

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

<p>James and Lorie Jensen, as parents, guardians and next friends of Bradley J. Jensen, et. al,</p> <p style="text-align: right;">Plaintiffs,</p> <p>vs.</p> <p>Minnesota Department of Human Services, an agency of the State of Minnesota, et. al.,</p> <p style="text-align: right;">Defendants.</p>	<p>Court File No.: 09-CV-1775 DWF/BRT</p> <p style="text-align: center;">Notice of Motion and Motion for Appointment of Independent Reviewer and Sanctions Against Defendants</p>
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TO: Defendants state of Minnesota and Minnesota Department of Human Services, by and through counsel, Scott Ikeda, Esq., 445 Minnesota Street, Suite 1400 St. Paul, MN 55101

Pursuant to the Court's Order ([Doc. 879](#)), *Chambers v. NASCO, Inc.*, [501 U.S. 32](#), [44-45 1991](#)) and the inherent power of the Court, the Federal Rules of Civil Procedure, 28 U.S.C § 1927, and all Orders, files, records and proceedings herein, on October 7, 2021, at 1:30 p.m. via remote hearing link to be provided by the Court, Plaintiffs will move the Court for and Order for sanctions against Defendants State of Minnesota and Minnesota Department of Human Services (collectively, "DHS") as follows:

1. Appointing an independent reviewer to provide ongoing quarterly reports on the status of DHS compliance with the Agreement to DHS, the Ombudsman for Mental Health and Developmental Disabilities and the Minnesota Disability Law Center, paid by money previously deposited into the Court by DHS, and to be replenished by DHS on an annual basis, to ensure compliance with DHS ongoing obligations under the Agreement.
2. Ordering DHS to pay \$500,000 within thirty (30) days from the date of the Court's Order to the following:

- 100,000 to the Court's *Cy Pres* fund to be used to facilitate access to justice and improve the lives of people with developmental disabilities and their families;
 - \$100,000 to third party organizations selected by the Court and unaffiliated with DHS to promote the state-wide changes in the Agreement including the Minnesota Olmstead Plan, Positive Supports Rule and Best Practices regarding the use of restraint and seclusion;
 - \$100,000 to the Minnesota Governor's Council on Developmental Disabilities for its executive director's work in this matter over 10 years as a court consultant dealing with unprecedented ongoing non-compliance and delay caused by DHS, and for DHS lead counsel's vindictive statements about the Court and Court consultants;
 - \$100,000 to the Office of the Ombudsman for Mental health and Developmental Disabilities for the Ombudsman's work over 10 years as a court consultant dealing with unprecedented ongoing non-compliance and delay caused by DHS, and for DHS lead counsel's vindictive statements about the Court and Court consultants;
 - \$100,000 to Plaintiffs' counsel for thousands of hours spent addressing unprecedented ongoing DHS non-compliance and delay over 10 years.
3. An extension of the Court's jurisdiction until December 31, 2020, or as otherwise just and equitable, to ensure DHS compliance with all requirements of the Court's Order.
 4. Any further relief the Court deems just and equitable.

Respectfully submitted,

O'MEARA, LEER, WAGNER & KOHL, P.A.

Dated: September 22, 2020

s/ Shamus P. O'Meara

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