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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 TODD ASHKER, et al.,
9 Plaintiffs,

10 v.

11 GOVERNOR OF THE STATE OF
12 CALIFORNIA, et al.,
13 Defendants.

No. 09-cv-05796-CW

ORDER REGARDING PLAINTIFFS'
MOTION FOR DE NOVO
DETERMINATION OF DISPOSITIVE
MATTER REFERRED TO MAGISTRATE
JUDGE REGARDING PRODUCTION OF
DOCUMENTS REQUIRED BY
SETTLEMENT AGREEMENT

14 (Dkt No. 793)

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16 Before the Court is Plaintiffs' motion for de novo
17 determination of dispositive matters referred to the magistrate
18 judge regarding the production of documents pursuant to the
19 parties' Settlement Agreement. Defendants filed an opposition to
20 the motion and Plaintiffs filed a reply. Having considered the
21 papers, the Court GRANTS the motion.

22 FACTUAL BACKGROUND

23 On June 9, 2017, Plaintiffs moved to compel the production
24 of documents pursuant to paragraph 37(h) of the Settlement
25 Agreement. Docket No. 702. On August 30, 2017, Judge Vadas
26 denied Plaintiffs' motion. Docket No. 785. Judge Vadas held
27 that paragraph 37(h) "concerned gang validated inmates." Id. at
28 3. In particular, Judge Vadas based his decision on the fact

1 that paragraph 37(h) states that "the documents to be produced
2 must be related to the inmate's validation 'and' the senior
3 hearing officer's final disciplinary decision." Id.

4 Plaintiffs then brought the instant motion to challenge
5 Judge Vadas' order, which is subject to review under 28 U.S.C.
6 § 636(b)(1)(B). See Settlement Agreement ¶ 53.

7 LEGAL STANDARD

8 This Court reviews de novo Judge Vadas' decision. Docket
9 No. 486-3, Settlement Agreement ¶ 53 ("An order issued by
10 Magistrate Judge Vadas under this Paragraph is subject to review
11 under 28 U.S.C. § 636(b)(1)(B)."). "A judge of the court may
12 accept, reject, or modify, in whole or in part, the findings or
13 recommendations made by the magistrate judge. The judge may also
14 receive further evidence or recommit the matter to the magistrate
15 judge with instructions." 28 U.S.C. § 636(b)(1).

16 DISCUSSION

17 Paragraph 37(h) of the Settlement Agreement states:

18 The following documents shall be produced on a
19 quarterly basis regarding all inmates found guilty of a
20 SHU-eligible offense with a nexus to an STG: (i) STG
21 Unit Classification Committee validation
22 determinations; and (ii) the decision of the hearing
23 officer to find the inmate guilty of a SHU-eligible
24 offense. Defendants also shall produce on a quarterly
25 basis a randomly chosen representative sample of the
26 documents relied upon for the validation determinations
27 and RVR decisions for these inmates, including redacted
28 confidential information. [. . .]

29 The fundamental rules of contract interpretation are based
30 on the premise that the interpretation of a contract must give
31 effect to the "mutual intention" of the parties. Waller v. Truck
32 Ins. Exch., Inc., 11 Cal. 4th 1, 18 (1995), as modified on denial
33 of reh'g (Oct. 26, 1995). Contractual terms are "understood in

1 their ordinary and popular sense, rather than according to their
2 strict legal meaning, unless used by the parties in a technical
3 sense, or unless a special meaning is given to them by usage.”
4 Cal. Civ. Code § 1644; see also Waller, 11 Cal. 4th at 18.

5 A plain reading of paragraph 37(h) reveals that, for “all
6 inmates found guilty of a SHU-eligible offense with a nexus to an
7 STG,” Defendants must produce two categories of documents, to the
8 extent that they exist. The fact that paragraph 37(h) requires
9 Defendants to produce documents related to validation does not
10 define or limit the group of inmates whose documents are subject
11 to production. If the contracting parties wished to limit the
12 group of inmates whose documents are subject to product to only
13 gang-validated inmates, they would have done so explicitly. The
14 Settlement Agreement uses the term “validated inmates” elsewhere,
15 such as paragraphs six, seven, and twenty-five. The contract
16 should be interpreted to give that term a different meaning.
17 Foothill Properties v. Lyon/Copley Corona Assocs., 46 Cal. App.
18 4th 1542, 1550 (1996) (“The whole of a contract is to be taken
19 together, so as to give effect to every part, if reasonably
20 practicable, each clause helping to interpret the other.”); see
21 also United States ex rel. Welch v. My Left Foot Children's
22 Therapy, LLC, 871 F.3d 791, 797 (9th Cir. 2017) (in contract
23 interpretation, “if possible, every word and every provision is
24 to be given effect”).

25 Defendants contend the settlement and the certified class
26 are limited to gang-validated inmates. Not so. Paragraph five
27 of the Settlement Agreement characterizes the certified class as
28 “(i) all inmates assigned to an indeterminate term at Pelican

1 Bay's SHU on the basis of gang validation, under CDCR's policies
2 and procedures, as of September 10, 2012; and (ii) all inmates
3 who are now, or will be in the future, assigned to Pelican Bay's
4 SHU for ten or more continuous years." Subpart (ii) of the
5 definition of the certified class does not require inmates to be
6 gang-validated. Moreover, nothing in the Settlement Agreement
7 limits the documents to be produced to the certified class. See
8 generally Settlement Agreement ¶ 37. Indeed, Defendants have
9 produced documents pursuant to the Settlement Agreement for non-
10 validated inmates. See Declaration of Carmen F. Bremer (Bremer
11 Decl.) in Support of Reply Brief ¶ 3.

12 The impact of this decision is that Defendants will have to
13 produce documents for inmates who have been found guilty of a
14 SHU-eligible offense with a nexus to an STG, but who have not
15 been gang-validated. This interpretation of paragraph 37(h) is
16 not likely to unduly burden Defendants. As Plaintiffs noted,
17 Defendants have only produced documents regarding approximately
18 thirty STG-validated prisoners who have been found guilty of a
19 SHU-eligible offense with an STG nexus during the monitoring
20 period. Bremer Decl. in Support of Motion ¶ 2. The number of
21 inmates found guilty of a SHU-eligible offense with a nexus to an
22 STG, but not yet gang-validated, is likely to be similar.
23 Defendants have not presented any evidence to the contrary.

24 CONCLUSION

25 Plaintiffs' motion for de novo determination of dispositive
26 matter referred to magistrate judge regarding production of
27 documents required Settlement Agreement (Docket No. 793) is
28 GRANTED. Defendants shall produce all documents required by the

1 Court's interpretation of paragraph 37(h) of the Settlement
2 Agreement within 15 days of the date of this order.

3 IT IS SO ORDERED.

4 Dated: February 6, 2018



5 CLAUDIA WILKEN
6 United States District Judge

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United States District Court
Northern District of California