

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

**L.J., et al.,**

*Plaintiffs,*

v.

**THEODORE DALLAS, et al.,**

*Defendants.*

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No. JFM-84-4409

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**JOINT MOTION TO AMEND MODIFIED CONSENT DECREE**

Plaintiffs and Defendants through counsel move jointly that the Court amend the Modified Consent Decree (“MCD”) to replace the Independent Verification Agent (“IVA”) and to make other changes relating to the IVA.

The parties hereby agree to modify the MCD as follows. These changes shall be in effect only for so long as Rhonda Lipkin serves as the Independent Verification Agent as that term is defined in the MCD. Upon such time that Rhonda Lipkin no longer serves as the Independent Verification Agent, all of these modified terms shall extinguish and no longer be of any force and effect, and all original terms of the MCD shall take full force and effect immediately.

1. Part II, Section A of the MCD is modified such that the last sentence of Section A is deleted and replaced with “The Independent Verification Agent is Rhonda Lipkin, effective September 1, 2011.” The parties agree that they will not contest the

appointment of Rhonda Lipkin as IVA for 18 months. At the end of that 18-month period, if the parties agree, Rhonda Lipkin will be reappointed as IVA. If after conferring with the other party concerning reappointment, mutual agreement is not achieved, the parties will not seek judicial review of this decision.

2. Part II, Section K of the MCD is modified to add at the end of the first sentence, “or to address concerns that any party may have regarding the Independent Verification Agent's certification report or statement discussed in Part II, Section J.”

3. Part IV of the MCD is modified to replace the introductory paragraph and Sections A through D as follows:

#### IV. DISPUTE RESOLUTION

In the event that Plaintiffs identify an area in which they assert Defendants are not in compliance with the Decree, or in the event that either party disagrees with a decision by the IVA regarding certification:

A. The dissatisfied party shall, prior to seeking judicial relief, notify the opposing party and the Forum Facilitator in writing of the issue.

B. Within twenty calendar days of this notification, the opposing party shall respond in writing to the dissatisfied party and the Forum Facilitator as to (1) whether it disagrees with any of the facts and issues raised in the written notice; (2) the basis for each such instance of disagreement; and (3) what actions, if any, it proposes to take with regard to the issue of alleged non-compliance.

C. Regardless of whether the opposing party agrees with the dissatisfied party's assertions, the parties shall meet with the Forum Facilitator within fifteen calendar days of the opposing party's response, unless otherwise agreed to by the parties. The purpose of this meeting shall be for the parties to engage in good faith negotiations with the assistance of the Forum Facilitator to determine whether additional actions are necessary to address the assertions raised by the dissatisfied party in the notification. The parties shall engage in negotiations for a period not to exceed twenty calendar days, unless extended by mutual agreement of the parties.

D. At the conclusion of the dispute resolution process, if the parties have failed to come to an agreement, either party may request the Forum Facilitator to analyze the issues raised by the parties, and prepare and issue a report with recommendations concerning the dispute. The report shall be issued no later than ten days after the dispute resolution process has ended. This report shall be provided to the parties and, at the request of either party, to the Court.

4. For so long as Rhonda Lipkin serves as the Independent Verification Agent, where Plaintiffs have a dispute with Defendants concerning issues or events preceding the effective date of this Order, Ms. Lipkin shall not testify in a Court proceeding on behalf of Plaintiffs as to such matters but may submit a statement via affidavit concerning

her knowledge or opinions of events up to the effective date of this Order if requested to do so by Plaintiffs.

5. By approving these modifications to the MCD, the Court acknowledges and waives on behalf of the Plaintiff class any actual or potential conflict of interest or other ethical concern arising from Ms. Lipkin (including any of her agents or staff) serving as the Independent Verification Agent after having served as co-counsel or agents for the Plaintiff class. Likewise, by entering into and approving these modifications, Defendants acknowledge and waive any actual or potential conflict of interest or other ethical concern arising from Ms. Lipkin (including any of her agents or staff) serving as the Independent Verification Agent after having served as co-counsel for the Plaintiff class.

A proposed order and the parties' memoranda in support of the joint motion are attached.

Respectfully submitted,

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Attorney General of Maryland

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