

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

James and Lorie Jensen, et al.,

Case No. 09-cv-01775 (DWF/BRT)

Plaintiffs,

vs.

Minnesota Department of Human  
Services, et al.

**DECLARATION OF MARGARET  
FLETCHER-BOOTH, PH.D**

Defendants.

I, Margaret Fletcher-Booth, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am employed by the Minnesota Department of Human Services (“DHS”) as Director of Quality Assurance and Disability Compliance Services (“QADC”). QADC was formerly known as the Jensen/Olmstead Quality Assurance and Compliance Office (“JOQACO”). This declaration is based on my personal knowledge.

2. Evaluation Criteria 28 through 30 of the Comprehensive Plan of Action requires that Minnesota Life Bridge (“MLB”) personnel complete form 31032 (Form DHS-3654) following any use of manual restraint. Evaluation Criteria 31 through 37 require that within one business day the completed form be submitted to the Office of Health Facility Complaints (“OHFC”), the Minnesota Office of the Ombudsman for Mental Health and Developmental Disabilities, the DHS Licensing Division, the Court Monitor and the DHS Internal Reviewer, the individual’s legal representative and/or any designated family member, the individual’s case manager, and Plaintiffs’ counsel.

3. In late May of 2018, I learned that MLB staff had contacted QADC and reported that the email address to which the DHS-3654 forms were submitted to OHFC had become inactive and that MLB had received a message indicating that a form sent to this address was undeliverable. QADC advised that notification of OHFC was a requirement of the CPA and that QADC would try to identify a substitute contact to whom the forms should be submitted.

4. I identified a substitute contact on May 31, 2018. Due to human error, however, this information was either not conveyed to MLB or MLB did not add this contact to its email distribution list for these forms.

5. On September 24, 2020, I learned of this error while reviewing activities involving the sharing of private information in connection with this matter. Upon learning this information, I immediately contacted MLB Manager, Mark Brostrom, who confirmed that DHS-3654 had not been submitted to OHFC between May 25, 2018 and September 24, 2020. I informed Mr. Brostrom that future DHS-3654 forms would need to be sent to OHFC. I provided OHFC's general intake email address to MLB so that the next form could be timely sent to OHFC.

6. On September 28, 2020, MLB informed QADC that it had sent to OHFC all Forms DHS-3654 involving incidents between May 2018 and September 28, 2020.

7. Although a previous facility serving the same client population as MLB had held a supervised living facility license, and was licensed by the Department of Health,

that facility ceased operation in August 2014. The MLB homes are licensed by DHS as Community Residential Settings under Minnesota Statutes chapter 245D.

8. Email recipients of the Form DHS-3654 are visible to all other recipients. Between May 2018 and September 24, 2020, no member of the distribution list for these forms has notified QADC that OHFC was not included as a recipient.

9. On July 14, 2015, Plaintiffs' counsel Shamus O'Meara contacted DHS and requested that his office be removed from the distribution list for incident reports. Attached hereto as **Exhibit 1** are emails dated July 14, 2015 and July 15, 2015 relating to this request.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

9/29/2020

M. Fletcher-Booth  
MARGARET FLETCHER-BOOTH

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STATE DEFENDANTS RESPONSE TO  
PLAINTIFFS' MOTION FOR SANCTIONS

Declaration of  
Margaret Fletcher-Booth, Ph.D

# **Exhibit 1**

**From:** Booth, Peg (DHS) <peg.booth@state.mn.us>  
**Sent:** Wednesday, July 15, 2015 10:03 AM  
**To:** Birkeland, Cassandra (DHS) <cassandra.birkeland@state.mn.us>; Byers-Draeger, Tiffany D (DHS) <Tiffany.D.Byers-draeger@state.mn.us>; Friend, Maggie A (DHS) <maggie.friend@state.mn.us>; Buckingham, Todd (DHS) <todd.buckingham@state.mn.us>; Brostrom, Mark S (DHS) <mark.s.brostrom@state.mn.us>; Moore, Timothy R (DHS) <Timothy.R.Moore@state.mn.us>  
**Cc:** Chandler, Donovan A (DHS) <donovan.chandler@state.mn.us>; Gronemeyer, Sue R (DHS) <sue.r.gronemeyer@state.mn.us>; Peterson, Jeamse S (DHS) <Jeamse.S.Peterson@state.mn.us>; Jensen, Steve A (DHS) <steve.jensen@state.mn.us>; Nelson-Williams, Shirley (DHS) <shirley.nelson-williams@state.mn.us>; Amado, Richard S (DHS) <richard.s.amado@state.mn.us>; Figueroa, Rick (DHS) <rick.figueroa@state.mn.us>  
**Subject:** FW: DHS's Proposed Annual, Exception and Quarterly Reporting of CPA EC's

Please note that Shamus' office should be removed from any list regarding MLB incident reporting, as requested below.

Maggie - We can add this change to the growing list of SOP changes.

Peg

**From:** Shamus O'Meara [<mailto:SPOMeara@olwklaw.com>]  
**Sent:** Tuesday, July 14, 2015 1:52 PM  
**To:** Figueroa, Rick (DHS); Opheim, Roberta (OMHDD); Wieck, Colleen (ADM)  
**Subject:** RE: DHS's Proposed Annual, Exception and Quarterly Reporting of CPA EC's

Rick:

We agree with the proposed reporting. Our office should also be removed as a recipient for any incident incident reports.

Thanks

Shamus

**From:** Sullivan Hook, Karen E (DHS) [<mailto:Karen.SullivanHook@state.mn.us>] **On Behalf Of** Figueroa, Rick (DHS)

**Sent:** Tuesday, July 14, 2015 1:43 PM

**To:** Opheim, Roberta (OMHDD); Wieck, Colleen (ADM); Shamus O'Meara; Shamus O'Meara

**Subject:** DHS's Proposed Annual, Exception and Quarterly Reporting of CPA EC's

I have conferred with Roberta and Colleen and both find the proposed reporting schedule acceptable going forward in the *Jensen* matter.

I have, however, defined the term "exception" in the document attached above in order to account for Roberta and Colleen's expectation that some reports on particular individuals/items may require periodic reporting that is more or less frequent from the standard quarterly or annual reporting.

Shamus, I would respectfully ask that you review and provide comment on the proposed reporting schedule by Thursday of this week.

Thank you.

Rick Figueroa

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