.
12 The parties may agree at any time to remove and replace a Court Expert.

13 **IT IS SO ORDERED.**

14 Dated: March 9, 2020

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE