

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,

Plaintiffs,

vs.

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
State of Minnesota,

Defendants.

Court File No.: 09-CV-1775 DWF/FLN

HEARING ORDER

This matter came before the Court on the Parties' Settlement Agreement ("Agreement"), dated June 23, 2011, together with the exhibits and attachments

accompanying the Agreement, setting forth the terms and conditions for a settlement and dismissal of this matter with prejudice.

IT IS HEREBY ORDERED AS FOLLOWS:

1. Pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3), the Court conditionally certifies the following Settlement Class for settlement purposes only:

All individuals who were subjected to the use of Aversive and Deprivation Procedures including Restraints or Seclusion of any kind for any reason and/or any type of seclusion method while a resident at the Minnesota Extended Treatment Options program at any time(s) from July 1, 1997 through May 1, 2011. Settlement Class or Class Member does not include any individual who has properly and effectively requested exclusion from the Settlement Class.

For purposes of settlement only, the Named Plaintiffs are conditionally appointed as Settlement Class Representatives.

2. In preliminarily certifying the Class for settlement purposes, the Court expressly finds that the requirements of Fed. R. Civ. P. 23(a) and 23(b)(3) are satisfied because: (a) the Class is so numerous that joinder of all members is impractical; (b) there are questions of law and fact common to all members of the Class; (c) the claims or defenses of the Settlement Class Representatives are typical of the claims or defenses of the members of the Class; (d) Settlement Class Representatives will fairly and adequately protect the interests of the members of the Settlement Class; (e) common questions of law and/or fact predominate over questions affecting only individual Settlement Class Members; and (f) a class action is superior to all other available methods for fair and efficient adjudication of the controversy.

3. Pursuant to Fed. R. Civ. P. 23(g), the court finds that Plaintiffs' Counsel is qualified to represent the Class and is hereby appointed as Settlement Class Counsel.

4. Subject to final determination following a hearing after notice to the Settlement Class, the Court preliminarily approves the settlement as outlined in the Agreement as fair, reasonable, and adequate.

5. Pursuant to Fed. R. Civ. P. 23(e), a fairness hearing (the "Fairness Hearing") shall be held before this Court, at 10:00 A.M. on December 1, 2011, at the United States District Court for the District of Minnesota, in Courtroom 724, 316 North Robert Street, St. Paul, MN 55101, to determine (a) whether the requirements for certification of the Settlement Class have been met; (b) whether the proposed settlement on the terms and conditions provided for in the Agreement is fair, reasonable, and adequate and should be approved by the Court; and (c) whether and in what amounts fees and expenses shall be awarded to Plaintiffs' Counsel from the Settlement Fund.

6. The Court approves, as to form and content, the Notice of Pendency and Proposed Settlement in Pending Class Action (the "Notice"), as well as the Request for Exclusion ("Opt Out"), and the Proof of Claim Forms (the "Claim Form"), attached to the Agreement as Exhibits 1, 2, and 3 respectively, and finds that the mailing, distribution, and publication of the Notice and Summary Notice substantially in the manner and form set forth in this Order meets the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United States, and any other applicable law, and is the best notice practicable under the circumstance and shall constitute due and sufficient notice to all members of the Settlement Class.

7. Upon entry of the final Court Judgment, DHS will reimburse Settlement Class Counsel for the reasonable costs associated with the notice of the proposed Settlement to the Class Members, in the form approved by the Court, as required by Fed. R. Civ. P. 23(e).

8. Settlement Class Counsel shall administer the notice procedure and the process of claims as more fully set forth below:

(a) Not later than seven (7) days after the date of this order, Settlement Class Counsel shall cause a copy of the Notice, Request for Exclusion (“Opt Out”), and Claim Form, substantially in the forms attached to the Agreement as Exhibits 1, 2, and 3, along with sufficient information regarding the Class Member’s experience with seclusion or restraint to help the Class Member or legal representative understand the proposed settlement, to be mailed by United States certified mail (return card requested) to all Class Members, their guardians, if any, and, a contact person or family member, if known, at the addresses found on the individual Class Member’s records in the possession of METO and DHS, electronic verification of which has been provided to Plaintiffs’ Counsel, or other address provided by the Post Office, the Class Member, or otherwise as described in relevant records. Settlement Class Counsel will use reasonable efforts to locate individuals whose Notice and Claim Forms are returned undeliverable.

(b) Along with any papers filed by Settlement Class Counsel in support of the Settlement pursuant to paragraph 15 below, Settlement Class Counsel shall serve on Defendants’ Counsel and file with the Court proof, by affidavit or declaration, of such mailing.

9. All Settlement Class Members who wish to exclude themselves from the Settlement Class (“opt-out”) must submit a written request to be excluded in the manner and containing all information described in the Notice. To be timely, any request for exclusion must be in writing and postmarked on or before September 1, 2011.

10. All Settlement Class Members who have requested exclusion in the time and manner set forth in the Notice shall be excluded from participating in the Settlement or Settlement payments and shall not be bound by any orders and judgments in this matter, whether favorable or unfavorable to the Settlement Class.

11. Settlement Class Members who wish to apply to participate in the Settlement Payment must complete and timely submit a Claim Form in accordance with the instructions contained therein. Every Claim Form must be sent to Settlement Class Counsel and postmarked on or before September 15, 2011. Notwithstanding the foregoing, Settlement Class Counsel may, at their discretion, accept late claims so long as the distribution of the Settlement Fund to authorized Claimants is not materially delayed thereby.

12. Any Settlement Class Member may enter an appearance in this matter, at his or her own expense, individually or through counsel of his or her own choice. Any Settlement Class Member who does not enter an appearance will be represented by Settlement Class Counsel.

13. Any Settlement Class Member who has not requested exclusion may appear at the Fairness Hearing with or without Counsel, after filing a Notice of Intention to Appear as outlined in the Notice. A Settlement Class Member who has provided such

notice may show cause why the Settlement Agreement should not be approved as fair, reasonable, and adequate, or why Judgment should not be entered thereon, or why attorneys' fees and expenses should not be awarded to Plaintiffs' Counsel, or why the plan for allocation of the Settlement Fund should not be approved. Settlement Class Members may also submit objections to the Court in writing, as provided in the Notice.

Any Settlement Class Member who does not make an objection in the time and manner provided in the Notice shall be deemed to have waived such objection, shall be bound by the terms of the Order approving the Settlement Agreement, and shall be foreclosed forever from making any objection to the fairness or adequacy of the settlement or the award of attorneys' fees and expenses to Plaintiffs' Counsel, unless otherwise allowed by the Court.

14. An Order dismissing this case and approving the Settlement Agreement shall have a binding effect on all Class Members who do not timely request exclusion, whether or not they file a Claim form, and whether or not they receive a Settlement Payment.

15. All papers in support of the Settlement Agreement and any application for attorneys' fees and expenses shall be filed at least thirty (30) days prior to the Fairness Hearing.

16. The Court reserves the right to continue or adjourn the Fairness Hearing and any adjournment thereof, and to modify the terms of the Settlement, without further notice to Settlement Class Members and retain jurisdiction to consider all further applications arising out of or connected with the proposed settlement.

IT IS SO ORDERED.

Dated: June 23, 2011

s/Donovan W. Frank
The Honorable Donovan Frank
United States District Court Judge

CLASS ACTION EXHIBIT 4