

**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.

Margaret Ann Santos, 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.

On August 24, 2011, pursuant to authorization by the Court, Plaintiffs' counsel in the above-entitled matter issued a check from the law firm's Trust Account in the amount of \$192,966.67. The check was made payable to the United States District Court Clerk of Court.

The \$192,966.67 was established pursuant to the Stipulated Class Action Settlement Agreement approved by this Court and filed on December 5, 2011. (Doc. No. 136.) Specifically, pursuant to paragraph XIV.A.4.:

To the extent any portion of the Settlement Amount, less amounts for attorneys fees, costs and disbursements, are not distributed to the Plaintiffs and the Class, such portion shall be distributed equally to three programs for people with developmental disabilities and their families, to be jointly recommended to the Court by Colleen Wieck, Executive Director, Minnesota Governor's Council on Developmental Disabilities, and Anne Barry, Deputy Commissioner, DHS.

Also, paragraph XIV.F. authorized the Court to pay any advising counsel from the settlement amount proceeds up to fifty thousand dollars (\$50,000) for the reasons specified in the Settlement Agreement.

Consequently, the \$192,966.67 represents the following designated amounts:

Up to \$50,000 for the Court-appointed monitor;

\$12,200 which permits the Court, pursuant to a Court order, to issue a settlement check to Joseph Marvin once the Court receives and has approved, pursuant to the requirements of the Settlement Agreement, a

letter from the Marvins, which is required before the settlement funds can be released; and

The remainder, or \$130,766.67, to be designated as *cy pres* funds for educational programs to benefit individuals with developmental disabilities and their families, consistent with XIV.A.4., as noted above.

On October 2, 2012, the Court met with representatives of the Minnesota Department of Human Services; Deputy Commissioner Anne Barry; Colleen Wieck, Ph.D., Executive Director of the Minnesota Governor's Council on Developmental Disabilities; and Bill Hanley, Vice President, Public Engagement & Strategic Partnerships, Twin Cities Public Television ("TPT"). The purpose of the meeting was to discuss paragraph XIV.A.4. of the Settlement Agreement relating to the utilization of *cy pres* funds to benefit individuals with developmental disabilities and their families. The program that has been selected and approved by all parties before the Court is a request to TPT to lead an initiative to address the concerns and issues alleged in the 2009 Stipulated Class Action Settlement Agreement before the Court, with the primary focus and purpose to be educating the public on the life conditions facing Minnesota's citizens with developmental disabilities, including, but not limited to, creating a broadcast/online media project devoted to the stereotyping, discrimination, and future opportunities affecting individuals with developmental disabilities and, in so doing, to educate the public to improve the lives of individuals with developmental disabilities. TPT has agreed, consistent with the intent of the stipulation that established the *cy pres* funds, to consult closely with affected residents and relevant experts in shaping the initiative. Moreover, TPT, as stated, will make every effort to assign to this important project the

same key staff that led the earlier “Institutions to Independence” project. TPT has also agreed to regularly communicate their progress to the Court, Deputy Commissioner Barry, and Ms. Wieck.

The Court finds and concludes that the project that has been selected and agreed to by the Department of Human Services and the Minnesota Governor’s Council on Developmental Disabilities will not only fulfill and comply with the intent and express language of the Settlement Agreement and the previous orders of this Court, but, in so doing, will give true meaning to the words “Equal Justice Under Law.” The public interest and the interests of justice will truly be served by this project.

Based upon the submissions of the parties and the Stipulated Class Action Settlement Agreement, and for the reasons stated above, the Court hereby enters the following:

ORDER

1. The Clerk of United States District Court for the District of Minnesota is hereby authorized to remit to Twin Cities Public Television (“TPT”), Attention: Bill Hanley, Vice President, Public Engagement & Strategic Partnerships, Twin Cities Public Television, 172 East Fourth Street, St. Paul, MN 55101, the sum of \$130,766.67.

2. **Distribution.** This Order shall be e-filed with additional courtesy copies provided to:

Bill Hanley
Vice President, Public Engagement & Strategic Partnerships
Twin Cities Public Television
172 East Fourth Street
St. Paul, MN 55101

and

Colleen Wieck, Ph.D., Executive Director
The Minnesota Governor's Council on Developmental Disabilities
370 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Dated: October 18, 2012

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