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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

DEPARTMENT CX102

HON. PETER J. WILSON, JUDGE

CYNTHIA CAMPBELL, MONIQUE CASTILLO,)
SANDY GONZALEZ, CECIBEL CARIDAD ORTIZ,)
MARK TRACE, AND DON WAGNER, ON BEHALF)
OF THEMSELVES AND ALL OTHERS SIMILARLY)
SITUATED,)

PETITIONERS,)

VS.)

) CASE NO. 30-2020-
) 01141117-CU-WM-CJC

DON BARNES, IN HIS OFFICIAL CAPACITY)
AS SHERIFF OF ORANGE COUNTY,)
CALIFORNIA,)

RESPONDENT.)
_____)

REPORTER'S TRANSCRIPT OF TELEPHONIC PROCEEDINGS

FRIDAY, JANUARY 29, 2021

751 WEST SANTA ANA BOULEVARD

SANTA ANA, CALIFORNIA

LORI ANASTASIOU, CSR NO. 4345

COURT-APPROVED REPORTER PRO TEMPORE

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APPEARANCES OF COUNSEL: (VIA COURTCALL)

FOR PLAINTIFFS: MUNGER TOLLES & OLSON LLP

BY: SARA MCDERMOTT, ESQ. (NOT PRESENT)

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APPEARANCES OF COUNSEL: (CONTINUED)

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COUNTY

BY: KAYLA N. WATSON, DEPUTY COUNTY
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CITY ATTORNEY'S OFFICE

BY: JOHN FUNK

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APPEARANCES OF COUNSEL: (CONTINUED)

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(SPECIALLY APPEARING FOR CDCR)

(415) 510-4454

1 1 CASE NUMBER: 30-2020-01141117-CU-WM-CXC
2 2 CASE NAME: CAMPBELL, ET AL. V BARNES
3 3 SANTA ANA, CA. FRIDAY, JANUARY 29, 2021
4 4 DEPARTMENT CX102 HON. PETER J. WILSON, JUDGE
5 5 REPORTER: LORI ANASTASIOU, CSR NO. 4345
6 6 TIME: 10:32 P.M.

7
8 (THE FOLLOWING PROCEEDINGS WERE HELD REMOTELY
9 THROUGH COURTCALL, WITH THE COURT REPORTER
10 IN A REMOTE LOCATION, SEPARATE AND APART FROM
11 THE ATTORNEYS AND THE COURT. THE PROCEEDINGS
12 WERE TRANSCRIBED TO THE BEST ABILITY OF THE
13 COURT REPORTER TO HEAR THE PROCEEDINGS.)
14

10:32 15 THE COURT: ALL RIGHT. GOOD MORNING, EVERYBODY.
16 THIS IS THE 10:30 CALL ON THE CAMPBELL VERSUS BARNES
17 MATTER.

18 WE HAVE A COURT REPORTER ON THE LINE. MISS
19 ANASTASIOU, IF YOU CANNOT HEAR ANY OF US OR WE SPEAK OVER
10:32 20 EACH OTHER, PLEASE FEEL FREE TO INTERRUPT AT ANY TIME.

21 COULD I HAVE APPEARANCES, PLEASE, STARTING
22 WITH PETITIONERS.

23 MS. KENDRICK: YES. GOOD MORNING, YOUR HONOR,
24 THIS IS CORENE KENDRICK FROM THE AMERICAN CIVIL LIBERTIES
10:32 25 UNION FOUNDATION.

26 MS. SPERA: AND THIS IS CLARA SPERA, S-P-E-R-A,

1 ALSO FROM THE AMERICAN CIVIL LIBERTIES UNION FOUNDATION.

2 THE COURT: GOOD MORNING. AND FOR RESPONDENT,
3 PLEASE?

10:32

4 MR. DUNN: KEVIN DUNN WITH COUNTY COUNSEL ON
5 BEHALF OF RESPONDENT.

6 MS. WATSON: AND KAYLA WATSON, DEPUTY COUNTY
7 COUNSEL ON BEHALF OF RESPONDENT.

10:33

8 THE COURT: MR. FUNK ON BEHALF OF THE CITY OF
9 SANTA ANA ALSO INDICATED THAT HE WAS GOING TO BE CALLING
10 IN. HAS HE JOINED US YET.

11 MR. FUNK: YES, YOUR HONOR. GOOD MORNING, THIS
12 IS JOHN FUNK ON BEHALF OF THE CITY OF SANTA ANA.

13 THE COURT: ALL RIGHT. GOOD MORNING TO ALL OF
14 YOU.

10:33

15 I HAD BEFORE THIS HEARING, REQUESTED THE
16 RESPONDENT TO FILE THE CHART ON THE AGGREGATE HOUSING.
17 THAT CHART WAS FILED JANUARY 27. I APPRECIATE THE
18 RESPONDENT GETTING IT IN BY THE WEDNESDAY. I HAVE ALSO
19 SEEN THE RESPONSE FILED BY PETITIONERS CONCERNING DATA NOT
20 INCLUDED ON THE CHART.

10:33

21 MISS WATSON OR MR. DUNN, IN REQUESTING THE
22 CHART, I HAD REQUESTED THAT THE CHART INDICATE NOT ONLY
23 THE ACTUAL BEDS IN EACH CELL OR LIVING SPACE, BUT ALSO
24 WHAT THE JAIL WAS CARRYING AS THE RATED CAPACITY FOR EACH
25 UNIT AND THE SOMEWHAT CONFUSING ACTUAL CAPACITY VERSUS THE
26 PERSONS TODAY IN THOSE CELLS.

10:34

1 THE CHART PROVIDED ONLY HAS THE FIXED BUNKS,
2 WHICH I ASSUME -- QUITE LITERALLY -- ARE THE BEDS AS
3 NAILED TO THE FLOOR AND THE INMATES IN EACH CELL.

4 IS THERE A REASON THOSE OTHER COLUMNS WERE
10:34 5 NOT PROVIDED?

6 MS. WATSON: NO, YOUR HONOR. THIS IS KAYLA
7 WATSON. IT WAS NOT PROVIDED. I BELIEVE IT WAS JUST AN
8 OVERSIGHT. IF THAT'S SOMETHING THE COURT WOULD LIKE, WE
9 ARE HAPPY TO SUPPLEMENT THE CHART WITH THAT INFORMATION.

10:34 10 THE COURT: HAVE YOU SEEN THE CHART PREPARED BY
11 THE RESPONDENTS THAT FILLS IN THAT INFORMATION?

12 MS. WATSON: YOUR HONOR, WE WERE PROVIDED A
13 COURTESY COPY OF IT ABOUT A MINUTE AGO, SO WE HAVE NOT.

14 THE COURT: EVEN WITHOUT THE ADDITIONAL COLUMNS,
10:35 15 SOME OF THE LIVING SPACES INDICATE 100 PERCENT OCCUPANCY,
16 89 PERCENT OCCUPANCY, 78 PERCENT OCCUPANCY, AND SO ON.

17 AND, AS THE CHART INDICATES, IN ALMOST ALL
18 SPACES THEY ARE A COMBINATION OF COVID-NAIVE, FROM WHICH
19 I -- FROM YOUR PREVIOUS USE, UNDERSTAND THE TERM TO MEAN
10:35 20 THAT PERSON HAS NEVER BEEN TESTED POSITIVE FOR COVID OR
21 OTHERWISE SHOWN THAT THEY'VE HAD COVID, AND COVID-
22 RECOVERED PEOPLE WHO DID TEST POSITIVE OR WERE OTHERWISE
23 ASSUMED TO HAVE COVID AND HAVE RECOVERED FROM IT.

24 THE IMMEDIATE -- BEFORE I PROCEED, A
10:35 25 QUESTION. ARE PRETRIAL INMATES AND CONVICTED INMATES KEPT
26 TOGETHER IN GENERAL POPULATION?

1 MS. WATSON: YES, YOUR HONOR.

2 MR. DUNN: YES.

3 THE COURT: ONE OF THE SHERIFF'S RESPONSES TO A
4 REQUEST POSED BY THE COURT ABOUT HIS NOT FOLLOWING THE
10:36 5 SAME RELEASE CRITERIA AS THE CALIFORNIA DEPARTMENT OF
6 CORRECTIONS AND REHABILITATION IS THAT THAT DEPARTMENT HAD
7 TO EFFECTIVELY APPLY MORE EXTREME MEASURES CONCERNING
8 PRIOR CONVICTIONS IN ORDER TO REDUCE POPULATION. AND
9 ACCORDING TO RESPONDENT'S FILING, HE DID NOT HAVE TO APPLY
10:36 10 SUCH CRITERIA BECAUSE HE WAS ABLE TO REDUCE IN ORDER TO
11 ACHIEVE SOCIAL DISTANCING WITHOUT THOSE MEASURES.

12 WHEN I LOOK AT THIS DATA SHOWING THESE
13 POPULATION NUMBERS, INCLUDING CELLS AT 100 PERCENT OF
14 OCCUPATION, HOW DO I UNDERSTAND RESPONDENT'S RESPONSE THAT
10:37 15 HE NEEDN'T MIRROR CDCR GUIDELINES BECAUSE HIS GUIDELINES
16 PERMIT ENOUGH REDUCTION TO ACHIEVE SOCIAL DISTANCING?

17 MR. DUNN: YES, YOUR HONOR, THIS IS KEVIN DUNN
18 WITH COUNTY COUNSEL, AND I CAN ADDRESS THAT.

19 THE CHART THAT'S BEEN PROVIDED TO THE COURT
10:37 20 IN RESPONSE TO THE COURT'S INQUIRY LENDS ITSELF INEVITABLY
21 TO ALLOWING FOR IMPROPER CONCLUSIONS AND PERHAPS A
22 MISUNDERSTANDING OF WHAT'S ACTUALLY GOING ON AT THE JAIL
23 PRESENTLY. SO IF THE COURT CAN JUST GIVE ME A MOMENT, I
24 WOULD LIKE TO EXPLAIN THE CHART, AND THAT MAY HELP FRAME
10:37 25 SOME OF THE COURT'S QUESTIONS.

26 AT THE END OF THIS -- IT WILL TAKE ME ABOUT

1 FIVE MINUTES OR SO -- AND AT THE END OF THIS, WE'RE GOING
2 TO ASK THE COURT FOR TWO WEEKS OF TIME. AND THE REASON
3 WE'RE GOING TO ASK FOR THAT IS BECAUSE THE ORANGE COUNTY
4 JAIL CURRENTLY KNOWS WHAT THE ISSUES ARE, HAS THE PLANS TO
10:38 5 ADDRESS THEM, AND HAS THE CAPACITY TO DO SO.

6 SO, THE FIRST THING IS -- I WANT TO BE ABLE
7 TO SPEAK FREELY HERE, YOUR HONOR -- WE'VE HAD SOME
8 EVIDENTIARY HEARINGS AND WE'VE HAD ARGUMENT. AND TO BE
9 ABLE TO EXPLAIN THIS TO THE COURT, I WANT TO BE ABLE TO
10:38 10 SPEAK FREELY WITH THE UNDERSTANDING THAT THIS IS BASICALLY
11 ARGUMENTS BUT TO THE EXTENT THERE ARE ANY FACTUAL
12 ASSERTIONS, THAT THOSE ARE SIMPLY OFFERS OF PROOF THAT WE
13 CAN PRODUCE WITNESSES THAT WOULD TESTIFY COMPETENTLY TO
14 THE INFORMATION THAT I PROVIDE.

10:38 15 SO, WITH THAT UNDERSTANDING, I WANT TO POINT
16 OUT THAT THIS IS -- THAT THIS INFORMATION THAT THE COURT
17 GOT IS A SNAPSHOT. AND IT IS A SNAPSHOT OF ONLY THE
18 CONGREGATE HOUSING SITUATIONS BEYOND TWO-PERSON CELLS AS
19 IT EXISTED ON JANUARY 27TH AT THE END OF AN OUTBREAK AT
10:38 20 THE JAIL. AND THE JAIL IS CURRENTLY IN THE PROCESS OF
21 REORGANIZING POPULATIONS.

22 SO, WE'VE TALKED ABOUT THIS PREVIOUSLY, THAT
23 THE JAIL WAS IN A PERIOD OF STASIS DUE TO THE OUTBREAK.
24 AND SUBSEQUENT TO THAT, WE'VE BEEN ABLE TO REORGANIZE TO
10:39 25 GET THE JAIL POPULATION CLOSER TO WHERE WE NEED IT TO BE,
26 IN DISTRIBUTING IT WHERE WE NEEDED IT TO BE.

1 SO, THAT SAID, THE BREAKDOWN IN THIS
2 PARTICULAR CHART SHOWS WHERE THE COVID-NAIVES ARE IN
3 CONGREGATE LIVING THAT NEED PROPER SOCIAL DISTANCING,
4 RIGHT? WE KNOW THAT THESE ARE THE FOLKS THAT WE NEED TO
10:39 5 FOCUS OUR ENERGIES ON. THAT REPRESENTS 213 INDIVIDUALS.
6 SO WE'RE DOWN TO 213 INDIVIDUALS. AGAIN, THAT'S
7 INDIVIDUALS THAT ARE COVID-NAIVE IN CONGREGATE LIVING
8 SITUATIONS REQUIRING THE MOST ATTENTION WITH RESPECT TO
9 SOCIAL DISTANCING. THAT'S 13 PERCENT ONLY OF THE
10:39 10 POPULATION OF THE JAIL THAT REPRESENTS THAT DEMOGRAPHIC.

11 CURRENTLY IT IS OUR UNDERSTANDING THAT CDCR
12 HAS NOW AGREED TO TAKE 100 COVID-NAIVE INMATES NEXT WEEK.
13 THEREFORE, JUST ON PAPER ALONE -- JUST TO PUT SOME CONTEXT
14 ON THIS -- ON PAPER ALONE, IF CDCR WERE TO FOLLOW THROUGH
10:40 15 AND TAKE 100 COVID-NAIVE INMATES NEXT WEEK, THAT BY ITSELF
16 ON PAPER -- JUST FROM A MATHEMATICAL STANDPOINT -- ALLOWS
17 US TO PROVIDE SOCIAL DISTANCING TO THE 213 INDIVIDUALS
18 THAT REMAIN IN CONGREGATE HOUSING AND ARE COVID-NAIVE.
19 BECAUSE THAT WOULD OPEN 100 UNITS AVAILABLE FOR
10:40 20 INDIVIDUALS, AND WE CAN SPREAD THOSE INDIVIDUALS OUT TO A
21 CAPACITY OF APPROXIMATELY 50 PERCENT.

22 SO, THE 1,610 INMATES THAT ARE REPRESENTED
23 ON THIS CHART, THE GREAT NEWS IS THAT THE REMAINING
24 INMATES THAT ARE NOT ON THIS CHART ARE EITHER IN ONE OR
10:40 25 TWO PERSON CELLS. OR ALTERNATIVELY, ARE ON GPS OUT IN THE
26 COMMUNITY, ON WORK RELEASE PROGRAMS, OR THEY ARE JUST

1 FRESH AT THE JAIL AND HAVEN'T EVEN GONE THROUGH THE SYSTEM
2 YET TO BE ASSIGNED AND GIVEN THEIR INTAKE QUARANTINE.

3 SO, JUST TO GIVE THE COURT THE NUMBERS,
4 THERE ARE 1,610 INMATES REPRESENTED ON THIS CHART. THERE
10:41 5 ARE 1,515 INMATES THAT ARE IN ONE OR TWO PERSON CELLS AND
6 163 THAT MAKE UP THE +CPS FOR DETAIL AND INTAKE PORTION,
7 FOR A TOTAL OF 1,678 TO ADD TO THE 1,610.

8 THUS, A MAJORITY OF INMATES IN THE ORANGE
9 COUNTY JAIL SYSTEM PRESENTLY ARE EITHER IN ONE OR TWO
10:41 10 PERSON CELLS OR ON COMMUNITY WORK DETAIL OR HAVE NOT YET
11 MADE IT INTO THE POPULATION FORMALLY.

12 SO, THE COURT ASKED FOR US TO LOOK AT WHERE
13 THE -- OR THE COURT ASKED TO LOOK AT WHERE THERE ARE
14 BUBBLES OF PROBLEMATIC CONGREGATE HOUSING. AND WE CAN SEE
10:42 15 ON THIS CHART, AS THE COURT WAS ALREADY POINTING OUT, THAT
16 THERE ARE AREAS OF PROBLEMATIC CONGREGATE HOUSING. NO
17 QUESTION ABOUT IT.

18 THE COURT POINTED OUT A COUPLE OF UNITS
19 WHERE IT SAID 90 PERCENT. HOWEVER, THE CONTEXT THAT IS
10:42 20 PUT ON THAT MAKES IT -- MAKE A LOT MORE SENSE. REMEMBER
21 THAT THE JAIL JUST HAD AN OUTBREAK. AND, SO, I'M GOING TO
22 USE ONE EXAMPLE HERE TO KIND OF MAKE THIS POINT. LET'S
23 TAKE -- I'M TRYING TO FIND A GOOD EXAMPLE HERE FOR THE
24 COURT -- I'LL KEEP LOOKING WHILE I KEEP TALKING -- SO THE
10:42 25 IDEA IS THAT WHERE YOU HAVE A SITUATION WHERE IT SHOWS
26 COVID-NAIVE INDIVIDUALS WITH COVID-RECOVERED INDIVIDUALS?

1 THOSE SITUATIONS, SUCH AS LINE 1, ARE IN A FOUR PERSON
2 CELL HOUSING SITUATION, WHERE THERE ARE ONLY EIGHT INMATES
3 IN 32 BUNKS. MEANING THAT THOSE INDIVIDUALS THAT ARE
4 COVID-NAIVE CAN HAVE THEIR OWN FOUR PERSON CELL, IN THAT
5 SITUATION.

6 SO, ALTHOUGH THEY ARE HOUSED IN A UNIT,
7 WHERE THERE ARE INDIVIDUALS OF A DIFFERENT STATUS, THEY,
8 IN FACT, ARE ABLE TO QUARANTINE IN THEIR OWN UNIT, SUB
9 UNIT WITHIN THAT STRUCTURE.

10 THE OTHER THING IS, WHERE THE COURT SEES
11 WHERE COVID POSITIVE INDIVIDUALS ARE BEING HOUSED WITH
12 COVID-RECOVERED INDIVIDUALS, CERTAINLY ONE WOULD THINK WHY
13 IN THE WORLD WOULD SOMEONE PLACE THOSE INDIVIDUALS
14 TOGETHER? WELL, THAT'S NOT THE SITUATION. REMEMBER THAT
15 THERE WAS AN OUTBREAK. AND IN THAT OUTBREAK CERTAIN UNITS
16 HAD -- A SIGNIFICANT PART OF THE POPULATION CONTRACTED
17 COVID.

18 THOSE INDIVIDUALS CURRENTLY THAT ARE ON THIS
19 LIST THAT ARE COVID POSITIVE STILL? ARE SIMPLY
20 INDIVIDUALS THAT ARE IN THOSE UNITS WHERE ALL COVID
21 POSITIVE PEOPLE WERE PUT, TO ISOLATE THEM AND PREVENT THE
22 SPREAD, THOSE INDIVIDUALS HAVE SIMPLY NOT GONE OVER INTO
23 THE COVID-RECOVERED COLUMN YET. SO THERE'S NO PLACEMENT
24 OF THE INDIVIDUALS IN THESE DISPARATE STATUSES TOGETHER;
25 IT'S SIMPLY A MATTER OF HOW THEY EVOLVE OVER TIME WITH
26 PEOPLE BECOMING RECOVERED AND WHAT HAVE YOU.

1 SO, I JUST WANTED TO MAKE THAT CLEAR TO THE
2 COURT AS WELL.

3 THE QUARANTINE IN PLACE PROCEDURES THAT WERE
4 NECESSARY TO IMPLEMENT DURING THE OUTBREAK WITH RESPECT TO
10:44 5 COVID POSITIVE INDIVIDUALS HOUSING NEXT TOGETHER AS THE
6 COURT SEES IN THESE UNITS THAT I JUST DESCRIBED, WAS,
7 AGAIN, NECESSARY DURING THE OUTBREAK. BUT THE OUTBREAK
8 NOW -- I THINK THAT THE LATEST NUMBER WE GOT TODAY, I'LL
9 MAKE THIS REPRESENTATION TO THE COURT -- WAS THERE WAS A
10:44 10 TOTAL OF 18 GENERAL POPULATION. AND, SO -- I THINK IT WAS
11 23 YESTERDAY.

12 AS AN ASIDE, 472 INDIVIDUALS HAVE CONTINUED
13 TO BE RELEASED SINCE THE DECEMBER 11TH ORDER BY THIS
14 COURT.

10:45 15 AND, SO, THE SITUATION ON THE GROUND IS THAT
16 WE CAN SEE FROM THIS CHART THAT IT IS OPERATING -- EVEN IN
17 CONGREGATE HOUSING -- IT'S OPERATING AT 60 PERCENT
18 PRESENTLY. IF THE COURT WERE TO GIVE US THE TWO WEEKS
19 THAT WE ARE ASKING FOR, WHAT THE COURT WOULD SEE -- AND
10:45 20 THIS CHART IS NOT EVEN ACCURATE AS OF TODAY -- SO THE JAIL
21 BEING A LIVE INSTITUTION THAT IS STILL RESPONDING TO A
22 PANDEMIC WITH ITS OBLIGATIONS TO PROTECT INMATES, IS
23 MOVING PEOPLE TO EQUALIZE THESE POPULATIONS.

24 SO IF WE LOOK AT THE RIGHT CHART, WE SEE
10:45 25 RED, WHICH IS -- I BELIEVE THAT'S 75 AND ABOVE. OR OVER
26 75, I SHOULD SAY.

1 WE SEE YELLOW, WHICH IS OVER 50 PERCENT.

2 AND WE SEE GREEN, WHICH IS BELOW 49 -- OR
3 BELOW, I GUESS IT IS, 50 BELOW.

4 AND, IN TWO WEEKS, IF THE COURT WERE TO GIVE
10:45 5 US THAT TIME, THIS CHART WOULD COME BACK AND THERE WOULD
6 EITHER BE NO RED AREAS AND THE PREDOMINANT PORTION OF THIS
7 RIGHT COLUMN WOULD BE GREEN AND YELLOW. BECAUSE THOSE
8 POPULATIONS WILL NOW HAVE BEEN EQUALIZED IN THE SYSTEM
9 THAT HAS BEEN SET UP FOR WHAT WAS GOING TO OCCUR POST-
10:46 10 OUTBREAK IN THE JAIL.

11 SO, WITH THAT, WE NOW -- NOT NOW -- BUT THIS
12 ILLUSTRATES THE KNOWLEDGE OF WHERE THESE PROBLEMATIC
13 CONGREGATE HOUSING SITUATIONS ARE. WE KNOW WHY THOSE
14 CONGREGATE PROBLEMATIC CONGREGATE HOUSING SITUATIONS CAME
10:46 15 TO OCCUR AND THERE'S A GOOD REASON FOR THEM TO OCCUR,
16 WHICH IS TO AVOID THE SPREAD OF COVID-19 FURTHER INTO THE
17 OTHER GREEN AND YELLOW UNITS THAT ARE REPRESENTED THERE.

18 WE HAVE A PLAN THAT HAS BEEN PUT FORTH TO
19 RESHUFFLE THIS POPULATION TO EQUALIZE IT NOW THAT WE HAVE
10:46 20 THE FLEXIBILITY WITH THE EPIDEMIC INSIDE THE JAIL HAVING
21 LARGELY RECOVERED AND WE HAVE THE ABILITY TO DO SO.

22 SO, FOR INSTANCE, THE COURT CAN SEE RIGHT
23 HERE THAT THERE IS MJ-E-25, WHICH IS ABOUT THE 10TH LINE
24 DOWN? IT IS AN EMPTY HOUSING CELL, ALLOWING FOR 48
10:47 25 INDIVIDUALS TO BE PLACED IN THERE.

26 JUST AS AN INITIAL THING -- AND I'M NOT A

1 PERSON WHO UNDERSTANDS, YOU KNOW, LOGISTICS LIKE THIS AND
2 I'M NOT PARTICULARLY GOOD AT MATH -- BUT ONE CAN SEE
3 IMMEDIATELY THAT THE FOLLOWING COLUMN HAS 24 COVID
4 INDIVIDUALS WHO NEED -- OR COVID-NAIVE WHO NEED HOUSING.

10:47

5 IT SEEMS -- AND THIS MAY HAVE ALREADY BEEN
6 DONE -- THIS IS WHAT I'M TRYING TO TELL THE COURT -- THOSE
7 INDIVIDUALS, IT SEEMS LIKE, COULD BE MOVED FROM MJ-A-01 TO
8 MJ-E-25 AND IMMEDIATELY BE AT A 50 PERCENT CONGREGATE
9 HOUSING SITUATION OF COVID-NAIVE INDIVIDUALS. THAT'S HOW
10 EASILY THIS CAN BE FIXED.

10:47

11 AND, AGAIN, WITH CDCR TAKING NOW AS PROMISED
12 100 INMATES, COVID-NAIVE INMATES, THAT IMMEDIATELY WOULD
13 ALLOW FOR ALL THAT ADDITIONAL FLEXIBILITY IN THAT RIGHT
14 COLUMN.

10:48

15 SO, WHEN WE WENT TO THE SHERIFF'S DEPARTMENT
16 WITH THIS CHART AND BROKE THIS DOWN WITH THEM AND SAID,
17 "OKAY. YOU GOT YOUR PLAN AND YOUR PLAN IS BEING
18 IMPLEMENTED AND YOU'RE RESHUFFLING PEOPLE, HOW LONG IS
19 THIS GOING TO TAKE?"

10:48

20 WE WERE TOLD THAT THIS WOULD BE COMPLETED
21 WITHIN TWO WEEKS.

10:48

22 AND SO, WE WOULD SAY TO THIS COURT THIS DATA
23 IS CHANGING AS WE SPEAK. THIS DATA IS GOING TO CHANGE
24 REGARDLESS OF SORT OF -- I MEAN, OBVIOUSLY IF THE COURT
25 TELLS US NOT TO DO SOMETHING WE'RE NOT GOING TO -- BUT
26 OPERATING A LIVE INSTITUTION, WE NEED TO BE ABLE TO ADAPT

1 TO THESE CIRCUMSTANCES ON THE GROUND.

2 SO, COMING BACK HERE IN TWO WEEKS -- IF WE
3 WERE TO COME BACK HERE IN TWO WEEKS -- AND REPRESENTING TO
4 THE COURT THAT WE WOULD SHOW THE COURT THESE CHARTS THAT
10:49 5 IS REPRESENTATIVE OF ALMOST 50 PERCENT CAPACITY -- I CAN'T
6 GUARANTEE IT WILL BE ACROSS THE BOARD -- BUT IT WILL BE
7 BASICALLY VERY CLOSE TO 50 PERCENT CAPACITY. WE KNOW IT'S
8 60 PERCENT NOW, IN CONGREGATE. AND THOSE WILL BE
9 EQUALIZED IN PROPORTION ACROSS THE POPULATION TO
10:49 10 DISTRIBUTE THEM AT A MORE 50 PERCENT LEVEL, YOUR HONOR,
11 BASICALLY ACHIEVING THE COURT'S OBJECTIVE FROM ITS
12 ORIGINAL DIRECTIVE TO THE ORANGE COUNTY SHERIFF'S
13 DEPARTMENT REGARDING THIS PLAN TO ACHIEVE 50 PERCENT
14 SOCIAL DISTANCING FOR COVID INDIVIDUALS IN CONGREGATE
10:49 15 HOUSING.

16 AND, SO, IN THOSE SITUATIONS WE KNOW AT A
17 MINIMUM THOSE INDIVIDUALS -- AND WE CAN PROVIDE THE COURT
18 WITH THE RATED CAPACITY, I'M NOT SURE WHY THAT'S NOT ON
19 THERE -- BUT WE KNOW THIS AT A MINIMUM: IT'S EVERY OTHER
10:49 20 BUNK AT THAT POINT, BECAUSE WE KNOW WHAT THE BUNK NUMBERS
21 ARE. AND, SO, AT A MINIMUM IF THEY ARE FLAT BUNKS ON THE
22 GROUND AN INDIVIDUAL CAN SLEEP AT EVERY OTHER BUNK. OR,
23 ALTERNATIVELY, IF THEY ARE BUNKS AND IF EVERY OTHER, THEY
24 CAN ACTUALLY SLEEP ONE ON THE TOP IN BUNK RIGHT AND ONE ON
10:50 25 THE BOTTOM IN BUNK LEFT, ALLOWING FOR ADDITIONAL SOCIAL
26 DISTANCING BETWEEN THOSE INDIVIDUALS.

1 SO, I MEAN, THAT WOULD BE THE IDEAL
2 SITUATION. I KNOW THAT THAT AT LEAST APPEARS TO BE WHAT
3 THE COURT HAS BEEN SHOOTING FOR IN ITS ORDERS IN THIS
4 CASE.

10:50

5 AND THE LAST THING I WANTED TO POINT OUT
6 HERE IS, THE LAST COLUMN IN THIS DOCUMENT IS OBSCURED.
7 THE REASON BEING THAT WE DO NOT NECESSARILY WANT FOLKS IN
8 THE PUBLIC TO KNOW WHERE WE HOUSE OUR MOST HARDENED
9 INDIVIDUALS. WE DON'T NEED TO ADD ADDITIONAL INFORMATION
10 FOR ESCAPE ATTEMPTS OR ANYTHING LIKE THIS.

10:50

11 THAT BEING SAID, THAT COLUMN THAT IS NOT
12 SHOWN THERE IS ALSO CRUCIAL TO THIS ENTIRE ANALYSIS.
13 BECAUSE JUST BECAUSE SOME OF THESE INDIVIDUALS ARE GOING
14 TO BE RESHUFFLED, WE STILL HAVE TO TAKE INTO ACCOUNT, NO
15 MATTER WHAT, THAT SOME OF THESE FOLKS IN THESE
16 CLASSIFICATIONS ARE GANG DROPOUTS AND WOULD BE -- AS THEY
17 CALL IT IN JAIL -- GREEN LIGHTED AND KILLED ON SITE.

10:51

18 AND, SO, ALL OF THOSE CONSIDERATIONS NEED TO
19 BE TAKEN INTO ACCOUNT AS WELL.

10:51

20 BUT NOTWITHSTANDING THE FOUR-DIMENSIONAL
21 PROBLEM THIS PRESENTS. THE SHERIFF'S DEPARTMENT HAS SAID
22 THAT THEY CAN PROVIDE THAT, BASICALLY EXPEDITE THE
23 RESOLUTION THAT WAS GOING TO BE PUT IN PLACE AT THE END OF
24 THE EPIDEMIC IN THE JAIL IN AN EXPEDITED FASHION OVER THE
25 NEXT TWO WEEKS, PROVE TO THIS COURT THAT WE CAN ACHIEVE
26 NEAR 50 PERCENT SOCIAL DISTANCING FOR ALL COVID-NAIVE

10:51

1 INDIVIDUALS IN CONGREGATE HOUSING. AND TO DO THAT IN AN
2 EXPEDITED FASHION IN SHORT ORDER AND TO HOPEFULLY PROTECT
3 THESE INMATES FROM ANY FURTHER EXPOSURE TO COVID-19.

4 AND I APPRECIATE THE COURT'S INDULGENCE IN
10:51 5 ALLOWING ME TO MAKE THAT PRESENTATION.

6 THE COURT: BEFORE TURNING TO PETITIONERS, A
7 QUESTION ON THE NUMBERS. YOUR 213 IS DERIVED HOW? IS
8 THAT THE COVID-NAIVE INDIVIDUALS SHOWN IN A RED COLUMN?
9 OR WHAT IS THE 213 BASED ON.

10:52 10 MR. DUNN: THE 213 WAS BASED ON -- AND MISS
11 WATSON AND I HAD GONE OVER THESE NUMBERS -- SO IT WOULD
12 REPRESENT THE COVID-NAIVE INDIVIDUALS THAT ARE IN HOUSING
13 SITUATIONS THAT ARE OVER -- I THINK THAT THESE ARE IN THE
14 RED --

10:52 15 MS. WATSON: OVER 75 PERCENT.

16 MR. DUNN: YEAH, OVER 75 PERCENT. SO THE
17 INDIVIDUALS THAT ARE MOST CRITICAL. SO THE INDIVIDUALS
18 THAT ARE OVER 75 PERCENT, COVID-NAIVE IN A CONGREGATE
19 HOUSING SITUATION.

10:52 20 THE COURT: DID YOU RUN THE SAME NUMBER FOR OVER
21 50 PERCENT? HOW MANY IS THAT?

22 MR. DUNN: I DID NOT RUN THAT NUMBER, BUT I THINK
23 IT WOULD BE SOMETHING THAT WE COULD ACHIEVE PRETTY QUICKLY
24 HERE BY ADDING THOSE NUMBERS FROM THE COVID-NAIVE IN THE
10:53 25 YELLOW ROWS, WHICH APPEARS TO BE -- BALLPARKING -- ABOUT
26 200.

1 THE COURT: LET ME HEAR FROM PETITIONERS.

2 MS. KENDRICK: YES, YOUR HONOR, THIS IS CORENE
3 KENDRICK. I WOULD JUST LIKE TO NOTE FOR THE RECORD THAT
4 IT'S BEEN ALMOST 50 DAYS SINCE YOUR HONOR ISSUED AN ORDER
10:53 5 DIRECTING THE COUNTY TO ISSUE A PLAN. IT'S NOW BEEN 30
6 DAYS SINCE THEY WERE SUPPOSED TO ISSUE A PLAN ON DECEMBER
7 31ST. AND NOW TODAY WE'RE HEARING ABOUT SOMETHING THAT
8 MR. DUNN REFERS TO AS A RESHUFFLING PLAN. HE KEPT
9 REPRESENTING THAT THERE'S A RESHUFFLING PLAN. WE HAVE NOT
10:54 10 SEEN WHAT THIS RESHUFFLING PLAN IS. IT HASN'T BEEN
11 PROVIDED TO THE COURT.

12 I WILL ALSO NOTE THAT THROUGHOUT HIS
13 PRESENTATION HE REPEATEDLY SAID X, Y OR Z MAY HAVE BEEN
14 DONE OR WILL BE DONE. THIS, OF COURSE, IS CLEARLY JUST
10:54 15 HYPOTHESIS AND CONJECTURE. AND HE'S ASKING TO COME BACK
16 IN TWO WEEKS. AND IT'S UNCLEAR TWO WEEKS FOR WHAT? FOR
17 WHAT PURPOSE?

18 AT THIS POINT WE HAVE HAD THOUSANDS OF OUR
19 CLASS MEMBERS AND INCARCERATED PEOPLE TO BECOME INFECTED
10:54 20 WITH THIS DISEASE. WE'VE HAD TWO PEOPLE DIE. AND TWO
21 WEEKS DOES NOT MEAN THAT EVERYTHING WILL BE PERFECT AND
22 FIXED AND CLEARED OUT, AS HE IS REPRESENTING. AS WAS SEEN
23 IN DECEMBER, TWO WEEKS WAS PLENTY OF TIME FOR THE JAIL TO
24 GO FROM ONLY HAVING SEVEN INFECTIONS, AT WHICH POINT
10:54 25 COUNSEL WAS SAYING THAT IT WAS SAFER THAN NEW ZEALAND TO
26 BE IN THE ORANGE COUNTY JAIL, AND TWO WEEKS LATER MORE

1 THAN 1,200 PEOPLE WERE INFECTED WITH COVID.

2 OUR POSITION IS THAT MOST OF WHAT HE HAS
3 PROVIDED HAS BEEN CONJECTURE, HEARSAY, REFERENCES TO A
4 RESHUFFLING PLAN THAT NONE OF US HAS SEEN.

10:55

5 AND THE EVER CHANGING NATURE OF THIS
6 SITUATION, EVEN IF IT IS ACCURATE THAT CDCR WILL BE
7 ACCEPTING 100 INDIVIDUALS NEXT WEEK, THAT DOESN'T ACCOUNT
8 FOR THE CONSTANT CHURN IN THE JAIL SYSTEM WITH EVERY DAY
9 DOZENS -- IF NOT HUNDREDS -- OF NEW BOOKINGS, PEOPLE
10 ARRESTED, PEOPLE COMING IN.

10:55

11 AND, SO, OUR POSITION, YOUR HONOR, IS THAT
12 WE HAVE BEEN GOING ON NOW FOR MORE THAN A MONTH SINCE THE
13 DEPARTMENT SUBMITTED THEIR INADEQUATE PLAN, DUMPED 34
14 BOXES OF PRISONER FILES ON YOUR HONOR, TOLD YOU THAT YOU
15 WERE THE ONE THAT NEEDED TO SORT THIS OUT.

10:55

16 WE REITERATE OUR REQUEST THAT THE COURT
17 APPOINT -- WITHOUT ANY FURTHER DELAY -- AN EXPERT ON RISK
18 ASSESSMENTS AND TO CREATE A SAFETY POPULATION PLAN
19 IMMEDIATELY.

10:56

20 THE COUNTY HAS HAD MORE THAN ENOUGH TIME TO
21 CREATE AND SUBMIT A PLAN. THIS ELEVENTH HOUR RESHUFFLING
22 PLAN -- WHICH NOBODY HAS ACTUALLY SEEN -- COMES MORE THAN
23 A MONTH AFTER THEY WERE SUPPOSED TO ORIGINALLY SUBMIT A
24 PLAN. IN THE MEANWHILE WE HAVE HAD INCARCERATED PEOPLE
25 DIE, BE HOSPITALIZED AND SUFFER THE INFECTIONS.

10:56

26 AND, SO, WE ASK THAT THE COURT, YOUR HONOR,

1 NOT ENTERTAIN ANY MORE FURTHER DELAYS BUT TAKE FIRM AND
2 FINAL ACTION.

3 MR. DUNN: MAY I BE HEARD?

4 THE COURT: MR. DUNN OR MISS WATSON?

10:56 5 MR. DUNN: THANK YOU.

6 DELAY NO FURTHER, WE TOTALLY AGREE. SO,
7 WHAT THE COURT IS PRESENTED WITH RIGHT NOW, IT SEEMS TO
8 ME, IS A SITUATION WHERE IT'S EITHER HAVE THE PEOPLE THAT
9 ARE INTIMATELY FAMILIAR WITH THIS SITUATION ON THE GROUND,
10 WHO'VE BEEN WORKING THE SYSTEM, KNOW EVERY INCH OF THE
11 MECHANICS OF ALL OF THIS, WHO ARE IN THE PROCESS OF
12 OBVIOUSLY SUCCESSFULLY RESOLVING AN OUTBREAK AT THE JAIL,
13 WHO TOLD THIS COURT THAT IN TWO WEEKS THEY CAN SHOW YOU
14 THAT THEY'LL BE AT NEAR 50 PERCENT HOUSING FOR ALL
15 CONGREGATE COVID-NAIVE AT A MINIMUM IN TWO WEEKS - OR
16 APPOINT AN INSPECTOR, WHO KNOWS NOTHING ABOUT THE JAILS,
17 IS ORANGE COUNTY JAIL NAIVE, AND TO COME IN AND TO DO AN
18 INSPECTION AND WRITE A REPORT IN 30 DAYS -- I THINK EVEN
19 MR. BRADY SAID IT WOULD BE 80 HOURS -- TO COME IN AND THEN
10:57 20 PROVIDE RECOMMENDATIONS THAT WE'RE GOING TO THEN LITIGATE?
21 I MEAN, WHAT IF WE CAN PROVIDE THE COURT WITH A SOLUTION
22 IN TWO WEEKS? IT SEEMS TANTALIZINGLY CLOSE. AND
23 SOMETHING THAT WE SHOULD FOLLOW HERE, BECAUSE THIS IS NOT
24 CONJECTURE, YOUR HONOR. THESE ARE RAW NUMBERS THAT ARE ON
10:57 25 THIS CHART.

26 YES, THE PLAN HAS CHANGES. OF COURSE THE

1 PLAN CHANGES. WE'RE TALKING NOW -- I MEAN, JUST FOR AN
2 EXAMPLE, YOUR HONOR? WHEN IT COMES DOWN TO VACCINATIONS?
3 LET'S JUST TALK ABOUT THE FOUR DIMENSIONS OF VACCINATIONS
4 OF THE POPULATION.

10:58 5 ONE, WE HAVE A VACCINE THAT'S COME ONLINE.
6 THERE'S BEEN NO CHANGES, BY THE WAY, IN THE VACCINES. WE
7 HAVEN'T HAD ACCESS TO ANY ADDITIONAL DOSES.

8 SO, BUT, YOU HAVE THIS VACCINE THAT'S
9 ONLINE, THE MODERNA VACCINE THAT REQUIRES TWO DOSES.
10 INDIVIDUALS ARE BEING RELEASED FROM THE JAIL. THERE'S
11 SOME EXTREME CONCERN ABOUT GIVING PEOPLE ONE DOSE OF A
12 MODERNA VACCINE AND THEN RELEASING THEM TO THE STREETS,
13 THAT THEY NEVER FOLLOW UP. AND WE KNOW THAT
14 GETTING IMPROPERLY VACCINATED AGAINST THE DISEASE CAN
15 ACTUALLY MAKE ONE PRONE TO IT -- I DON'T KNOW WHAT THE
16 DATA AND SCIENCE IS ON THIS -- BUT IT'S A CONCERN.

17 AND, SO, DOES AN INSTITUTION WAIT FOR THE
18 JOHNSON & JOHNSON ONE DOSE VACCINE WHEN THAT VACCINE IS
19 ONLY 67 PERCENT EFFECTIVE WHERE THE MODERNA IS HIGHER? I
10:58 20 MEAN, ALL OF THESE QUESTIONS NEED TO BE PUT INTO, YOU
21 KNOW, DECISION-MAKING. AND THAT'S JUST THE VACCINE ASPECT
22 OF THIS.

23 NONE OF THIS IS EASY. AND I HEAR PLAINTIFFS
24 COMPLAINING THAT THIS ISN'T EASY. AND THAT IT'S CHANGING.
10:59 25 AND WE CONCEDE, IT'S NOT EASY. AND IT IS CHANGING. AND
26 IT REQUIRES ADAPTATION.

1 WE'RE PROPOSING TO GIVE THIS COURT A
2 SOLUTION THAT IS IN LINE WITH ITS DIRECTIVES IN TWO WEEKS.
3 THAT IS WHAT'S ON THE TABLE FOR THE COURT RIGHT NOW, AS
4 OPPOSED TO TALKING ABOUT THIS IN ANOTHER 30 DAYS.

10:59

5 THE COURT: JUST A MOMENT, PLEASE.

11:00

6 MS. WATSON: YOUR HONOR, WHILE THE COURT IS
7 CONSIDERING, I JUST WANT TO ADD FOR THE RECORD THAT
8 PLAINTIFFS' STATEMENTS THAT THOUSANDS OF CLASS MEMBERS
9 HAVE BEEN INFECTED SINCE THE COURT'S ORDER IS COMPLETELY
10 NOT ACCURATE, AS WELL AS THE STATEMENT REGARDING THE
11 DEATHS.

11:00

12 I JUST WANT THE COURT TO KNOW THAT THE
13 DEATHS ARE STILL PENDING IN AUTOPSY AND HAVE NOT BEEN --
14 YOU KNOW, THE CAUSE OF THEIR DEATH HAS NOT BEEN
15 DETERMINED, AT THIS TIME.

16 MS. KENDRICK: WELL, SHERIFF BARNES ANNOUNCED
17 THAT THE DEATHS WERE DUE TO COVID, YOUR HONOR.

18 MS. WATSON: I DO NOT BELIEVE THAT'S ACCURATE.

11:01

19 THE COURT: THE WAY FORWARD HERE WILL PRESENT
20 SOME BASICALLY CONFLICTING APPROACHES. AND WHAT I HAVE TO
21 ASSESS IS THE REALITY OR OTHERWISE OF WHAT IS BEING
22 PROPOSED. IF I APPOINT THE SPECIAL MASTER, THIS CASE DOES
23 NOT COME TO A FINAL ORDER IN TWO WEEKS, UNDER ANY
24 CIRCUMSTANCE THAT I CAN REASONABLY FORESEE. SO IT ISN'T A
25 CHOICE BETWEEN THAT AVENUE AND WE'RE DONE IN TWO WEEKS OR
26 A FURTHER DELAY OF TWO WEEKS.

1 I'M PAUSING, MR. DUNN, FOR THE VERY REASON
2 THAT PETITIONERS HAVE RAISED, WHICH IS, THE APPROACH HAS
3 BEEN INCREMENTAL IN THIS SENSE. THE POSITION TAKEN BY
4 RESPONDENT AT VARIOUS TIMES HAS BEEN THAT HE CANNOT OR
11:02 5 WON'T DO THESE REDUCTIONS, THAT HE HAS RELEASED ALL THOSE
6 HE CAN SAFELY RELEASE. INCONSISTENT WITH THAT, HE HAS
7 NEVERTHELESS FOUND ADDITIONAL INMATES TO RELEASE. I THINK
8 IN YOUR ARGUMENT YOU POINTED OUT THAT 472 PEOPLE HAD BEEN
9 RELEASED SINCE DECEMBER 11, WHEN THE RESPONDENT'S POSITION
11:02 10 IN PROVIDING TO THE COURT WAS "THERE'S NOBODY ELSE I CAN
11 LET GO WITHOUT PUBLIC SAFETY." OBVIOUSLY HE HAS FOUND
12 ADDITIONAL INMATES THAT HE WAS SATISFIED TO RELEASE UNDER
13 HIS OWN DISCRETION WITHOUT RISK OF PUBLIC SAFETY.

14 SO, I HAVE THE DIFFICULTY THAT THIS
11:03 15 PARTICULAR REQUEST IS NOT THE FIRST TIME THAT I'VE BEEN,
16 IN EFFECT, TOLD THAT THE JAIL IS ABLE TO DO THIS ITSELF.
17 WE'VE BEEN HAVING THAT DISCUSSION SINCE THE HEARING BACK
18 ON DECEMBER 7.

19 ON THE FLIP SIDE, THERE HAVE BEEN SOME
11:03 20 MATERIAL DEVELOPMENTS, SOME MUCH LESS FORTUNATE THAN
21 OTHERS. THE MASSIVE OUTBREAK HAS HAD THE CONSEQUENCE FOR
22 THIS HEARING THAT A SIGNIFICANT NUMBER OF PERSONS ARE, IF
23 NOT AT NO RISK OF COVID INFECTION, CERTAINLY AT EXTREMELY
24 REDUCED RISK BY REASON OF HAVING TESTED POSITIVE AND
11:04 25 HAVING RECOVERED.

26 WE DISCUSSED LAST TIME THE VACCINATION OF

1 INMATES OVER 65. ALL OF THOSE EXCEPT ONES WHO REFUSED THE
2 VACCINE HAVE RECEIVED THAT VACCINE. THAT IS ALSO A
3 MATERIAL DEVELOPMENT. AND THE CHART THAT HAS BEEN
4 PROVIDED -- EVEN WITHOUT THE ADDITIONAL COLUMNS -- DOES
11:04 5 DEMONSTRATE A SIGNIFICANT REDUCTION IN INMATE POPULATION
6 IN MANY OF THE UNITS.

7 GOING BACK TO THE COURT'S DECEMBER 11 ORDER,
8 IT IS A TRUE STATEMENT THAT THE PURPOSE OF THAT ORDER, THE
9 HEART OF THAT ORDER, IF YOU WILL, IS TO ACHIEVE INMATE
11:04 10 POPULATIONS BY ALL MEANS REASONABLY POSSIBLE SO AS TO
11 PERMIT SOCIAL DISTANCING FOR THOSE IN AGGREGATE HOUSING IN
12 THE JAIL. IN PARTICULAR, OF COURSE, THOSE THAT REMAIN AT
13 RISK.

14 I AM FRUSTRATED, AS YOU WOULD FULLY EXPECT,
11:05 15 BY THE LACK OF -- WHAT I WOULD CALL -- CREATIVE PLANNING
16 OR THINKING BY RESPONDENT. NONE OF THE ISSUES DISCUSSED,
17 THE PLANS PREPARED HAVE GIVEN THE COURT ANY ASSISTANCE IN
18 UNDERSTANDING HOW THE SHERIFF CAN OR HAS TAKEN ADVANTAGE
19 OF BEING ABLE, FOR EXAMPLE, TO AGGREGATE THOSE WHO ARE
11:05 20 COVID-RECOVERED, BEING ABLE TO AGGREGATE THOSE WHO HAVE
21 NOW HAD THE VACCINE IN ORDER TO CREATE THE OPPORTUNITIES
22 FOR SOCIAL DISTANCING IN THE AT-RISK POPULATION.

23 I'M SAYING ALL THIS AS A PREAMBLE TO THE
24 FOLLOWING. IT IS NOT THE COURT'S BUSINESS TO INTERFERE IN
11:06 25 THE RUNNING OF ANY OTHER DEPARTMENT OF GOVERNMENT, UNLESS
26 THERE ARE CLEAR REASONS FOR DOING SO. I DO NOT INJECT

1 MYSELF INTO THE RUNNING OF THE ORANGE COUNTY JAIL. MY
2 JURISDICTION TO ACT IS LIMITED TO THOSE INSTANCES WHERE IT
3 IS NECESSARY IN ORDER TO PROTECT RIGHTS.

4 IF WHAT IS BEING PROPOSED DOES NOT COME TO
11:06 5 FRUITION, RESPONDENT SHOULD NOT BE UNDER ANY ILLUSION
6 ABOUT THE COURT'S DETERMINATION TO THEN MAKE SUCH FURTHER
7 ORDERS AS MAY BE NECESSARY TO ACHIEVE WHAT HAS NOT BEEN
8 SELF-ACHIEVED.

9 I AM GOING TO GIVE THE RESPONDENT TWO WEEKS.
11:07 10 I ACCEPT THAT THERE HAVE BEEN SOME MATERIAL CHANGE IN
11 CIRCUMSTANCE WHICH WOULD ENABLE WITH PROPER FOCUS AND
12 CREATIVE THINKING, TO MOVE THIS POPULATION AROUND IN SUCH
13 MANNER THAT WHAT HAS BEEN THE GOAL FROM THE OUTSET, WHICH
14 IS 50 PERCENT HOUSING IN THOSE HOUSING UNITS THAT CONTAIN
11:07 15 SUSCEPTIBLE INMATES, BE ACHIEVED.

16 I KNOW RESPONDENT IS AWARE OF THIS BECAUSE
17 IT WAS JUST ALLUDED TO. DR. CHIANG FROM THE ORANGE COUNTY
18 HEALTH AGENCY, WHO PROVIDED THE IMPORTANT AND INDEED
19 CRITICAL RECOMMENDATIONS BACK IN MARCH OF LAST YEAR,
11:07 20 TESTIFIED TO THE COURT THAT HIS 50 PERCENT WAS INDEED
21 BASED ON NEEDING TO SKIP EVERY SECOND BED BECAUSE
22 OTHERWISE, THE SOCIAL DISTANCING WAS SIMPLY NOT
23 ACHIEVABLE.

24 AT THE END OF THAT TWO-WEEK PERIOD, THE
11:08 25 SHERIFF IS TO FILE WITH THE COURT, THE CURRENT CHART AS OF
26 THAT DATE, OR AS CLOSE TO IT AS POSSIBLE. I REALIZE THAT

1 IF THE HEARING IS ON A FRIDAY, FOR EXAMPLE, IT CANNOT BE
2 LITERALLY TO THE SECOND. BUT AN UPDATED CHART, SHOWING
3 THE OCCUPATION AS OF THAT DATE OF THESE VARIOUS CELLS.

4 RESPONDENT IS DIRECTED TO REVIEW THE FILING
11:08 5 TODAY BY THE PETITIONERS CONCERNING THE CELLS AND THE
6 RATED CAPACITY, PARTICULARLY FOCUSING ON WHAT WERE
7 IDENTIFIED AS TWO ADDITIONAL CELLS THAT DO NOT APPEAR TO
8 BE ACCOUNTED FOR. IF THEY WERE INADVERTENTLY OMITTED,
9 THEY ARE TO BE INCLUDED IN THIS CHART SO THAT WE HAVE THE
11:08 10 TOTAL POPULATION.

11 AND I WILL GIVE THE RESPONDENT THE
12 OPPORTUNITY HE IS REQUESTING TO EFFECTIVELY ORGANIZE AND
13 REORGANIZE THE POPULATION TO SHOW ME HOW, AT BOTTOM, THE
14 SOCIAL DISTANCING IS BEING ACHIEVED.

11:09 15 I AM NOT SETTING A -- IN A SENSE -- A FALSE
16 50 PERCENT RIGID LINE. IF THERE IS A CELL IN WHICH IT
17 IS -- I'M MAKING UP THESE NUMBERS -- 51 PERCENT THAT IS
18 NOT A VIOLATION OF WHERE THIS IS SUPPOSED TO GO, BUT IN
19 ANY PLACE WHERE THERE IS NOT AN ABILITY TO PROPERLY
11:09 20 SOCIALLY DISTANCE BY REASON OF THE REORGANIZATION, THE
21 SHERIFF IS GOING TO HAVE TO EXPLAIN WHY AND HOW THAT
22 REMAINS REASONABLE. I WILL AT THAT TIME FINALIZE ORDERS
23 FOR WHAT HAPPENS NEXT.

24 OBVIOUSLY, IF POSSIBLE, I WOULD LIKE TO
11:10 25 AVOID THE APPOINTMENT OF A SPECIAL MASTER, REQUIRING A
26 CASE BY CASE REVIEW. BUT IF THE RESPONDENT IS NOT GOING

1 TO GET THERE HIMSELF, NO OTHER MEASURES MAY BE -- THOSE
2 MEASURES MAY BE SIMPLY UNAVOIDABLE.

3 MR. DUNN: UNDERSTOOD.

4 THE COURT: IN TERMS OF WHAT IS GOING TO BE DONE
11:10 5 IN THE NEXT TWO WEEKS -- JUST ONE MOMENT, PLEASE.

6 FRIDAY, THE 12TH OF FEBRUARY AND MONDAY, THE
7 15TH OF FEBRUARY ARE BOTH COURT HOLIDAYS. THE COURT
8 CONTINUES THIS HEARING TO FEBRUARY 16 AT 10 A.M. VIA
9 COURTCALL.

11:12 10 THE RESPONDENT IS TO FILE AN UPDATED HOUSING
11 REPORT BY NOT LATER THAN FEBRUARY 12 OF 2021.

12 IN THAT UPDATED REPORT -- I GUESS THE SHORT
13 WAY OF SAYING IT IS -- THE REPORT NEEDS TO BE FULLY
14 SELF-EXPLANATORY AND NOT REQUIRE A LONG EXPLANATION --
11:12 15 EXPLANATORY EXPOSITION AT THE HEARING. PETITIONERS SHOULD
16 BE ABLE, BASED ON THE REPORT, TO UNDERSTAND PRECISELY WHO
17 IS HOUSED WHERE. IF THERE ARE POPULATION UNITS, FOR
18 EXAMPLE, IN EXCESS OF 50 PERCENT WHERE THE REASON THEY ARE
19 OVER 50 PERCENT IS BECAUSE THEY ARE MADE UP COMPLETELY OF
11:13 20 COVID-RECOVERED OR VACCINATED, ALL OF THAT SHOULD BE
21 TRANSPARENT FROM THE REPORT.

22 IF THERE IS ANY POPULATION THAT NEEDS
23 EXPLANATION BEYOND THE OBVIOUS -- USING THE CURRENT CHART,
24 FOR EXAMPLE -- IF IT'S AS STRAIGHTFORWARD AS THERE ARE 16
11:13 25 COVID-NAIVE HOUSED WITH 10 COVID-RECOVERED FOR A TOTAL OF
26 26 IN A 40 PERSON CELL, IF THAT'S ALL THERE IS TO IT, THEN

1 YOU DON'T NEED TO SAY ANYTHING ELSE. BUT IF THERE IS AN
2 EXPLANATION FOR ANY OF THOSE NUMBERS, THEY NEED TO BE IN
3 THE CHART AND NOT TO BE DELIVERED ORALLY AT THE HEARING,
4 SO THAT PETITIONERS CAN THEMSELVES PROPERLY PREPARE FOR
5 THE HEARING ON TUESDAY.

11:13

6 I DON'T WANT TO BE REPETITIVE -- I NEVER
7 ADMIRE THAT TRAIT IN COUNSEL AND I DON'T ADMIRE IT IN
8 MYSELF -- BUT MR. DUNN AND MISS WATSON, THE CLOCK IS
9 TICKING ON THIS ONE. THESE ARE NOT CREATED EXIGENCIES.
10 THERE IS NO LET-UP IN THE DANGER POSED BY COVID.

11:14

11 AND I AM GRANTING THE TWO WEEKS BOTH BECAUSE
12 WHAT IS BEING PROPOSED MAY INDEED BE -- IF NOT AN ENTIRE
13 SOLUTION -- A VERY SUBSTANTIAL PART OF ONE, AND BECAUSE
14 DESPITE A SIGNIFICANT OUTBREAK IN THE PUBLIC AT LARGE, THE
15 JAIL NUMBERS ARE -- I HATE TO USE THE WORD UNDER
16 CONTROL -- BUT AT A LEVEL WHERE I DO NOT CONCLUDE THAT I
17 NEED TO MAKE DAY-TO-DAY EMERGENCY ORDERS.

11:14

18 BUT BEYOND THIS EXTENSION, RESPONDENT SHOULD
19 NOT EXPECT TO BE REQUESTING ADDITIONAL TIME BECAUSE IN
20 SOME FASHION THEY'RE GOING TO GET THERE. BY THE NEXT
21 HEARING I WOULD EXPECT TO BE ISSUING FINAL ORDERS
22 CONCERNING THIS ASPECT OF THE CASE.

11:15

23 DOES -- DOES ANYBODY --

24 MS. KENDRICK: YOUR HONOR, MAY I --

11:15

25 THE COURT: -- NEED ANY FURTHER CLARIFICATION ON
26 ANY ISSUE?

1 MS. KENDRICK: YES, YOUR HONOR. PETITIONERS
2 WOULD LIKE TO BE HEARD ON SEVERAL PARTS OF THIS.

3 AS A THRESHOLD MATTER, WE ARE VERY CONCERNED
4 THAT IF COUNSEL'S PROPOSALS AND REPRESENTATIONS DO NOT
11:15 5 COME TO FRUITION IN THE NEXT TWO WEEKS, THAT THAT WILL
6 JUST SET US BACK ANOTHER TWO WEEKS. AND, THEREFORE, WE
7 SEE NO REASON WHY A COURT EXPERT ON THE POPULATION COULD
8 NOT BE APPOINTED NOW AND BEGIN WORKING CONCURRENTLY WITH
9 THE COUNTY.

11:15 10 SECOND, WE REQUEST THAT WE BE PROVIDED THE
11 SAME DUE PROCESS OPPORTUNITY TO OFFER REBUTTAL EXPERT
12 WITNESSES, YOUR HONOR, TO COUNTER DR. CHIANG'S TESTIMONY
13 THAT SOMEHOW RECOVERING FROM COVID MAKES SOMEBODY
14 AUTOMATICALLY IMMUNE.

11:16 15 MR. DUNN ALSO INDICATED AND STATED THAT THEY
16 CURRENTLY HAVE NO ACCESS TO VACCINES IN THE JAIL. THE
17 FACT THAT THERE'S NO ACCESS TO VACCINES AND GOVERNOR
18 NEWSOM HAS RECENTLY ANNOUNCED THAT THE STATE IS CHANGING
19 ITS VACCINATION SCHEDULE TO NO LONGER PRIORITIZE PEOPLE
11:16 20 WHO ARE INCARCERATED BUT TO GO SOLELY BY AGE IS ANOTHER
21 REASON WHY WE NEED TO CONTINUALLY AGGRESSIVELY PUSH FOR
22 DEPOPULATION.

23 MR. DUNN ALSO SAID THAT 472 PEOPLE HAVE BEEN
24 RELEASED SINCE DECEMBER 11TH. BUT THE VAST MAJORITY OF
11:16 25 THOSE PEOPLE WERE ALREADY AT THE END OF THEIR TERMS OR
26 WERE BEING RELEASED AS PART OF THE COURT PROCESS. MR.

1 HENNESSEY TESTIFIED LAST WEEK THAT ONLY 15 PEOPLE HAD BEEN
2 RELEASED SINCE THE COURT'S ORDER DUE TO THE CRITERIA FOR
3 EARLY RELEASES.

4 AND, AGAIN, WHILE THE COURT NOTED THAT
11:17 5 PERHAPS -- FOR LACK OF A BETTER WAY TO PUT IT -- THE
6 SILVER LINING OF THIS OUTBREAK IS THAT THERE IS NOW THIS
7 LARGE POPULATION OF PEOPLE WHO ARE OSTENSIBLY IMMUNE TO
8 COVID INFECTION BECAUSE THEY HAVE SURVIVED THE DISEASE,
9 THAT DOESN'T TAKE INTO ACCOUNT THAT THERE ARE NEW PEOPLE
11:17 10 COMING INTO THE JAIL EVERY SINGLE DAY. AND THE WAY TO
11 ACHIEVE HERD IMMUNITY IS NOT BY INFECTING PEOPLE WHO ARE
12 SITTING DUCKS IN A JAIL, BUT, RATHER, TO ROLL OUT
13 VACCINES.

14 THERE IS NO INDICATION THAT THEY ARE GOING
11:17 15 TO BE DOING VACCINES ANY TIME SOON BOTH BECAUSE OF WHAT
16 THE STATE POLICY CHANGE IS AND BECAUSE OF MR. DUNN'S
17 CONCESSION THAT THEY HAVE NO ACCESS TO VACCINES.

18 SO, AGAIN, WE STRONGLY REITERATE OUR
19 POSITION, THAT FIRST OF ALL, AN EXPERT SHOULD START BEGIN
11:17 20 WORKING IMMEDIATELY CONCURRENTLY WITH THIS TWO-WEEK PERIOD
21 FOR THEM. THAT WE BE ALLOWED THE OPPORTUNITY TO OFFER
22 REBUTTAL EXPERT WITNESSES TO TALK ABOUT RE-INFECTION. AND
23 THAT, AGAIN, THE COUNTY OFFER THIS RESHUFFLING PLAN IN
24 WRITING IMMEDIATELY TO BOTH THE COURT AND TO PETITIONERS'
11:18 25 COUNSEL TO REVIEW AND TO COMMENT ON.

26 FINALLY ,WE ARE CONCERNED THAT SWITCHING OUT

1 THIS HEARING UNTIL MONDAY AFTER PRESIDENT'S DAY IS, AGAIN,
2 TOO LONG. WE WOULD ASK THAT THE COURT ACTUALLY SET THE
3 NEXT STATUS HEARING FOR MAYBE THURSDAY, THE 11TH OR
4 WEDNESDAY, THE 10TH.

11:18

5 THANK YOU.

6 THE COURT: IN RESPONSE TO PETITIONERS' COMMENTS,
7 I ADD THE FOLLOWING:

11:19

8 I DO NOT WANT TO SET AN ARTIFICIALLY SHORT
9 DEADLINE IN TERMS OF THE REORGANIZATION THAT NEEDS TO TAKE
10 PLACE TO RE-HOUSE PRISONERS. I ACCEPT THE TESTIMONY AND
11 SUBMISSIONS PREVIOUSLY THAT WITHIN THE JAIL POPULATION, IT
12 IS NOT SIMPLY A CASE OF MOVING BODIES. IT IS ALSO
13 NECESSARY TO TAKE INTO ACCOUNT, CIRCUMSTANCES OF EACH
14 INMATE. THE EXAMPLE WAS USED TODAY OF SOMEBODY WHO HAS
15 DROPPED OUT OF A GANG AND IS AT RISK BECAUSE OF THAT.

11:19

16 SO, IT'S NOT JUST MOVING PEOPLE. IT IS
17 MAKING ON A PER INMATE BASIS, A DECISION AS TO WHERE THEY
18 CAN BE MOVED WITH REASONABLE SAFETY.

11:20

19 BECAUSE THE PETITIONERS HAVE THE NEW DATE
20 SQUARELY IN MIND AND BECAUSE PETITIONERS KNOW WHAT THE
21 THRUST OF WHAT IS BEING PROPOSED IS, IF PETITIONERS WISH
22 TO FILE ANY ADDITIONAL BRIEFS, FOR EXAMPLE, THAT MEDICAL
23 SCIENCE REFUTES THE NOTION THAT A COVID-RECOVERED PERSON
24 IS ANY LESS SUSCEPTIBLE -- I'M NOT SAYING THAT'S YOUR
25 POSITION, IT'S MY HYPOTHETICAL -- IF THERE IS CURRENT
26 ACCEPTABLE MEDICAL OPINION THAT COVID-RECOVERED IS SIMPLY

11:20

1 NOT A PROTECTION AGAINST RE-INFECTION, PETITIONERS MAY
2 FILE ANY SUPPLEMENTAL PAPERS THEY WISH ON THOSE ISSUES BY
3 NOT LATER THAN FEBRUARY 10. OBVIOUSLY FILE AND SERVE.

4 I WILL NOT APPOINT AN INTERIM SPECIAL
11:21 5 MASTER. THE POINT OF GIVING THIS TIME IS, IN THE FIRST
6 INSTANCE, TO GIVE RESPONDENT AN OPPORTUNITY TO COMPLY BY
7 MEANS OF HIS OWN REPOPULATION WITHIN THE JAIL. AND I,
8 ACCORDINGLY, DO NOT MAKE AN ORDER THAT THAT PERSON BE
9 APPOINTED IN THE MEANTIME.

11:21 10 I WILL ADD TO WHAT I PREVIOUSLY SAID, THE
11 FOLLOWING: BECAUSE I DON'T WANT TO MAKE PIECEMEAL INTERIM
12 ORDERS, THIS IS NOT AN ORDER DEPENDING ON THE OUTCOME TWO
13 WEEKS FROM NOW -- IT MAY WELL BECOME ONE -- BUT FOR THE
14 MOMENT I LEAVE IT AT THIS. RESPONDENT IS STRONGLY
11:22 15 ENCOURAGED -- INDEED URGED -- TO MIRROR THE CDCR APPROACH
16 TO INMATES ELIGIBLE FOR CONSIDERATION FOR RELEASE BY NOT
17 TREATING AS AUTOMATIC DISQUALIFIERS, PRIOR CONVICTIONS FOR
18 THE OFFENSES LISTED IN EXHIBIT F. THAT DOES NOT IMPLY A
19 RISK ASSESSMENT ABOUT PUBLIC SAFETY. IT IMPLIES, INSTEAD,
11:23 20 A CENSURE OF SOME KIND FOR PAST BAD BEHAVIOR, WITH THE
21 SUGGESTION THAT SUCH PERSONS ARE SOMEHOW NOT ENTITLED TO
22 THE EQUAL PROTECTION OF THE LAW.

23 IF A PROPER RISK ASSESSMENT TOOL IS USED --
24 SUCH AS THE ONE MOST RECENTLY IDENTIFIED -- AND THAT RISK
11:23 25 ASSESSMENT TOOL EVALUATES PRIOR CONVICTIONS, THAT IS A
26 DIFFERENT THING FROM THE NOTION THAT BECAUSE OF PRIOR

1 CONVICTIONS, THE PERSON SHOULD BE EITHER NOT CONSIDERED AT
2 ALL OR CONSIDERED SUSPICIOUSLY IN THE CONTEXT OF WHETHER
3 THEY INDEED TODAY POSE ANY SORT OF PUBLIC SAFETY RISK.

11:23 4 RESPONDENT IS STRONGLY ENCOURAGED AND URGED
5 IN LOOKING AT THE POPULATION DURING THIS NEXT TWO-WEEK
6 PERIOD AND IN MAKING RELEASE DECISIONS, TO MIRROR THE CDCR
7 APPROACH, RATHER THAN THE ONE CURRENTLY BEING ADOPTED.

8 WITH THOSE ADDITIONAL CLARIFICATIONS, THE
9 RULING WILL REMAIN THE SAME WITH RESPECT TO THE HEARING ON
11:24 10 FEBRUARY 16 AT 10 A.M., WITH THE FILINGS BY THE DATES
11 ALREADY SPECIFIED. AND WITH RESPECT TO THOSE DATES, I
12 WILL HAVE THE PETITIONERS GIVE NOTICE, PLEASE.

13 I THANK YOU ALL.

14 MR. FUNK: YOUR HONOR, THIS IS JOHN FUNK FROM THE
11:24 15 CITY OF SANTA ANA. MAY I BE HEARD BRIEFLY?

16 THE COURT: YOU MAY.

17 MR. FUNK: THANK YOU, YOUR HONOR.

18 I JUST WANTED TO NOTE THAT IN RESPONSE TO
19 THE CONCERNS THAT YOU HAD RAISED AT THE END OF THE STATUS
11:24 20 CONFERENCE ON JANUARY 25TH, THE CITY HAD FILED A BRIEFING
21 YESTERDAY AND SERVED ON ALL THE PARTIES. THAT BRIEFING
22 REFLECTS AUTHORITY THAT WE BELIEVE CONFERS JURISDICTION
23 UPON THE COURT TO INCLUDE SANTA ANA'S INPUT INTO ANY
24 RELEASE PLAN THAT MAY BE CONSIDERED AND APPROVED BY THE
11:25 25 COURT.

26 WHILE WE UNDERSTAND THAT THERE IS NO RELEASE

1 PLAN THAT IS BEING APPROVED TODAY AND THAT ALTERNATIVE
2 RELEASE MAY BE HAD IN THE FUTURE, I DID WANT TO STATE THAT
3 THE CITY'S CONCERNS REMAIN AND THAT WE WOULD STILL WISH TO
4 PROVIDE INPUT INTO ANY PLAN THAT IS CONSIDERED, IF THAT IS
5 THE CASE.

11:25

6 THE COURT: MR. FUNK, I DID RECEIVE THE BRIEF AND
7 I HAVE REVIEWED IT. THIS IS NOT A RULING, BUT ON MY
8 REVIEW OF THE BRIEF, IT DOES NOT INTRODUCE ANYTHING NEW
9 INTO WHAT I UNDERSTAND THE SCOPE OF MY POWER TO BE IN THE
10 CONTEXT OF A HABEAS OR WRIT OF MANDATE PROCEEDING.

11:26

11 THE CONUNDRUM INTRODUCED BY THE CITY'S
12 CONCERNS IS THAT IF THE SHERIFF IS NOT ABLE TO ARRANGE OR
13 ASSURE THE PARTICULAR HOUSING SITUATION OF A PARTICULAR
14 INMATE, THE INMATE GETS HELD IN THE SITUATION THAT
15 PETITIONERS ARE SEEKING RELIEF FROM.

11:26

16 SO, IT BECOMES SOMETHING OF A CIRCULAR
17 ARGUMENT THAT RESPONDENT MAKES A RELEASE DECISION. HE
18 THEN TAKES THE ADDITIONAL STEP OF TRYING TO UNDERSTAND
19 PRECISELY TO WHOM, TO WHERE, TO WHAT THE INMATE WOULD BE
20 RELEASED. AND IF THAT IS NOT SATISFACTORY, THE INMATE
21 STAYS IN HARM'S WAY.

11:27

22 I'M NOT PRETENDING TO KNOW THE ANSWER TO
23 THAT CONUNDRUM, BUT THAT IS THE PROBLEM POSED AND NOT ONE
24 THAT THE CITY'S BRIEF ADDRESSES, OTHER THAN PUTTING ON
25 RESPONDENT, THE OBLIGATION TO, ON THE ONE HAND, MAKE THE
26 RELEASE DECISION AND THEN ON THE OTHER HAND, EFFECTIVELY

11:27

1 ASSURE THE DESTINATION. AGAIN, NOT CLEAR TO ME THAT IN
2 THE CONTEXT OF WHAT I AM ADDRESSING, THIS IS NOT A LAWSUIT
3 ATTEMPTING TO ADDRESS CONDITIONS OUTSIDE OF THE JAIL IN
4 ANY PART OF THE COUNTY. THAT IS NOT A DILEMMA TO WHICH I
5 SEE AN OBVIOUS ANSWER.

6 MR. FUNK: THANK YOU, YOUR HONOR. I UNDERSTAND
7 THE POINT YOU'RE RAISING CERTAINLY. AND I BELIEVE -- AND
8 RESPECTFULLY SPEAKING -- THE ANSWER TO THAT CONUNDRUM, IF
9 YOU WILL, IS THAT THE COUNTY HAS VAST RESOURCES IN
10 ADDRESSING HOMELESSNESS, VAST RESOURCES FROM THE STATE,
11 AGREEMENTS WITH HOMELESS SERVICE PROVIDERS, SHELTERS OF
12 THEIR OWN.

13 SO, THE CITY WOULD RESPECTFULLY SUBMIT THAT
14 IT IS NOT AN UNREASONABLE BURDEN OR ONUS TO PLACE UPON THE
15 COUNTY, THE RESPONSIBILITY TO INQUIRE UPON HOUSING STATUS
16 OF ANY INMATE TO BE RELEASED AND TO SERVICE ANY HOMELESS
17 INMATE OR ANY INMATE WHO HAPPENS TO BE HOMELESS, USING THE
18 EXISTING MEANS AVAILABLE TO IT.

19 SO, THAT WOULD BE THE RESPONSE FROM THE
20 CITY. I DO BELIEVE WE STATED THAT IN THE PAPERS, OUR
21 BELIEF THAT THE COUNTY HAS THE RESOURCES AVAILABLE TO
22 ADDRESS THAT ISSUE.

23 I CERTAINLY UNDERSTAND HOW THE COURT FEELS
24 OR WHY THE COURT FEELS THAT THAT IS AN ISSUE. BUT IT IS
25 ONE THAT THE CITY BELIEVES CAN BE REASONABLY ADDRESSED BY
26 THE RESPONDENT.

1 THE COURT: IS THE COUNTY A PARTY TO THIS
2 LAWSUIT?

3 MR. FUNK: I'M SORRY, I SHOULD HAVE SAID THE
4 SHERIFF OR THE RESPONDENT.

11:29 5 MS. WATSON: YOUR HONOR, MAY I JUST RESPOND
6 BRIEFLY ABOUT THIS?

7 THE COURT: YES.

8 MS. WATSON: THIS IS KAYLA WATSON.

9 THE COUNTY IS NOT A PARTY TO THIS LAWSUIT.
11:29 10 AND THIS HOMELESS LITIGATION IS BEING HANDLED IN FEDERAL
11 COURT LITIGATION PRESENTLY.

12 MR. FUNK: THIS IS JOHN FUNK ONCE AGAIN.

13 YES, MISS WATSON, THAT IS CORRECT. THESE
14 ISSUES, HOWEVER, I WOULD SUBMIT, ARE DISCREET AND SEPARATE
11:29 15 FROM THOSE.

16 THE COURT: MR. FUNK, IN SHORT FOR THE MOMENT, I
17 HAVE RECEIVED YOUR BRIEF. AS I INDICATED A MOMENT AGO, I
18 AM NOT MAKING RULINGS BASED THEREON. THE REASONS I HAVE
19 EXPRESSED MY CONCERNS IS THAT IF THERE ARE FURTHER POINTS
11:30 20 TO BE MADE, GIVE YOU AN OPPORTUNITY TO THINK ABOUT THEM
21 AND MAKE THEM IN DUE COURSE. NO ADDITIONAL RULINGS ARE
22 ISSUING TODAY THAT WOULD IMPACT THIS.

23 SO, BOTH YOUR ARGUMENTS ARE DULY NOTED AND
24 THE AMICUS BRIEF HAS BEEN RECEIVED AND REVIEWED AND WILL
11:30 25 REMAIN UNDER REVIEW.

26 ANYTHING ELSE BEFORE WE DEEM THE MATTER

1 SUBMITTED AND CONTINUED?

2 MR. DUNN: NO, THANK YOU.

3 MR. FUNK: NO. THANK YOU, YOUR HONOR. THANK YOU
4 FOR THE OPPORTUNITY TO BE HEARD.

11:30

5 MS. WATSON: NO, YOUR HONOR.

6 THE COURT: ALL RIGHT. I THANK YOU ALL AND WE
7 ARE ADJOURNED.

8 MS. WATSON: THANK YOU, YOUR HONOR.

9 MS. KENDRICK: THANK YOU.

10

11 (AT 11:30 A.M. THE PROCEEDINGS WERE ADJOURNED
12 TO TUESDAY, FEBRUARY 16, 2021 AT 10:00 A.M.)

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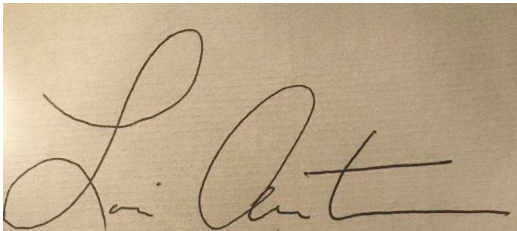
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STATE OF CALIFORNIA)
COUNTY OF ORANGE)

REPORTER'S CERTIFICATE

I, LORI ANASTASIOU, CSR NO. 4345, COURT REPORTER
PRO TEMPORE, IN AND FOR THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA, COUNTY OF ORANGE, DO HEREBY CERTIFY THAT THE
FOREGOING TRANSCRIPT CONSISTING OF PAGES 1 THROUGH 38, IS
A TRUE AND CORRECT TRANSCRIPT OF MY SHORTHAND NOTES IN THE
ABOVE-ENTITLED CASE.

DATED THIS 2ND DAY OF FEBRUARY, 2021.



LORI ANASTASIOU, CSR NO. 4345
OFFICIAL COURT REPORTER PRO TEMPORE