

**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/FLN)

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 State of Minnesota,

Defendants.

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M. Ann Mullin, Esq., Mark R. Azman, Esq., and Shamus P. O'Meara, Esq., Johnson & Condon, PA, counsel for Plaintiffs.

P. Kenneth Kohnstamm and Steven H. Alpert, Assistant Attorneys General, Minnesota Attorney General's Office, counsel for State Defendants.

Samuel D. Orbovich, Esq., and Christopher A. Stafford, Esq., Fredrikson & Byron, PA, counsel for Defendant Scott TenNapel.

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The above referenced matter came before this Court for a status conference. All parties appeared through counsel of record. After reviewing this matter with counsel and considering all submissions, the Court hereby issues the following:

### **ORDER**

The Stipulated Class Action Settlement Agreement [Doc. No. 104] at Section XVII(F) provides that “[a]fter the Court has an opportunity to discuss the Settlement with any individual who returns a Request for Exclusion (“Opt-Out”), the Court will ascertain the final list of Opt-Outs and provide the final list to the parties.” The Court has discussed the Settlement with the guardians for several former METO residents who returned a Request for Exclusion form. The Court also has substantively discussed the Notice process with all counsel and has received regular updates concerning the Notice process from Settlement Class Counsel with copies to all counsel. Based on these discussions and all submissions herein, the Court determines and orders that the Final List of Opt-Outs are those individuals identified in Exhibit 1 to this Order.

Under Section IV of the Notice of Pendency and Proposed Settlement of Class Action [Doc. No. 105] and Paragraph 9 of the Hearing Order [Doc. No. 102], any Class Member who wanted to be excluded from the Class must have submitted a Request for Exclusion form to Settlement Class Counsel postmarked no later than September 1, 2011. The Court finds that three individuals listed on Exhibit 2 to this Order submitted Request for Exclusion forms after the September 1, 2011, deadline. Because these individuals did not timely submit their Request for Exclusion form as required by the Stipulated Class Action Settlement Agreement it is hereby determined and ordered that they shall remain in the Class.

Settlement Class Counsel shall deliver or mail a copy of this Order by personal service or certified mail to the three Class Members listed on Exhibit 2. This Order shall be accompanied by a new Claim Form. Within seven business days following their receipt of this Order, those Class Members may, in their discretion, submit a Claim Form to Settlement Class Counsel, who shall forward it to the Court and counsel for all parties with a Supplemental Apportionment of Settlement Funds prepared by Settlement Class Counsel.

**IT IS SO ORDERED.**

Dated: November 17, 2011

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