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FILED

APR 19 2007

RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARCIANO PLATA, et al.,  
Plaintiffs,

v.

ARNOLD SCHWARZENEGGER,  
et al.,  
Defendants.

NO. C01-1351 TEH  
CLASS ACTION

ORDER SETTING SCHEDULE RE  
RECEIVER'S AMENDED MOTION  
FOR WAIVER OF STATE LAW RE  
RECEIVER CAREER EXECUTIVE  
ASSIGNMENT POSITIONS

The Court is in receipt of the Receiver's Motion for Waiver of State Law Re Receiver Career Executive Assignment Positions, filed Friday, April 13, 2007, and amended Wednesday, April 18, 2007. The motion requests two separate orders.

First, it requests that the Court "[o]rder the Receiver to commence the design and establish a program to hire and retain 250 Receiver Career Executive Assignment ("CEA") appointees no later than May 15, 2007." See Amended Mot. at 22. As outlined in his Motion, the Receiver contemplates a program in which such appointees are state employees but the applicant pool is not limited to state civil service employees, and such appointees are subject to termination under the same terms currently governing CEAs under California law (i.e., they may be terminated for any reason not otherwise unlawful). In essence, the positions would provide for "non-tenured civil service appointments." See Amended Mot. at 17. Additionally, the Receiver contemplates establishing "competitive levels and broadband salary ranges" for these positions. See Amended Mot. at 20 and n.5.

1 Second, the Motion requests that the Court “waiv[e], for the purpose of establishing  
2 [such] program,” certain government code sections that would otherwise govern the hiring of  
3 the above-described positions and preclude the above proposed program. *See* Amended Mot.  
4 at 22-23.

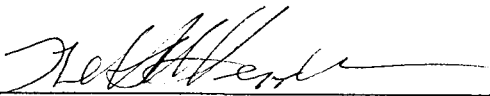
5 Pursuant to the Court’s Order of February 14, 2006 at ¶ II(D), the Court sets forth the  
6 following procedure for consideration of this matter. All parties shall file their response to  
7 this motion no later than 21 days from the date of this Order. Given that the Governor of  
8 California is a named Defendant, the Court contemplates that such responses shall include  
9 responses from the pertinent state agencies reporting to the Governor, including the  
10 Department of Finance, the Department of General Services, and the Department of  
11 Personnel Administration, all of whom the Receiver served with this motion.

12 In addition, the Court shall permit, no later than 21 days from the date of this Order,  
13 amici curiae responses from the following entities that were served with this Motion by the  
14 Receiver but are not parties to this action: The State Personnel Board, the California Public  
15 Employees Retirement System, and the unions representing the medical and clinical  
16 personnel employed within the California Department of Corrections and Rehabilitation  
17 (“CDCR”). *See* Proof of Service at 1-3.

18 Upon receipt of the above responses, the Court shall determine whether further  
19 proceedings, such as additional briefing or oral argument, are appropriate, and if so notify the  
20 parties and amici. If the Court issues no further procedural orders, the matter shall be  
21 deemed submitted on the papers.

22  
23 **IT IS SO ORDERED.**

24  
25 Dated: 4/18/07

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27 \_\_\_\_\_  
28 THELTON E. HENDERSON  
UNITED STATES DISTRICT JUDGE