



# STATE OF MINNESOTA

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April 14, 2017

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## VIA ELECTRONIC FILING

The Honorable Donovan W. Frank  
U.S. District Court Judge, District of Minnesota  
United States District Court  
724 Warren E. Burger Federal Building  
and U.S. Courthouse  
316 North Robert Street, Suite 724  
St. Paul, MN 55101

**Re: *James and Lori Jensen, et al. v. Minnesota Department of Human Services, et al.***  
**U.S. District Court File No. 09-CV-01775-DWF-BRT**

Dear Judge Frank:

I represent the State Defendants in this matter. I write in connection with the Court's request for a briefing schedule on whether it has jurisdiction in this matter, Doc. 626, and in response to an email from the Court asking the parties to "indicat[e] their lack of agreement and their respective positions on the briefing schedule."

The parties discussed a potential briefing schedule by phone on Tuesday, April 11. During that call, State Defendants initially proposed a briefing schedule that required them to file a brief within two weeks, Plaintiffs' response two weeks thereafter, and State Defendants' reply within one week. Plaintiffs' counsel said that he was in trial in May (beginning May 1) and out of the country during the month of June, so Plaintiffs would not agree to a briefing schedule before mid-July. I informed Mr. O'Meara that State Defendants were not willing to agree to delay briefing on jurisdiction for three months. State Defendants noted their flexibility to provide additional time to Plaintiffs following submission of their brief, but Plaintiffs were unwilling to agree to a date before July 2017.

State Defendants suggest that the Court adopt the following schedule:

- State Defendants' opening brief: April 28, 2017
- Plaintiffs' opposition brief: May 12, 2017
- State Defendants' reply brief: May 19, 2017.

State Defendants are open to a reasonable extension of the time within which Plaintiffs may respond, but object to the three month delay proposed by Plaintiffs, especially given the jurisdictional issue to be considered by the Court.

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As the Court knows, whether it has jurisdiction is a threshold issue in any case. Federal courts, as courts of limited jurisdiction, have an independent obligation to ensure they have jurisdiction. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006) (“[C]ourts, including this Court, have an independent obligation to determine whether subject matter jurisdiction exists, even in the absence of a challenge from any party.”); *Ferrari v. Best Buy Co., Inc.*, No. 14-2956 (DWF/FLN), 2016 WL 5508818, at \*2 (D. Minn. Sept. 28, 2016) (“Even in the absence of a challenge from any party, courts have an independent obligation to determine whether subject matter jurisdiction exists.”). As such, the Court should address questions of jurisdiction as soon as possible. *Univ. of S. Alabama v. Am. Tobacco Co.*, 168 F.3d 408, 409–10 (11<sup>th</sup> Cir. 1999) (“[A] court should inquire into whether it has subject matter jurisdiction at the earliest possible stage in the proceedings.”).

Thank you for your consideration.

Sincerely,

s/ Scott H. Ikeda

SCOTT H. IKEDA

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*Attorney for Defendants*

cc: Shamus O'Meara (via ECF)