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17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

20 JOHN ARMSTRONG, et al.,
 21 Plaintiffs,
 22
 v.
 23 GAVIN NEWSOM, et al.,
 24 Defendants.

Case No. C94 2307 CW

**STIPULATION AND ~~PROPOSED~~
 ORDER PROHIBITING
 RETALIATION**

Judge: Hon. Claudia Wilken

1 On February 28, 2020, Plaintiffs filed their Motion to Stop Defendants from
2 Assaulting, Abusing and Retaliating Against People With Disabilities at R.J. Donovan
3 Correctional Facility (“Motion”). See Dkt. 2922. In support of the Motion, fifty-four
4 incarcerated people (“Declarants”) submitted declarations. Some of the Declarants alleged
5 instances in which correctional officers at R.J. Donovan Correctional Facility (“RJD”)
6 retaliated against them or others for, among other things, submitting or threatening to
7 submit complaints regarding staff misconduct or failures to provide disability
8 accommodations. And some of the Declarants also alleged instances in which correctional
9 officers at RJD retaliated against incarcerated people by charging incarcerated people with
10 false rules violations reports.

11 Defendants wish to take measures to assure the Declarants, *Armstrong* class
12 members, and other incarcerated people who participate in the Motion that they will not be
13 retaliated against for their participation in the Motion or for testifying or otherwise
14 participating in this proceeding. Additionally, Defendants wish to reiterate to their
15 employees that retaliation against anyone, including the Declarants, *Armstrong* class
16 members, and incarcerated people at RJD, for exercising their federal rights or for
17 participating in the Motion will not be tolerated by the California Department of
18 Corrections and Rehabilitation and that any such retaliation would be a violation of the
19 law.

20 ACCORDINGLY, IT IS HEREBY STIPULATED AND AGREED by the parties,
21 through their undersigned counsel, as follows:

22 1. The parties agree that Defendants and their employees are prohibited from
23 retaliating against the Declarants, *Armstrong* class members at RJD, or incarcerated people
24 at RJD for participating in the Motion.

25 2. Defendants agree to:

26 (a) Assess any allegations of retaliation against the Declarants, *Armstrong*
27 class members, or incarcerated people at RJD for participating in the Motion, including by
28 using staff from outside RJD to conduct the assessments;

1 (b) Refer instances of retaliation to the Office of Internal Affairs when
2 criteria for referral is met, and issue discipline if warranted; and

3 (c) Post notices in the facilities at RJD explaining that incarcerated
4 people have a right to be free from retaliation for exercising their federal rights, and that
5 any retaliation against incarcerated people for exercising their rights under the ADA, for
6 reporting staff misconduct, or for participating in the Motion would be a violation of the
7 law.

8 3. Defendants further agree not to communicate with any of the Declarants
9 regarding matters covered by their declarations or any alleged retaliation related to their
10 participation in the Motion without first providing notice to Plaintiffs' counsel and an
11 opportunity for Plaintiffs' counsel to participate in any interview or communications.

12 4. Defendants agree to respond to inquiries from Plaintiffs' counsel regarding
13 Defendants' efforts to comply with the terms of this stipulation and any alleged retaliation
14 against the Declarants, *Armstrong* class members, or incarcerated people at RJD for
15 participating in the Motion.

16 5. The parties agree that if the Court finds that retaliation has occurred against
17 the Declarants, *Armstrong* class members, or incarcerated people at RJD for participating
18 in the Motion, the Court may issue appropriate relief.

19 6. This stipulation will expire six months after the Court's ruling on the Motion
20 becomes final.

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1 **IT IS SO STIPULATED.**

2 ROSEN BIEN GALVAN & GRUNFELD LLP
3 DATED: March 17, 2020

4 By: /s/ Gay Crosthwait Grunfeld
5 Gay Crosthwait Grunfeld

6 Attorneys for Plaintiffs

7 DATED: March 17, 2020 XAVIER BECERRA
8 Attorney General of the State of California

9 By: /s/ Joanna B. Hood
10 Joanna B. Hood
11 Acting Supervising Deputy Attorney General

12 Attorneys for Defendants

13
14 **~~PROPOSED~~ ORDER**

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16 This Court having reviewed the above Stipulation of the parties, and good cause
17 appearing, it is hereby ORDERED as follows:

18 1. Defendants and their employees are prohibited from retaliating against the
19 Declarants, *Armstrong* class members, or incarcerated people at RJD for participating in
20 the Motion.

21 2. Defendants shall:

22 (a) Assess any allegations of retaliation against the Declarants, *Armstrong*
23 class members, or incarcerated people at RJD for their participation in the Motion,
24 including by using staff from outside RJD to conduct the assessments;

25 (b) Refer instances of retaliation to the Office of Internal Affairs when
26 criteria for referral is met, and issue discipline if warranted; and

27 (c) Post notices in the facilities at RJD explaining that incarcerated
28 people have a right to be free from retaliation for exercising their federal rights, and that

1 any retaliation against incarcerated people for exercising their rights under the ADA, for
2 reporting staff misconduct, or for participating in the Motion would be a violation of the
3 law.

4 3. Defendants shall not communicate with any of the Declarants regarding
5 matters covered by their declarations or any alleged retaliation related to their participation
6 in the Motion without first providing notice to Plaintiffs' counsel and an opportunity for
7 Plaintiffs' counsel to participate in any interview or communications.


8 4. Defendants shall respond to inquiries from Plaintiffs' counsel regarding
9 Defendants' efforts to comply with the terms of this stipulation and any alleged retaliation
10 against the Declarants, *Armstrong* class members, or incarcerated people at RJD for
11 participating in the Motion.

12 5. If the Court finds that retaliation has occurred, the Court will issue
13 appropriate relief.

14 6. This order will terminate six months after the Court's ruling on the Motion
15 becomes final.

16 **IT IS SO ORDERED.**

17
18 DATED: March 17, 2020



Honorable Claudia Wilken
United States District Judge