FILED
APR 19 2007
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARCIANO PLATA, et al.,

Plaintiffs,

v.

ARNOLD SCHWARZENEGGER, et al.,

Defendants.

NO. C01-1351 TEH

CLASS ACTION

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

United States District Court
For the Northern District of California

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

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

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

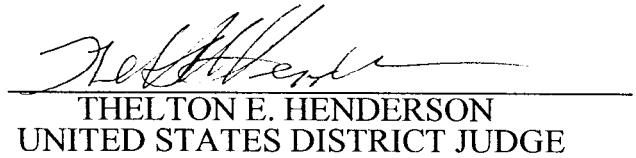
Pursuant to the Court's Order of February 14, 2006 at ¶ II(D), the Court sets forth the following procedure for consideration of this matter. All parties shall file their response to this motion no later than 21 days from the date of this Order. Given that the Governor of California is a named Defendant,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

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

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

IT IS SO ORDERED.

Dated: 4/18/07



THELTON E. HENDERSON
UNITED STATES DISTRICT JUDGE

United States District Court
For the Northern District of California