

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Kevin Scott Karsjens, David Leroy Gamble,  
Jr., Kevin John DeVillion, Peter Gerard  
Lonergan, James Matthew Noyer, Sr.,  
James John Rud, James Allen Barber,  
Craig Allen Bolte, Dennis Richard Steiner,  
Kaine Joseph Braun, Christopher John  
Thuringer, Kenny S. Daywitt, Bradley Wayne  
Foster, Brian K. Hausfeld, and all others  
similarly situated,

Civil No. 11-3659 (DWF/JJK)

Plaintiffs,

v.

**ORDER REGARDING  
CLASS NOTICE**

Lucinda Jesson, Dennis Benson, Kevin  
Moser, Tom Lundquist, Nancy Johnston,  
Jannine Hébert, and Ann Zimmerman,  
in their official capacities,

Defendants.

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Daniel E. Gustafson, Esq., Karla M. Gluek, Esq., David A. Goodwin, Esq., Raina Borrelli,  
Esq., Lucia G. Massopust, Esq., and Eric S. Taubel, Esq., Gustafson Gluek PLLC, counsel  
for Plaintiffs.

Nathan A. Brennaman, Deputy Attorney General, Scott H. Ikeda, Adam H. Welle, and  
Aaron Winter, Assistant Attorneys General, Minnesota Attorney General's Office, counsel  
for Defendants.

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On June 17, 2015, the Court issued an Order directing the parties to submit a  
proposed notice of the August 10, 2015 fairness hearing on the dismissal of Counts IV, XI,  
XII, and XIII to the class members. (Doc. No. 967.) The parties were unable to agree upon

the content of the class notice and submitted briefs in support of their respective positions. (Doc. Nos. 979, 980.) Based upon the submissions of the parties, the Court hereby enters the following:

**ORDER**

1. Plaintiffs' proposed class notice (Doc. No. [981], Ex. A) is **APPROVED** with the following modifications:

a. The following text, which appears twice on page 2 of Plaintiffs' proposed notice, shall be deleted from the Notice disseminated to the class:

You may or may not also be barred from bringing such claims in state court.

b. The above text shall be replaced with the following text:

You may also be barred from bringing or participating in any lawsuit against the Defendants in state court for relief on the State Law Claims.

c. The following paragraph, which appears on page 3 of Plaintiffs' proposed notice, shall be deleted from the Notice disseminated to the class:

The dismissal with Prejudice may or may not affect your right to individually bring the State Law Claims against these Defendants in state court for damages, injunctive relief, or declaratory relief. Subject to any defenses that Defendants may raise (including for example, this Dismissal with Prejudice or the statute of limitations), you may or may not be able to pursue individual (as opposed to Class) State Law Claims in state court for damages and/or injunctive and declaratory relief. Whether the Dismissal with Prejudice affects your rights to bring these State Law Claims will be decided by the judge in the state court if you decide individually to bring these State Law Claims against these Defendants. Regardless of how the state court decides these past State Law Claims, you may still bring these or similar claims against the Defendants involving future conduct (that is conduct that occurs from the date of Dismissal with Prejudice going forward).

d. The above paragraph shall be replaced with the following paragraphs:

You may also be barred from bringing or participating in any lawsuit against the Defendants in state court for relief on the State Law Claims.

You may still bring these or similar claims against the Defendants involving future conduct (that is conduct that occurs from the date of Dismissal with Prejudice going forward).

e. The following paragraph, which appears on pages 5 and 6 of Plaintiffs' proposed notice, shall be deleted from the Notice disseminated to the class:

A trial was held in February and March of 2015 on certain claims brought by Plaintiffs, which did not include the State Law Claims. After the trial of these certain claims, the Court ruled that the Minnesota Civil Commitment and Treatment Act is unconstitutional on its face and as it is applied by Defendants. The trial did not include the State Law Claims and the Court did not rule on the merits of those State Law Claims as a result of the trial.

f. The above paragraph shall be replaced with the following paragraph:

A trial was held in February and March of 2015 on certain claims brought by Plaintiffs, which included Counts I, II, III, IV, V, VI, VII, and XI. The Court ruled that the Minnesota Civil Commitment and Treatment Act is unconstitutional on its face and as it is applied by Defendants.

g. The following text, which appears on page 6 of Plaintiffs' proposed notice, shall be deleted from the Notice disseminated to the class:

On July 24, 2012, the Court certified the Class (for declaratory and injunctive relief) and appointed Gustafson Gluek, PLLC as Class Counsel.

h. The above text shall be replaced with the following text:

On July 24, 2012, the Court certified the Class and appointed Gustafson Gluek, PLLC as Class Counsel. The "Class" in this case is every individual civilly committed to MSOP.

i. The following text shall be added to the end of the second paragraph on page 7 of Plaintiffs' proposed notice:

You may also be barred from bringing these claims against the Defendants in state court.

j. The following paragraph, which appears on page 7 of Plaintiffs' proposed notice, shall be deleted from the Notice disseminated to the class:

The Dismissal with Prejudice may or may not affect your right to individually bring the State Law Claims against these Defendants in state court for damages, injunctive relief, or declaratory relief. Subject to any defenses that Defendants may raise (including for example, this Dismissal with Prejudice or the statute of limitations), you may or may not be able to pursue individual (as opposed to Class) State Law Claims in state court for damages and/or injunctive and declaratory relief. Whether the Dismissal with Prejudice affects your rights to bring these State Law Claims will be decided by the judge in the state court if you decide individually to bring these State Law Claims against these Defendants. Regardless of how the state court decides these past State Law Claims, you may still bring these or similar claims against the Defendants involving future conduct (that is conduct that occurs from the date of Dismissal with Prejudice going forward).

k. The above paragraph shall be replaced with the following paragraph:

The Dismissal with Prejudice will not affect your right to bring these or similar claims against the Defendants involving future conduct (that is conduct that occurs from the date of Dismissal with Prejudice going forward).

l. The following text, which appears on page 10 of Plaintiffs' proposed notice, shall be deleted from the Notice disseminated to the class:

You may or may not also be barred from bringing a lawsuit against these Defendants for the State Law Claims in state court.

m. The above text shall be replaced with the following text:

You may also be barred from bringing or participating in any lawsuit against the Defendants in state court for relief on the State Law Claims.

n. The following paragraph shall be added at the end of page 11 of

Plaintiffs' proposed notice:

Please do not contact the Court. Any questions regarding the Dismissal with Prejudice or this Notice should be directed to the Class Counsel listed above.

2. As directed in this Court's June 17, 2015 Order (Doc. No. 967), Counsel for Plaintiffs shall disseminate this Notice to the class members by mail by **July 20, 2015**.

Dated: July 17, 2015

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