

**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.

The Court has received and considered State Defendants' proposed agenda item for the July 12, 2018 Biannual Status Conference. (Doc. No. 690.) Defendants propose the following: "State Defendants respectfully propose that the Court add an agenda item to address the applicable legal standard the Court is using to determine the circumstances under which it will end its involvement in this matter, including what specific actions remain outstanding." (*Id.*)

The Court acknowledges the importance of this topic as the Court continues to exercise its jurisdiction over the implementation of the *Jensen* Settlement Agreement in this matter. The Court also believes it would be beneficial to the Court to understand the parties' respective views on appropriate legal standard by which the Court should evaluate the propriety of its ongoing involvement in this matter.

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

ORDER

The Court's amended agenda for the July 12, 2018 Status Conference is outlined below. The Court reserves the right to request written submissions from the parties on the topics identified below following the July 12, 2018 Status Conference.

- 1. Call to Order**
- 2. Introductions**

3. Overview by the Court

4. *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 December 8, 2017 Status

Conference:

- i. *Jensen* Settlement Agreement Comprehensive Plan of Action (CPA) February 2018 Semi-Annual Compliance Report, Reporting Period July 1, 2017 – December 31, 2017 (filed on February 28, 2018). (Doc. No. 676.)
- ii. *Jensen* Settlement Agreement Comprehensive Plan of Action (CPA) March 2018 Annual Compliance Report, Reporting Period: January 1, 2017 – December 31, 2017 (filed on March 30, 2018). (Doc. No. 683.)
- b. To accomplish item 4.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 4.a., Defendants shall identify notable areas of success and areas in need of improvement. In addition, the Court seeks an update on the current status and circumstances of the *Jensen* Class Members.

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

5. *Olmstead* Plan Implementation

- 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 December 8, 2017 Status Conference:

- i. *Olmstead* Subcabinet Annual Report on *Olmstead* Plan Implementation, Reporting Period: Data Acquired Through October 31, 2017 (filed on December 21, 2017). (Doc. No. 673.)
 - ii. *Olmstead* Subcabinet Quarterly Report on *Olmstead* Plan Measurable Goals, Reporting Period: Data Acquired Through January 31, 2018 (filed on February 28, 2018). (Doc. No. 680.)
 - iii. *Olmstead* Subcabinet Quarterly Report on *Olmstead* Plan Measurable Goals, Reporting Period: Data Acquired Through April 30, 2018. (Doc. No. 688.)
- b. To accomplish item 5.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 5.a., Defendants shall identify notable areas of success and areas in need of improvement. In particular, the Court seeks a thorough presentation on the Quality of Life Survey results and next steps in this process.
- d. Following Defendants' presentation on the *Olmstead* Plan, Plaintiffs' Class Counsel and the Consultants may provide comments or observations on these topics.

6. *Olmstead* Plan – March 2018 Revision

- a. Defendants shall report to the Court on the revised *Olmstead* Plan. (Doc. No. 681.) Defendants shall identify the amendments included in this version of the *Olmstead* Plan and explain the rationale for these amendments.
- b. Defendants shall also report on the *Olmstead* Plan review and amendment process, identifying what parts of the process worked well and what may need improvement.
- c. Following Defendants' presentation of items 6.a. and 6.b., above, Plaintiffs' Class Counsel and the Consultants may provide comments or observations regarding these topics.

7. Appropriate Legal Standard to Govern the Court's Involvement

- a. Counsel for the parties shall apprise the Court of their views on the appropriate legal standard the Court should use to determine the

circumstances under which it will end its involvement in this matter,
including their views on the specific actions that remain outstanding.

8. Next Steps

Date: July 10, 2018

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