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 U.S. Court of Appeals for the Ninth Circuit
 95 Seventh Street
 San Francisco, CA 94103

Re: **Plata v. Newsom, Nos. 21-16696, 21-16816**
[Argued before Judges Christen, Bress, and Feinerman on March 15, 2022]

Dear Ms. Dwyer:

Oral argument in the above-referenced appeals was held before Judges Christen, Bress, and Feinerman on March 15, 2022. During the argument, the panel asked the parties if there was evidence in the record quantifying how much more effective a vaccination mandate for staff would be compared to existing mitigation measures. The Receiver submits this letter directing the Court's attention to a study¹ cited in the proceedings below, which states that "[v]accination was found to be effective in reducing household transmission of the alpha variant (B.1.1.7) by 40-50%, and infected, vaccinated individuals had lower viral load in the upper respiratory tract

¹ Anika Singanayagam, et al., *Community Transmission and Viral Load Kinetics of the SARS-CoV-2 Delta (B.1.617.2) Variant in Vaccinated and Unvaccinated Individuals in the UK: A Prospective, Longitudinal, Cohort Study*, *Lancet Infectious Diseases* (Oct. 2021). Attached as Exhibit B to the Request for Judicial Notice in Support of Defendants' Reply for Motion to Stay Order re: Mandatory Vaccinations (ECF No. 3684) Pending Appeal, the study is located at 2-ER-36 to 2-ER-28 (Case No. 21-16696) of the excerpts of record.

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(URT) than infections in unvaccinated individuals, which is indicative of reduced infectiousness.” 2-ER-37 (Case No. 21-16696) (footnotes omitted). The study also observed that for the “densely sampled household contacts exposed to the delta variant,” the secondary attack rate² was “38% in unvaccinated contacts and 25% in fully vaccinated contacts,” (an approximately 34% reduction), which is “consistent with the known protective effect of COVID-19 vaccination against infection.” 2-ER-45.

During oral argument, counsel for Defendants stated that CDCR’s current mitigation measures are working because, according to CDCR’s website, there was a period when case rates in CDCR facilities were at or below that of the California general population. The same site shows that during Omicron’s peak, CDCR was experiencing approximately 2.5 times the infection rate of the California general population. *See* Population COVID-19 Tracking, <https://www.cdcr.ca.gov/covid19/population-status-tracking/> (Trended, New 7 Day Average view for week of 1/24/22).

Thank you for bringing this letter to the attention of the panel.

Sincerely,



Brad D. Brian
Counsel for the Receiver J. Clark Kelso

² Secondary attack rate refers to the spread of disease in a household unit.