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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

ROBERT HECKER, et al.,  
Plaintiffs,  
v.  
CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND REHABILITATION,  
et al.,  
Defendants.

Case No. 2:05-CV-02441 KJM-DAD  
**ORDER FOR FINAL APPROVAL OF  
SETTLEMENT AGREEMENT**

RALPH COLEMAN, et al.,  
Plaintiffs,  
v.  
EDMUND G. BROWN, JR., et al.,  
Defendants.

Case No. 2:90-CV-00520-KJM-DAD

1 WHEREAS, the parties filed a Joint Motion for Preliminary Approval of Settlement  
2 Agreement (the “Joint Motion”) and supporting pleadings on August 5, 2014; and

3 WHEREAS, the Court has reviewed the Joint Motion and supporting pleadings  
4 thereto; and

5 WHEREAS, on August 7, 2014, the Court preliminarily approved of the Settlement  
6 Agreement submitted as part of the Joint Motion (the “Settlement”), and ordered that  
7 notice of the proposed settlement be disseminated to the Plaintiff Class within thirty days  
8 of the August 7, 2014 order; and

9 WHEREAS, as of September 8, 2014, the California Department of Corrections and  
10 Rehabilitation (CDCR) posted the Settlement Notice in all housing units and libraries of  
11 each CDCR prison.

12 WHEREAS the August 7, 2014 Order required that any objections to the Settlement  
13 be sent to the Court and postmarked by November 7, 2014, and the Court did not receive  
14 any objections to the Settlement.

15 WHEREAS, on December 8, 2014, this matter came before the Court for hearing  
16 pursuant to Federal Rule of Civil Procedure 23(e) and the Order of this Court dated  
17 August 7, 2014, to consider final approval of the proposed settlement set forth in the  
18 parties Joint Motion, with no objectors appearing at the hearing;

19 WHEREAS, on January 16, 2015, the Court approved a modified notice to the class  
20 and ordered it posted not later than January 22, 2015 in all inpatient mental health units  
21 operated by the California Department of Corrections and Rehabilitation and the  
22 Department of State Hospitals in which class members may be housed;

23 WHEREAS, on January 22, 2015, counsel for Defendants filed certification that the  
24 January 16, 2015 Order had been complied with; and

25 WHEREAS, due and adequate notice having been given to the Plaintiff Class  
26 defined below as required by the Court’s August 7, 2014 and January 16, 2015 Orders and  
27 the Court having considered all papers filed and proceedings in this case, the pleadings and  
28 papers filed in support of preliminary approval of the Settlement, and otherwise being fully

1 informed regarding this litigation and good cause appearing therefore; the Court now finds  
2 and orders as follows:

3 **FINDINGS**

4 1. The Court finds that the proposed settlement is the product of arm's-length,  
5 serious, and non-collusive negotiations between experienced and knowledgeable counsel  
6 for the Plaintiff Class and Defendants, who have actively and competently prosecuted and  
7 defended this litigation.

8 2. The Court finds that distribution of notice to the class has been completed in  
9 conformance with the Court's August 7, 2014 and January 16, 2015 Orders and that no  
10 class member objected to the proposed settlement.

11 3. The Court, having carefully considered the Settlement set forth in the parties'  
12 Joint Motion and supporting documents filed August 5, 2014, finds that the Settlement is  
13 fair, adequate and reasonable, and further finds that the benefit to the Plaintiff Class  
14 supports final approval of the proposed settlement in light of all of the relevant  
15 considerations.

16 **IT IS HEREBY ORDERED THAT:**

17 1. This action is determined to be properly maintained as a class action  
18 pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure, with an  
19 injunctive relief settlement class consisting of all present and future CDCR inmates with  
20 psychiatric conditions that are disabilities as defined by the Americans with Disability Act  
21 (ADA) and the Rehabilitation Act, and who are allegedly excluded and/or screened out  
22 from any prison program, service, or activity on the basis of their psychiatric disability  
23 status.

24 2. This Court has jurisdiction over the subject matter of this litigation and over  
25 all parties to the action, including all members of the Plaintiff Class as defined above.

26 3. The notices disseminated to the Plaintiff Class as described in Paragraphs 6  
27 through 8 of the Court's August 7, 2014 Order constituted the best notice practicable under  
28 the circumstances. Said notices provided due and adequate notice of proceedings for

1 approval of the Settlement and of the matters set forth therein, including the proposed  
2 Settlement set forth in the Joint Motion, to all persons entitled to such notice, and said  
3 notices fully satisfied the requirements of Rule 23(e) of the Federal Rules of Civil  
4 Procedure, the Constitution of the United States, due process and any other applicable  
5 rule(s) of this Court.

6 4. A district court's role in reviewing the substance of a class action settlement  
7 under Rule 23 is to ensure that it is 'fair, adequate, and free from collusion.'" *Lane v.*  
8 *Facebook, Inc.*, 696 F.3d 811, 819 (9th Cir. 2012), *cert. denied*, 134 S. Ct. 8 (2013)  
9 (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998)). The Court finds  
10 that in all respects the settlement in this case is fair, adequate, and free from collusion, and  
11 that all of the relevant *Hanlon* factors weigh in favor of granting final approval in this case.  
12 *See Hanlon*, 150 F.3d 1011 at 1026. The Court thus grants final approval of the settlement  
13 pursuant to Rule 23(e) of the Federal Rules of Civil Procedure.

14 5. The parties' Settlement Agreement, attached as **Exhibit A**<sup>1</sup>, is granted final  
15 approval and incorporated by reference, and has the full force and effect of an order of this  
16 Court. The Court orders that the matters addressed in Paragraphs 21 and 22 of the  
17 Settlement Agreement are hereby incorporated into the *Coleman* Remedial Process, and  
18 that the *Coleman* Special Master shall have the power to monitor and enforce the parties'  
19 agreements on these issues. The Court orders the *Coleman* Special Master to oversee the  
20 process of amending the Program Guide to incorporate the changes required by the  
21 Settlement Agreement, and hereby orders the *Coleman* Special Master to work with the  
22 parties through the *Coleman* remedial process to promptly attempt to resolve the remaining  
23 issues described in Paragraphs 21 and 22 of the Settlement Agreement.

24 \_\_\_\_\_  
25 <sup>1</sup> At the December 8, 2014 hearing the parties confirmed that the Settlement Agreement  
26 executed by defendant Dr. Jeffrey A. Beard on August 4, 2014, appended at page 13(A) of  
27 Exhibit A to this order, also included paragraphs 35 through 39 of the Settlement  
28 Agreement approved by this order.


1           6.       The Court in *Coleman* will hereafter have jurisdiction to enforce and  
2 administer the Settlement Agreement, including resolving disputes arising under Paragraph  
3 23 of the Settlement Agreement regarding allegations of disability discrimination against  
4 class members or the exclusion of class members from Defendants’ programs and services  
5 on the basis of disability. For purposes of resolving disputes regarding discrimination  
6 against or the exclusion of class members from Defendants’ programs and services on the  
7 basis of a disability, the *Coleman* Court will address whether the specific systemic  
8 policies, practices and procedures identified under Paragraphs 21 and 22 of the Settlement  
9 Agreement violate the ADA and Rehabilitation Act, and if so what prospective relief is  
10 appropriate. The *Coleman* Court shall have jurisdiction to resolve any dispute regarding  
11 attorneys’ fees as set forth in Paragraph 30 of the Settlement Agreement.

12           7.       The revised *Coleman* notice agreed to by the Parties filed on January 23,  
13 2015, attached as **Exhibit B**, is approved. Within ten days from the date of this order the  
14 revised *Coleman* notice shall be posted in all thirty-four California Department of  
15 Corrections and Rehabilitation institutions and in all California Department of Corrections  
16 and Rehabilitation and Department of State Hospital inpatient mental health units in which  
17 members of the *Coleman* class are housed. Defendants shall serve on Plaintiffs’ counsel a  
18 declaration affirming that the revised *Coleman* notice was published as required in this  
19 order.

20           8.       The *Hecker* action is hereby dismissed with prejudice except as to claims  
21 regarding assignment of (MHSDS) inmates to fire/conservation camps, as described in  
22 Paragraph 25 of the Settlement Agreement, which are dismissed without prejudice.

23           **IT IS SO ORDERED.**

24 DATED: March 2, 2015.

  
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 UNITED STATES DISTRICT JUDGE

# **EXHIBIT A**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

**ROBERT HECKER, et al., on behalf of  
themselves and others similarly situated,**  
  
Plaintiffs,  
  
v.  
  
**CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION, et al.,**  
  
Defendants.

**RALPH COLEMAN, et al.,**  
  
Plaintiffs,  
  
v.  
  
**EDMUND G. BROWN, JR., et al.,**  
  
Defendants.

**SETTLEMENT AGREEMENT**  
  
**Judge:**  
**The Honorable Lawrence K. Karlton**  
  
Action Filed: December 1, 2005  
  
2:05-cv-2441 LKK DAD (PC)  
  
2:90-cv-0520 LKK DAD

1 **I. RECITALS**

2 1. This action was filed on December 1, 2005. In the presently operative  
3 pleading, the Second Amended Complaint, Plaintiffs Robert Hecker, Christopher Lee  
4 Jenkins, Peter Taylor, Ying Watt, Askia Ashanti, Ronald Auld, John Mueller, Daniel  
5 Hunley, Joseph Cox, Eddie Thomas, Brian K. Stafford, Michael Lovelace, Bobby Daniels,  
6 Quinton Gray, John Wesley Williams, Samuel D'Angelo and Jon Schooley, alleged that  
7 their rights were being violated under the Americans with Disabilities Act and section 504  
8 of the Rehabilitation Act. Plaintiffs alleged, among other things, that Defendants:

9  
10 have adopted, implemented, ratified, and/or failed to abolish numerous  
11 unnecessary and discriminatory policies, practices and procedures affecting  
12 the inmates participating in the MHSDS [Mental Health Services Delivery  
13 System] including the EOP [Enhanced Outpatient Program] and the  
14 CCCMS [Correctional Clinical Case Management System].

15 (Second Amended Complaint, Docket No. 35, at 12.) Plaintiffs alleged “systemwide,  
16 statewide policies, practices, and procedures [that] function to discriminate against  
17 inmates with severe psychiatric disabilities; exclude them from programs, services, and  
18 activities; retaliate against them; and segregate them unnecessarily.” Plaintiffs further  
19 sought to represent “a class of all present and future California inmates of the CDCR with  
20 psychiatric conditions that are disabilities as defined by the ADA and the Rehabilitation  
21 Act who are excluded and/or screened out from any prison program, service, or activity on  
22 the basis of their assignment to or participation in the MHSDS program, including the  
23 EOP and CCCMS.” (*Id.* at 14.)

24 2. Before the *Hecker* action was filed, the parties in *Coleman v. Brown*, E.D.  
25 Cal. No. cv 90-0520 LLK, had attempted to negotiate provisions of the *Coleman* Program  
26 Guide (which describes policies and procedures for provision of mental health care for  
27 California prison inmates) regarding program access and disability discrimination for  
28 prison inmates with psychiatric disabilities. The parties did not reach a resolution.



1           3.       On February 3, 2006, the *Coleman* Special Master issued his report and  
2 recommendation concerning the Program Guide, concluding that the parties' disputes  
3 concerning alleged disability discrimination could not be resolved by the Special Master  
4 at that time.

5           4.       On November 27, 2006, Defendants filed a motion to dismiss the *Hecker*  
6 action.

7           5.       On March 15, 2007, the Court issued an order staying the *Hecker* litigation,  
8 and referred the matter to the *Coleman* Special Master to determine whether the claims  
9 raised in the present litigation could be resolved within the remedial phase of *Coleman*.  
10 The *Coleman* Special Master filed a report on June 12, 2007 stating that the parties were  
11 not able to resolve the dispute at that time.

12           6.       The *Hecker* Plaintiffs filed motions to lift the stay on December 14, 2007,  
13 and again on September 9, 2012 and March 1, 2013. On October 19, 2012, the Court  
14 ordered that the parties meet and confer under the guidance of the *Coleman* Special  
15 Master to determine again whether the issues in the *Hecker* action could be resolved  
16 through the *Coleman* remedial process.

17           7.       Since that date, the parties have engaged in settlement negotiations with the  
18 assistance of the *Coleman* Special Master. On May 5, 2014, the Court entered an order  
19 extending the stay to June 6, 2014.

20           8.       While the case has been stayed, the parties have resolved issues concerning  
21 some of the specific policies, practices, and procedures that may have excluded some EOP  
22 and CCCMS participants from some of the benefits of the services, programs, and  
23 activities operated by CDCR, and may have discriminated against individuals with  
24 psychiatric disabilities. These specific issues are listed below at Paragraph 21. To  
25 facilitate resolution of these issues, the parties agree that the *Coleman* Program Guide  
26 shall be amended to reflect these changed policies, practices, and procedures. The parties  
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1 further agree that implementation of the modified replacement polices, practices and  
2 procedures may be enforced by the Court as part of the *Coleman* class action litigation.

3 9. During the period of the *Hecker* stay, the parties also identified specific  
4 policies, practices, and procedures as to which there is no agreement regarding any past or  
5 present effect of exclusion or discrimination. Therefore, as to these issues, which are  
6 identified in Paragraph 22 below, the parties have reached no agreement that a remedy is  
7 required. The parties, however, have agreed that these issues are appropriate for  
8 resolution within the *Coleman* remedial process.

9 10. During the period of the *Hecker* stay, the parties also identified specific  
10 policies, practices and procedures that Defendants maintain are legally justified, do not  
11 unlawfully have the effect of excluding or discriminating against EOP and CCCMS  
12 prisoners, and therefore cannot be addressed in the *Coleman* remedial process. These  
13 specific issues are listed at Paragraph 23 below. The parties agree that as to these specific  
14 issues, there is no remedy in *Coleman*, and any claims as to them will be dismissed in  
15 *Hecker* without prejudice.

16 11. The parties agree that solely for purposes of settlement and judicial approval  
17 of this Agreement, they stipulate that the putative class in *Hecker*—specifically, all  
18 present and future CDCR inmates with psychiatric conditions that are disabilities as  
19 defined by the ADA and the Rehabilitation Act and who are allegedly excluded and/or  
20 screened out from any prison program, service, or activity on the basis of their assignment  
21 to or participation in the MHSDS program, including the CCCMS and EOP—may be  
22 certified as a class for settlement purposes under Federal Rule of Civil Procedure 23(b)(1),  
23 and that an order may be entered, after notice to the class and an opportunity to object,  
24 finding the settlement to be fair and reasonable as to this settlement class.

25 12. All parties and their counsel recognize that, in the absence of an approved  
26 settlement, they face lengthy and substantial litigation, including motions to dismiss,  
27 motions for class certification, formal discovery, motions for summary judgment, and trial  
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1 and potential appellate proceedings, all of which will consume time and resources and  
2 present the parties with ongoing litigation risks and uncertainties. The parties wish to  
3 avoid these risks, uncertainties, and consumption of time and resources through a  
4 settlement under the terms and conditions of this Agreement.

5 ACCORDINGLY, without any admission or concession by Defendants of any  
6 liability or wrongdoing with respect to the allegations in the complaint, and without any  
7 admission or concession by Defendants of any systemic violation of the ADA or the  
8 Rehabilitation Act, the complaint, and all claims made in it, shall be finally and fully  
9 compromised, settled, and released, and the action dismissed with prejudice upon and  
10 subject to the terms and conditions of this Agreement, which the parties enter into freely,  
11 voluntarily, knowingly, and with the advice of counsel.

12 **II. PARTIES**

13 13. Plaintiffs Robert Hecker, Christopher Lee Jenkins, Peter Taylor, Ying Watt,  
14 Askia Ashanti, Ronald Auld, John Mueller, Daniel Hunley, Joseph Cox, Eddie Thomas,  
15 Brian K. Stafford, Michael Lovelace, Bobby Daniels, Quinton Gray, John Wesley  
16 Williams, Samuel D'Angelo, and Jon Schooley have been at relevant periods inmates of  
17 the California Department of Corrections and Rehabilitation and participates in the Mental  
18 Health Services Delivery System (MHSDS) at both the Enhanced Outpatient Program  
19 (EOP) and Clinical Correctional Case Management System (CCCMS) levels of care as  
20 defined by the *Coleman* Program Guide. Plaintiffs allege that they are persons with  
21 disabilities within the meaning of all applicable statutes, and are qualified persons with  
22 disabilities within the meaning of Title II of the ADA and Section 504 of the  
23 Rehabilitation Act of 1973. Plaintiffs allegedly represent a class of all present and future  
24 CDCR inmates with psychiatric conditions that are disabilities as defined by the ADA and  
25 the Rehabilitation Act who are excluded and/or screened out from any prison program,  
26 service, or activity on the basis of their assignment to or participation in the MHSDS  
27 program, including the EOP and CCCMS.  
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1           14. Defendants are CDCR, the Governor of the State of California, CDCR's  
2 secretary, CDCR's undersecretary, CDCR's Director of Adult Institutions, and the  
3 Warden of the California Medical Facility. Each Defendant is a state official sued in his  
4 or her official capacity.

5 **III. JURISDICTION**

6           15. This Court has jurisdiction under 28 U.S.C §§ 1331, 2201, and 2202.

7 **IV. VENUE**

8           16. Venue is proper under 28 U.S.C. § 1391(b), because a substantial part of the  
9 events alleged by Plaintiff occurred within the Eastern District of California.

10 **V. CERTIFICATION OF A SETTLEMENT CLASS, NOTICE, OBJECTIONS,  
11 FAIRNESS HEARING**

12           17. The parties shall jointly request certification of a settlement class to be  
13 defined as all present and future CDCR inmates with psychiatric conditions that are  
14 disabilities as defined by the ADA and the Rehabilitation Act and who are allegedly  
15 excluded and/or screened out from any prison program, service, or activity on the basis of  
16 their assignment to or participation in the MHSDS program, including the CCCMS and  
17 EOP (the *Hecker* class.)

18           18. The parties shall lodge their joint request for certification of the *Hecker*  
19 class along with a Notice of Settlement of the *Hecker* Action to be submitted for approval  
20 by the Court, and subject to such approval, to be posted in all CDCR institutions.

21           19. The parties shall jointly request a fairness hearing on the *Hecker* settlement  
22 to be set at a reasonable time after the posting of notice to allow for the receipt and  
23 consideration of class member objections.

24           20. If this Agreement is not approved by the Court, the parties shall be restored  
25 to their respective positions in the action as of the date on which the Agreement was  
26 entered, the terms and provisions of this Agreement shall have no force and effect, and  
27 shall not be used in this action or in any proceeding for any purpose, and the litigation of  
28 this action would resume as if there had been no settlement, with no stipulated class.

1 **VI. TERMS AND CONDITIONS**

2 21. The parties agree that the *Coleman* Program Guide shall be amended, where  
3 necessary, so that the following polices, practices, and procedures have been or will be  
4 modified:

5 a. Prior Policy, Practice, or Procedure: Automatic Addition of Four  
6 Points to Custody Score of Persons in the MHSDS.

7 Modified Policy, Practice, or Procedure: Defendants no longer add  
8 four points to the classification scores of inmates for participation in the Mental Health  
9 Services Delivery System, and they have removed the four points previously added to  
10 inmate classification scores on that basis.

11 b. Prior Policy, Practice, or Procedure: Lack Of Reasonable  
12 Accommodations During Heat Alerts.

13 Modified Policy, Practice, or Procedure: Defendants have agreed to  
14 revise their policies to provide that inmates subject to the heat plan promulgated in  
15 *Coleman* shall receive meaningful access to equivalent programming—including out-of-  
16 cell time—during heat alert days.

17 c. Prior Policy, Practice, or Procedure: Lack of Access to Programming  
18 and Jobs.

19 Modified Policy, Practice, or Procedure: Defendants have agreed to  
20 revise the Interdisciplinary Treatment Team (IDTT) process to ensure that the IDTT team  
21 evaluates and, if appropriate, clears Enhanced Outpatient Program (EOP) inmates for  
22 participation in prison programs and services, including jobs and education. Defendants  
23 agree that, as part of the *Coleman* monthly data production, or through an equivalent  
24 means, Defendants shall produce data regarding the number of inmates in the EOP and  
25 Correctional Clinical Case Management System (CCCMS) programs, as defined by the  
26 *Coleman* Program Guide —assigned to jobs, vocational, education, and substance abuse  
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1 programs at each institution, as compared to inmates not in the Mental Health Services  
2 Delivery System.

3 d. Prior Policy, Practice, or Procedure: Systematically Housing Inmates  
4 Out of Security Level Due to Psychiatric Disabilities.

5 Modified Policy, Practice, or Procedure: Defendants have opened a  
6 Level II program at the Substance Abuse Treatment Facility (SATF), and a Level II male  
7 EOP program at Valley State Prison to provide greater opportunities for inmates  
8 participating in the Mental Health Services Delivery System to be housed consistent with  
9 their security levels. Defendants agree that, as part of the *Coleman* monthly data  
10 production, or through an equivalent means, Defendants shall produce data regarding the  
11 number of *Coleman* class members housed at a higher security level than their points  
12 would require, as compared to inmates not in the Mental Health Services Delivery  
13 System.

14 e. Prior Policy, Practice, or Procedure: Restricting Eligibility for  
15 Milestone Credits In Manners That Tend to Exclude Persons With Psychiatric Disabilities.

16 Modified Policy, Practice, or Procedure: Defendants have agreed to  
17 make available to inmates with psychiatric disabilities milestone credit earning by  
18 granting credits for existing Mental Health Services Delivery System groups, such as  
19 anger management and criminal thinking groups. Defendants are also working on new  
20 curriculum for additional programs that will earn them milestone credits. Defendants  
21 agree that, as part of the *Coleman* monthly data production, or through an equivalent  
22 means, Defendants shall produce data on the percentage of CCCMS and EOP inmates  
23 who are earning milestone credits, as compared to inmates not in the Mental Health  
24 Services Delivery System.

25 f. Prior Policy, Practice, or Procedure: Excluding Allegations of  
26 Discrimination on Account of Psychiatric Disability from the ADA Grievance Process.

27 Modified Policy, Practice, or Procedure: Defendants are  
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1 implementing a revised ADA grievance process through which inmates with psychiatric  
2 disabilities may request reasonable modifications to services, programs, and activities and  
3 make requests for reasonable accommodations. These inmates will also be permitted to  
4 grieve any decision rendered under this process via an inmate appeal.

5 g. Prior Policy, Practice, or Procedure: Restricting eligibility for  
6 periodic classification score reductions for EOP inmates for successful programming.

7 Modified Policy, Practice, or Procedure: EOP inmates are now entitled  
8 to earn up to four point reductions annually from their classification score for successful  
9 programming.

10  
11 22. The parties have not agreed that the following specific policies, practices,  
12 and procedures have had the effect of discriminating against or excluding EOP and  
13 CCCMS participants from the benefits of the services, programs, and activities operated  
14 by CDCR, and therefore that any remedy is required regarding them. The parties  
15 nevertheless agree that allegations of discrimination related to the following specific  
16 policies, practices, and procedures are appropriate for resolution within the *Coleman*  
17 remedial process.

18 a. Privileges for inmates with psychiatric disabilities with extended  
19 stays in reception centers (i.e. beyond ninety days) due solely to a psychiatric disability;

20 b. Access to substance abuse programs by inmates with psychiatric  
21 disabilities;

22 c. Access to minimum security facilities and community-based  
23 programs by inmates with psychiatric disabilities;

24 d. Access to reentry hub programs by inmates with psychiatric  
25 disabilities;

26 e. Effective communication and discrimination in the Rules Violation  
27 Report (RVR) process for inmates with psychiatric disabilities; and  
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1 f. Discrimination in use of restraints, including treatment modules, for  
2 prisoners with psychiatric disabilities.

3 23. Resolution of issues identified in Paragraphs 21 and 22 through the  
4 *Coleman* remedial process shall include a reasonable continued period of negotiations  
5 facilitated by the Special Master. Any issues resolved in such negotiations may result in  
6 further amendments to policies, practices, and procedures to be implemented as part of the  
7 *Coleman* remedy. Issues that are not resolved after a reasonable period of negotiations  
8 may be presented by Plaintiffs to the *Coleman* court for resolution. The parties agree that  
9 for purposes of resolving issues of discrimination or exclusion against prison inmates with  
10 psychiatric disabilities, the *Coleman* Court should address whether the specific systemic  
11 policies, practices and procedures identified in this paragraph violate the ADA and  
12 Rehabilitation Act, and if so what prospective relief is appropriate. Plaintiffs shall have  
13 the burden of proving that the specific systemic policies, practices and procedures  
14 identified in Paragraphs 21 and 22 violate the ADA and Rehabilitation Act. Defendants  
15 shall have an opportunity to respond to any such evidence presented to the Court and to  
16 present their own evidence. Brief or isolated instances of alleged disability discrimination  
17 shall not constitute an ongoing, system-wide policy or practice in violation of the ADA or  
18 Rehabilitation Act.

19 24. The parties agree that the following issues are not appropriate for resolution  
20 in the *Coleman* remedial process, and that upon dismissal of the *Hecker* action, these  
21 issues will not become part of the *Coleman* remedy, and that as to these issues the  
22 dismissal of *Hecker* will be without prejudice to resolution of these issues in subsequent  
23 litigation:

24 a. Exclusion of CCCMS inmates from participation in the program,  
25 service, or activity of assignment to conservation/fire camp.  
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1 Defendants agree that any of the individual *Hecker* plaintiffs may pursue ADA or  
2 Rehabilitation Act claims concerning fire camp/ conservation camp against Defendants in  
3 a separate lawsuit.

4  
5 **VII. DISMISSAL**

6 25. The parties shall jointly request that the *Hecker* Court, after the  
7 fairness hearing described in Paragraph 19 above, shall dismiss the *Hecker* action in a  
8 form of order jointly proposed by the parties that specifies that the *Hecker* certified class  
9 action is dismissed in return for the relief that the *Hecker* class will have received under  
10 the terms of this Agreement by virtue of the implementation of specific policy, practice  
11 and procedure changes as part of the *Coleman* remedial process. The form of order shall  
12 specify that the dismissal is with prejudice except as to claims regarding assignment of  
13 MHSDS inmates to fire/conservation camps.

14 26. It is the intention of the parties in signing this Agreement that upon approval  
15 by the Court it shall be effective as a full and final accord and satisfaction and release  
16 from all claims asserted in the Second Amended Complaint except for claims concerning  
17 conservation/fire camp, which will be dismissed without prejudice as described above.  
18 By signing this Agreement, Plaintiffs release CDCR, Defendants, and any other past or  
19 current State officials and employees from all claims, past, present and future, known or  
20 unknown, that arise or could arise from the facts alleged in the complaint. Nothing in this  
21 Agreement will affect the rights of any named *Hecker* Plaintiffs regarding any legal claim  
22 that arises after the date that the settlement is executed or regarding claims of *Hecker*  
23 Plaintiffs other than those asserted in the Second Amended Complaint under the ADA  
24 and the Rehabilitation Act for injunctive and declaratory relief.

25 27. In furtherance of this intention, the parties acknowledge that they are  
26 familiar with, and expressly waive, the provisions of California Civil Code section 1542,  
27 which states:  
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A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

28. This Agreement is the compromise of various disputed claims and shall not be treated as an admission of liability by any of the parties for any purpose. The signature of or on behalf of the respective parties does not indicate or acknowledge the validity or merits of any claim or demand of the other party. The parties further agree that the *Coleman* class does not include persons on parole and that nothing in this agreement limits the ability of Plaintiffs to pursue any claims on behalf of persons on parole.

29. The parties agree that this Agreement regarding specific policies, practices, and procedures that have allegedly had the effect of excluding some EOP and CCCMS participants from some of the benefits of the services, programs and activities operated by CDCR shall not affect or otherwise impact Defendants' ability to seek termination of prospective relief entered in *Coleman*. Termination of the *Coleman* litigation will terminate the issues that have been or are being resolved under this Agreement. By this agreement, Defendants do not waive any defenses already asserted in this litigation.

**VIII. ATTORNEY'S FEES AND COSTS**

30. The parties agree that all claims for reasonable fees and costs for work previously done in this litigation, and any future work done by Plaintiffs' counsel in *Coleman* regarding Plaintiffs' alleged violations of the ADA and Rehabilitation Act by Defendants, may be resolved through the periodic fees process in *Coleman*. The parties agree that Plaintiffs' counsel's billing rates for such work will be subject to the maximum billing rate under the Prison Litigation Reform Act. Defendants waive any objection that such work is not compensable in *Coleman* because it involves allegations of violations of the ADA and Rehabilitation Act. Work performed by Plaintiff's counsel before execution

1 of this Settlement Agreement may be addressed in the *Coleman* quarterly fees negotiation  
2 immediately following the execution of the Settlement Agreement.

3 **IX. SUCCESSORS AND ASSIGNS**

4  
5 31. This Agreement shall be binding on the parties and their respective officers,  
6 agents, administrators, successors, assignees, heirs, executors, trustees, attorneys,  
7 consultants, and any committee or arrangement of creditors organized with respect to the  
8 affairs of any such party.

9 32. Plaintiffs represent that they own the interests, rights, and claims that are the  
10 subject matter of this Agreement. Plaintiffs and their principals, agents, attorneys,  
11 successors, assigns, heirs, descendants, executors, representatives, partners, and associates  
12 fully release and discharge the other parties and their principals, agents, attorneys,  
13 successors, assigns, heirs, descendants, executors, representatives, partners, and associates  
14 from all rights, claims, and actions that Plaintiffs and their successors now may have or at  
15 any time in the future may have against the other parties and their successors except for  
16 claims concerning conservation/fire camp dismissed without prejudice.

17 **X. REPRESENTATIONS AND WARRANTIES**

18 33. The consideration recited in this Agreement is the only consideration for  
19 this Agreement, and no representations, promises, or inducements have been made to the  
20 parties, or any of their representatives, other than those set forth in this Agreement.

21 34. This Agreement may be executed simultaneously in one or more  
22 counterparts, each of which shall be deemed an original, but all of which together shall  
23 constitute one and the same instrument.

24 35. Each party to this Agreement shall execute or cause to be executed such  
25 further and other documents as are needed to carry out the expressed intent and purpose of  
26 this Agreement.  
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36. This Agreement constitutes a single, integrated agreement expressing the entire agreement of the parties, and there are no other agreements, written or oral, express or implied, between the parties, except as set forth in this Agreement.

37. No supplement, modification, or amendment to this Agreement shall be binding unless executed in writing by all the parties. No waiver of any provision of this Agreement shall be binding unless executed in writing by the party making the waiver. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.

38. Unless expressly stated otherwise in this Agreement, the terms, conditions, and provisions of this Agreement are governed by and interpreted under California state law.

39. Should any provision of this Agreement be held invalid or illegal, such illegality shall not invalidate the whole of this Agreement, but the Agreement shall be construed as if it did not contain the illegal part, and the rights and obligations of the parties shall be construed and enforced accordingly.

The undersigned agree to the above:

Dated: August 1, 2014 By: Robert A. Hecker

Dated: \_\_\_\_\_ By: \_\_\_\_\_

Approved as to form:

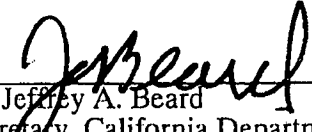
Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Jay C. Russell, Supervising Deputy Attorney  
General  
Counsel for Defendants

Approved as to form:

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The undersigned agree to the above:

Dated: 8/4/14

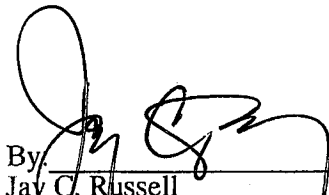
By:   
Dr. Jeffrey A. Beard  
Secretary, California Department of Corrections and  
Rehabilitation

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Approved as to form:

Dated: August 5, 2014

By:   
Jay C. Russell  
Supervising Deputy Attorney General  
Counsel for Defendants

Approved as to form:

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Michael W. Bien  
Rosen Bien Galvan & Grunfeld LLP  
Counsel for the *Coleman* and *Hecker* Plaintiffs

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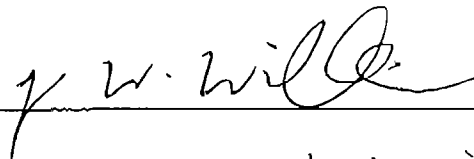
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The undersigned agree to the above:

Dated: 7/29/14

By: 

Dated: 7/29/14

By: JOHN WESLEY WILLIAMS

Approved as to form:

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Jay C. Russell, Supervising Deputy Attorney  
General  
Counsel for Defendants

Approved as to form:

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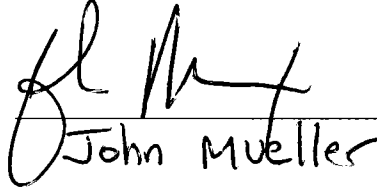
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The undersigned agree to the above:

Dated: 7/29/2014

By:   
John Mueller

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Approved as to form:

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Jay C. Russell, Supervising Deputy Attorney  
General  
Counsel for Defendants

Approved as to form:

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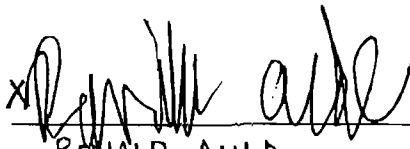
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The undersigned agree to the above:

Dated: 7-30-14

By:   
RONALD AULD

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Approved as to form:

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Jay C. Russell, Supervising Deputy Attorney  
General  
Counsel for Defendants

Approved as to form:



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The undersigned agree to the above:

Dated: July 30<sup>th</sup>, 2014

By: Brian Keith Stafford  
BRIAN STAFFORD

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Approved as to form:

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Jay C. Russell, Supervising Deputy Attorney  
General  
Counsel for Defendants

Approved as to form:

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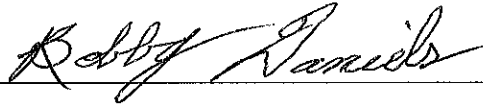
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The undersigned agree to the above:

Dated: 7-30-2014

By: 

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Approved as to form:

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Jay C. Russell, Supervising Deputy Attorney  
General  
Counsel for Defendants

Approved as to form:

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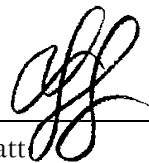
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The undersigned agree to the above:

Dated: July 29, 2014

By: \_\_\_\_\_

  
Ying Watt

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Approved as to form:

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Jay C. Russell, Supervising Deputy Attorney  
General  
Counsel for Defendants

Approved as to form:

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The undersigned agree to the above:

Dated: 8-1-2014 By: *Aska S. Asanti*

Dated: 8-1-2014 By: *Aska S. Asanti*

Approved as to form:

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Jay C. Russell, Supervising Deputy Attorney  
General  
Counsel for Defendants

Approved as to form:

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Dated: \_\_\_\_\_

By: \_\_\_\_\_

Michael W. Bien  
Rosen Bien Galvan & Grunfeld LLP  
Counsel for the *Coleman and Hecker* Plaintiffs

SF2006200078

Dated: July 28, 2014 By: Quinton Gray  
Quinton Gray

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Dated: 8/4/14

By: 

Michael W. Bien  
Rosen Bien Galvan & Grunfeld LLP  
Counsel for the *Coleman* and *Hecker* Plaintiffs

SF2006200078

## **NOTICE - DECISION IN MENTAL HEALTH CARE CLASS ACTION**

### **(Coleman v. Brown)**



On September 13, 1995, a federal court in Sacramento ruled that the CDCR violated the cruel and unusual punishment clause of the Constitution by failing to provide adequate mental health care. The ruling was in a case called *Coleman v. Wilson* (now *Coleman v. Brown*). The case covers all prisoners with serious mental disorders housed in California state prisons. The case continues today. The Court's 1995 Order is available for review in your prison law library.

There have been numerous additional Orders from the Court requiring specific changes. Some of the areas addressed include: screening, treatment programs, staffing, accurate and complete records, medication distribution, inpatient psychiatric care, segregation, use of force, the disciplinary process and suicide prevention.

The Court has approved CDCR's plan for providing mental health care. That plan is now set forth in the "Mental Health Services Delivery System Program Guide." CDCR also is modifying policies that may have discriminated against prisoners with psychiatric disabilities and will allow class members to request reasonable accommodations. The Court has appointed a Special Master who, among other things, monitors and reports on CDCR's compliance with the mental health Program Guide and CDCR policies.

The lawyers representing the prisoners are:

Donald Specter  
Prison Law Office  
General Delivery  
San Quentin, CA 94964-0001

Michael W. Bien  
Rosen Bien Galvan & Grunfeld, LLP  
P.O. Box 390  
San Francisco, CA 94104-0390

Prison officials are represented by lawyers in the California Attorney General's office:

Deputy Attorney General  
1300 I Street  
P.O. Box 944255  
Sacramento, CA 94244

(Revised January 2015)