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CALIFORNIA CORRECTIONAL  
6 SUPERVISORS ASSOCIATION,  
and DR. JOHN ADAMO  
7

8 UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 CALIFORNIA CORRECTIONAL	)	Case No.
11 SUPERVISORS ORGANIZATION, and	)	
12 DR. JOHN ADAMO, an individual,	)	COMPLAINT FOR
	)	INJUNCTIVE RELIEF
13 Plaintiffs,	)	
	)	
14 v.	)	
	)	
15 MATTHEW CATE, Director, California	)	
Department of Corrections and Rehabilitation;	)	
16 DEBRA ENDSLEY, Director, California	)	
Department of Personnel Administration,	)	
	)	
17 Defendants.	)	

18 **I. NATURE OF ACTION**

19 1. In this action, Plaintiffs seek to put a halt to Defendants' planned elimination of  
20 the Chief Dentist position at all CDCR institutions. The elimination of licensed  
21 dentists qualified to manage CDCR dental operations will reduce dentist-to-  
22 patient ratios and prevent CDCR from providing the minimal level of dental care  
23 necessary to fulfill Defendant's obligations under the Eighth Amendment of the  
24 U.S. Constitution. It will also re-assign Chief Dentist administrative management  
25 duties to non-licensed personnel. Only licensed dentists are qualified to manage  
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1 dental practices pursuant to the California Dental Practice Act. An injunction  
2 protecting the status quo is necessary to prevent the likely irreparable harm  
3 described herein.

4 **II. JURISDICTION**

5 2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1367.

6 **III. INTRADISTRICT ASSIGNMENT**

7 3. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the  
8 events giving rise to Plaintiffs' claims occurred within the Northern District of  
9 California. Actions giving rise to venue of this case in the Northern District of  
10 California occurred in Monterey County. Accordingly, pursuant to Local Rule 3-  
11 2(c), this case arises in the San Francisco Division.

12 **IV. PARTIES**

13 **A. Plaintiffs**

14 5. Plaintiff California Correctional Supervisors Organization (CCSO) is a non-profit  
15 corporation organized and existing under the laws of the State of California. It is  
16 a duly recognized representative for excluded employees (supervisors and  
17 managers) employed by the California Department of Corrections and  
18 Rehabilitation regarding the terms and conditions of their employment. Included  
19 among its members are approximately 20 chief dentists who are affected by the  
20 actions of Defendants described herein. The questions involved in this action  
21 effect CCSO members in their roles as correctional managerial employees,  
22 including but not limited to their employment and opportunities for employment.  
23 Plaintiff CCSO and its affected members are therefore beneficially interested in  
24 Defendants' faithful performance of the legal duties at issue.

25 6. Plaintiff DR. JOHN ADAMO is a Chief Dentist employed by Defendant at  
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1 Salinas Valley State Prison in Soledad, California. DR. ADAMO is licensed to  
2 practice dentistry by the State of California, and as such is bound by the laws  
3 governing the practice of dentistry in California. DR. ADAMO is beneficially  
4 interested in providing adequate dental care as required by California law and the  
5 Eighth Amendment to the U.S. Constitution.

6 B. Defendants

7 7. Defendant MATTHEW CATE (CATE) is the Director of the California  
8 Department of Corrections and Rehabilitation (CDCR) and is sued herein in that  
9 capacity. CATE has the responsibility of carrying out CDCR's duties, including  
10 but not limited to providing constitutionally adequate dental care as required by  
11 the Eighth Amendment to the U.S. Constitution and California laws.

12 8. Defendant DEBRA ENDSLEY (ENDSLEY) is Director of the California  
13 Department of Personnel Administration (DPA) and is sued herein in that  
14 capacity. DPA represents the Governor as the "employer" in all matters  
15 pertaining to California State personnel employer-employee relations. DPA is  
16 responsible for all issues related to salaries and benefits, job classifications, and  
17 training. ENDSLEY has the responsibility of carrying out DPA's duties,  
18 including but not limited to assigning personnel in order to provide  
19 constitutionally adequate dental care as required by the Eighth Amendment to the  
20 U.S. Constitution and California law.

21 V. CLAIM FOR RELIEF

22 9. Defendant CATE, as CDCR Director, is subject to the Amended Stipulated  
23 Agreement in *Perez v. Cate*, case number 3:05-CV-05241-JSW currently pending  
24 in this Court.

25 20. The *Perez v. Cate* Amended Stipulated Agreement requires CDCR to implement  
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1 dental policies and procedures designed to meet at least the minimum level of  
2 dental care necessary to fulfill CDCR's obligations under the Eighth Amendment  
3 of the U.S. Constitution.

- 4 21. The *Perez v. Cate* Amended Stipulated Agreement requires CDCR to develop  
5 policies and procedures to, among other things, hire and train necessary dental  
6 personnel, and audit compliance with the Policies and Procedures according to  
7 the *Perez v. Cate* implementation plan.
- 8 22. In 2008, a statewide study to determine staffing needs related to the *Perez v. Cate*  
9 Amended Stipulated Agreement was performed. The statewide study determined  
10 CDCR needed to hire additional licensed dentists in order to provide the  
11 minimum level of dental care necessary to fulfill CDCR's obligations under the  
12 Eighth Amendment of the U.S. Constitution. As a result, CDCR hired additional  
13 licensed dentists to meet said obligations.
- 14 23. In September, 2009, DPA announced its intent to eliminate the Chief Dentist  
15 position at all CDCR institutions effective January 31, 2010. The Chief Dentist is  
16 responsible for, among other things, administrative and clinical duties necessary  
17 to manage dental health care provided to all inmates at each institution.
- 18 24. CDCR announced its intent to re-assign the Chief Dentist administrative duties to  
19 a non-licensed Health Program Manager III, and the clinical duties to the  
20 Supervising Dentist.
- 21 25. The training, knowledge and experience of a licensed dentist is required to  
22 adequately perform the CDCR Chief Dentist administrative duties.
- 23 26. Further, California law prohibits non-licensed personnel to manage dental  
24 operations. (Cal. Bus. & Prof. Code § 1625(e).) Requiring dentists to work with  
25 non-licensed personnel performing dental operations management duties will  
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1 expose dentists to discipline by the California Dental Board for aiding an  
2 unlicensed person to practice dentistry. (Cal. Bus. & Prof. Code § 1680(c).)

3 **V. PRAYER FOR RELIEF**

- 4 1. For a preliminary and permanent injunction enjoining Defendants CATE and ENDSLEY,  
5 their agents, employees and all persons acting in concert with them, from eliminating the  
6 Chief Dentist position at CDCR.
- 7 2. For an award of costs of this suit, reasonable attorneys fees and litigation expenses.
- 8 3. For this Court to retain jurisdiction of this case until Defendants have fully complied  
9 with the orders of this Court, and there is a reasonable assurance that Defendants will  
10 continue to comply in the future absent continuing jurisdiction; and
- 11 4. An award of such other and further relief as the Court deems just and proper.

12  
13 Dated: November 25, 2009

Respectfully submitted,  
THE MARTINEZ LAW FIRM

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16 By: \_\_\_\_\_  
17 KELLEY STIMPEL MARTINEZ  
18 Attorney for Plaintiffs  
19 CALIFORNIA CORRECTIONAL SUPERVISORS  
20 ORGANIZATION, and DR. JOHN ADAMO  
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