

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

James and Lorie Jensen, as parents, guardians,
and next friends of Bradley J. Jensen; James
Brinker and Darren Allen, as parents,
guardians, and next friends of Thomas M.
Allbrink; Elizabeth Jacobs, as parent, guardian,
and next friend of Jason R. Jacobs; and others
similarly situated,

Civil No. 09-1775 (DWF/BRT)

Plaintiffs,

v.

ORDER

Minnesota Department of Human Services,
an agency of the State of Minnesota; Director,
Minnesota Extended Treatment Options, a
program of the Minnesota Department of
Human Services, an agency of the State of
Minnesota; Clinical Director, the Minnesota
Extended Treatment Options, a program of
the Minnesota Department of Human Services,
an agency of the State of Minnesota; Douglas
Bratvold, individually and as Director of the
Minnesota Extended Treatment Options, a
program of the Minnesota Department of Human
Services, an agency of the State of Minnesota;
Scott TenNapel, individually and as Clinical
Director of the Minnesota Extended Treatment
Options, a program of the Minnesota Department
of Human Services, an agency of the State of
Minnesota; and the State of Minnesota,

Defendants.

Shamus P. O'Meara, Esq., and Mark R. Azman, Esq., O'Meara Leer Wagner & Kohl,
PA, counsel for Plaintiffs.

Scott H. Ikeda, Aaron Winter, Anthony R. Noss, and Michael N. Leonard Assistant Attorneys General, Minnesota Attorney General's Office, counsel for State Defendants.

A Biannual Status Conference is scheduled for April 16, 2019 at 1:30 p.m., in Courtroom 7C, Warren E. Burger Federal Building and United States Courthouse, 316 North Robert Street, St. Paul, Minnesota, before Judge Donovan W. Frank and Magistrate Judge Becky R. Thorson.¹ ([Doc. No. 707.](#)) The Status Conference will address the *Jensen* Settlement Agreement (“JSA”), the Comprehensive Plan of Action (“CPA”), and the *Olmstead* Plan.

The last Biannual Status Conference in this matter was held on July 12, 2018. ([Doc. No. 692.](#)) Since then, multiple relevant items have been submitted to the Court. With respect to the JSA and CPA, Defendants have filed a Semi-Annual Compliance Report and a comprehensive Summary Report.² (*See* Doc. Nos. 700, 710.) With respect to the *Olmstead* Plan, Defendants have filed two Quarterly Reports, an Annual Report, and the March 2019 Revision to the *Olmstead* Plan. (*See* Doc. Nos. 705, 706, 708, 725.)

Based upon the entire record before the Court, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

¹ Please note that the location of the Biannual Status Conference has changed. It will now be held in Courtroom 7C as opposed to the seventh floor conference room.

² In lieu of the Semi Annual and Annual Compliance Reports due on February 28, 2019 and March 31, 2019 respectively, the Court ordered Defendants to submit a single comprehensive report assessing the overall impact of the *Jensen* lawsuit on class members' lives and a status report of the ECs contained in the Comprehensive Plan of Action. ([Doc. No. 707.](#))

ORDER

The Court's agenda for the April 16, 2019 Status Conference is outlined below. No later than Friday, April 12, 2019, the parties or the Consultants may submit additional proposed agenda items for the Court's consideration.

1. **Call to Order**
2. **Introductions**
3. **Overview by the Court**
4. ***Olmstead* Plan Implementation³**
 - a. Defendants shall report on the current status of the *Olmstead* Plan's implementation in light of the following reports which have been submitted to the Court since the July 12, 2018 Status Conference:
 - i. *Olmstead* Subcabinet Quarterly Report on *Olmstead* Plan Measurable Goals, Reporting Period: Data Acquired Through October 31, 2018 (filed on November 27, 2018). ([Doc. No. 705.](#))
 - ii. *Olmstead* Subcabinet Annual Report on *Olmstead* Plan Implementation, Reporting Period: Data Acquired Through October 31, 2018 (filed on December 24, 2018). (Doc. No. 706.)

³ Although it is identified separately here for the purpose of status review, the Court notes that the "Olmstead Plan Implementation" is required by the Comprehensive Plan of Action (EC 79) and subsequent court orders.

iii. *Olmstead* Subcabinet Quarterly Report on *Olmstead* Plan Measurable Goals, Reporting Period: Data Acquired Through January 31, 2019 (filed on February 27, 2019). ([Doc. No. 708.](#))

- b. To accomplish item 4.a., Defendants shall identify individuals with knowledge to report on actions they have completed or efforts they have made with respect to the *Olmstead* goals, along with presentations by Defendants' counsel, if any.
- c. The Court also seeks a thorough presentation on the Quality of Life Survey results and the First Follow-Up Quality of Life Study results, including public response to the results, continued areas of concern, and next steps in the process.
- d. Following Defendants' presentation on the *Olmstead* Plan, Plaintiffs' Class Counsel and the Consultants may provide comments or observations on these topics.

5. ***Olmstead* Plan – March 2019 Revision**

- a. Defendants shall report to the Court on the revised *Olmstead* Plan. ([Doc. No. 725.](#)) Defendants shall identify the amendments included in this version of the *Olmstead* Plan, explain the rationale for these amendments, including any adjustment to goals, and describe how public input was incorporated into the changes.

- b. Following Defendants' presentation of item 5.a., above, Plaintiffs' Class Counsel and the Consultants may provide comments or observations on this [topic](#).

[6.](#) Brief Recess

7. *Jensen Settlement Agreement & Comprehensive Plan of Action*

- a. Defendants shall report on the current status of compliance with the *Jensen Settlement Agreement* ("JSA") and Comprehensive Plan of Action ("CPA") in light of the following reports which have been submitted to the Court since the July, 2018 Status Conference, but with particular emphasis on the March 2019 Summary Report:

- i. *Jensen Settlement Agreement Comprehensive Plan of Action* (CPA) August 2018 Semi-Annual Compliance Report, Reporting Period January 1, 2018 – June 1, 2018 (filed on August 31, 2018). ([Doc. No. 700.](#))
- ii. *Jensen Settlement Agreement Comprehensive Plan of Action* (CPA) March 2019 Summary Report (filed on March 19, 2019). (Doc. Nos. 710, 712, 717-23.)

- b. To accomplish item 7.a., Defendants shall identify individuals with knowledge to report on actions they have completed or efforts they have made, along with presentations by Defendants' counsel, if any.
- c. In reporting to the Court on item 7.a., Defendants shall identify notable areas of success and areas in need of improvement.

Defendants shall specifically address the following concerns and describe actions that will be taken to improve performance before December 2019: (1) external verification of compliance; (2) documentation of use of data to inform policy decisions, and documentation of any such policy decisions, specifically with respect to: (a) wait times for admission to MLB housing; (b) wait times for movement to community placements after placement criteria have been met; and (c) under EC 88, the needs assessment(s) regarding the number of treatment homes; (3) continued use of restraint and seclusion, and documentation supporting compliance with EC 104; (4) the use of person-centered planning; and (5) the electronic data management system to track all information relevant to abuse/neglect investigations.

- d. Following Defendants' presentation on the JSA and CPA, Plaintiffs' Class Counsel and the Consultants may provide comments or observations on these topics.

8. **Plaintiffs' request for an evidentiary hearing and involvement of the Court Monitor. ([Doc. No. 728.](#))**

9. **Next Steps.**

Date: April 9, 2019

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge