

Docket as of October 11, 2004 8:08 am

Web PACER (v2.3)

U.S. District Court
District of North Dakota (Southwestern)
CIVIL DOCKET FOR CASE #: 80-CV-141
ARC, et al v. Schafer, et al

Filed: 09/26/80
Assigned to: Hon. Bruce M. Van Sickle
Demand: \$0,000
Nature of Suit: 440
Lead Docket: None
Jurisdiction: Federal Question
Dkt # in 8th Circuit Appeals : is 90-5397ND
Cause: 42:1983 Civil Rights Act

ASSOCIATION FOR RETARDED
CITIZENS OF NORTH DAKOTA
 plaintiff

Michael J. Williams
[COR LD NTC]
MARING WILLIAMS LAW OFFICE, PC
PO BOX 2103
FARGO, ND 58107-2103
701-237-5297

Mary Joe Deutsch Schneider
[COR LD NTC]
Legal Services of Northwest MN
P.O. Box 714
Moorhead, MN 56560
218-233-8585

LINDLEY BLACK, by his father
 plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider
(See above)
[COR LD NTC]

SIDNEY BLACK
 plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider
(See above)
[COR LD NTC]

BRADLEY COSSETT, by his mother
plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider

(See above)
[COR LD NTC]

DENISE COSSETT
plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider
(See above)
[COR LD NTC]

RICHARD SCHNEIDERHAN, by his
mother and guardian
plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider
(See above)
[COR LD NTC]

ELMIRA SCHNEIDERHAN
plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider
(See above)
[COR LD NTC]

NAOMI JORDISON, by her father
plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider
(See above)
[COR LD NTC]

TIMOTHY JORDISON
plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider
(See above)
[COR LD NTC]

KELLI MORIARTY, by her mother
and guardian
plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider

(See above)
[COR LD NTC]

JACQUELYN MORIARTY
plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider
(See above)
[COR LD NTC]

PHILLIP DECHANT, by his mother
and guardian
plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider
(See above)
[COR LD NTC]

LOIS DECHANT, on behalf of
themselves and all others
similarly situated
plaintiff

Michael J. Williams
(See above)
[COR LD NTC]

Mary Joe Deutsch Schneider
(See above)
[COR LD NTC]

v.

EDWARD T SCHAFFER, Governor of
the State of North Dakota
defendant

M. "Heidi" Kathryn Heitkamp
[COR LD NTC]
600 E BOULEVARD AVE
BISMARCK, ND 58505
701-328-2910

GEORGE A SINNER, Governor of
the State of North Dakota
defendant
[term 05/27/93]

M. "Heidi" Kathryn Heitkamp
(See above)
[COR LD NTC]

ROD BACKMUN, Director of
Institutions
defendant

M. "Heidi" Kathryn Heitkamp
(See above)
[COR LD NTC]

BRIAN LUNSKI, Superintendent
of the State Developmental

M. "Heidi" Kathryn Heitkamp
(See above)

Center at Grafton; the acting
Assistant Superintendent of
Grafton State School and Chief
Administrative Office of San
Haven Division
defendant

[COR LD NTC]

JON RICE, Dr, State Health
Office, Department of Health
defendant

M. "Heidi" Kathryn Heitkamp
(See above)
[COR LD NTC]

SAM ISMIR, Director, Division
of Mental Health, Department
of Human Services
defendant

M. "Heidi" Kathryn Heitkamp
(See above)
[COR LD NTC]

SANDI NOBLE, Director,
Division of Developmental
Disabilities, Department of
Human Services
defendant

M. "Heidi" Kathryn Heitkamp
(See above)
[COR LD NTC]

RUEBEN GUENTHNER, Director of
Department of Vocational
Education
defendant

M. "Heidi" Kathryn Heitkamp
(See above)
[COR LD NTC]

WAYNE SANSTEAD, Superintendant
of Public Instruction
defendant

M. "Heidi" Kathryn Heitkamp
(See above)
[COR LD NTC]

GARY GRONBERG, Director of
Special Education Division,
Department of Public
Instruction
defendant

M. "Heidi" Kathryn Heitkamp
(See above)
[COR LD NTC]

HENRY C (BUD) WESSMAN,
Director, Department of Human
Services
defendant

M. "Heidi" Kathryn Heitkamp
(See above)
[COR LD NTC]

GENE HYSJULIEN, Director,
Division of Vocational
Rehabilitation, Department of
Human Services

M. "Heidi" Kathryn Heitkamp
(See above)
[COR LD NTC]

defendant

LORI WIGHTMAN, Director,
Office of Field Services and
Program Development,
Department of Human Services
defendant

M. "Heidi" Kathryn Heitkamp
(See above)
[COR LD NTC]

DOCKET PROCEEDINGS

DATE	#	DOCKET	ENTRY
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9/26/80	1	COMPLAINT	(Summons(es) issued) (dst) [Entry date 08/14/91]
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9/8/81 73 ANSWER by defendants to [1-1] (dst) [Entry date 08/14/91]

3/19/90 710 MEMORANDUM AND ORDER by Honorable Bruce M. Van Sickle 1. The order issued by this court dated August 31, 1982 is affirmed and issued as a final order herein subject to the following changes: a. References in that order to ACMR/DD shall be interpreted to include any present or successor organizational names of that organization, except that, for good cause shown, the court may designate any other organization of like purpose and the same or better skills. b. Strike paragraph 6, and insert in its stead the following: Defendants are permanently enjoined to furnish a level of services to the members of Plaintiff class sufficient to ensure that no person shall be maintained at Grafton who is qualified to reside elsewhere. c. Strike paragraph 9 and insert in its stead the following: Defendants are permanently enjoined to comply with all Title XIX regulations and with all ACDD Standards in all their facilities and programs. e. Strike paragraphs 10, 11 and 12 2. The implementation order of March 7, 1984 and all amendments thereto are hereby abrogated. 3. The Monitor shall be terminated effective April 15, 1990 and shall deliver all of his files and records to the Archivist at the University of North Dakota or such other state agency as he shall select. 4. The Protection and Advocacy Project shall forthwith be increased to 21 professional advocates and 2 monitors, and the additional budget necessary to support such an increase shall be made available to the project. 5. Defendants shall contract with the Accreditation Council for people with developmental disabilities to secure evaluations of the services furnished to class members in each of the eight regions established by the Department of Human Services to determine if the care and support furnished in each of those regions meets the standards of the ACDD and the dictates of Chapter 25-01.2, NDCC. 6. The evaluations called for in item 4 above shall be made available to the court on or before November 30, 1990. 7. If, by December 31, 1990, defendants are able to show to the court that the standards of the ACDD and the North Dakota law are being met, and the Protection and Advocacy Project has been staffed and financed as herein ordered, from at least July 1, 1990, this action will be dismissed. 8. The requirement that the defendants are to meet the ACDD Standards and are to comply with State Law shall be a continuing requirement on defendants unless and until it is shown to the court that another set of standards is preferable. with NOTICE OF ENTRY: (cc: all counsel) (dst) [Entry date 08/14/91]

6/14/90 720 ORDER by Honorable Bruce M. Van Sickle That Defendants' Motion to Reconsider this Court's Order of March 19, 1990 is DENIED with NOTICE OF ENTRY: (cc: all counsel) (dst) [Entry date 08/14/91]

7/24/90 724 ORDER by Honorable Bruce M. Van Sickle That defendants' motion asking this court to reconsider its order denying defendants' motion to reconsider its March 19, 1990 order

is granted and, on reconsideration the March 19, 1990 order is affirmed with NOTICE OF ENTRY: (cc: all counsel) (dst) [Entry date 08/14/91]

7/27/90 725 Notice of appeal by defendant from Dist. Court order [710-1] Appeal fee paid. (dst) [Entry date 08/14/91] [Edit date 08/14/91]

7/27/90 728 NOA Supplement re appeal [725-1] (dst) [Entry date 08/14/91]

7/27/90 729 Copy of docket entries as forwarded to counsel and USCA8 (dst) [Entry date 08/14/91]

7/27/90 -- 2 CERTIFIED and one plain copy of Notice of Appeal, Memorandum and Order entered on March 19, 1990, Order entered on June 14, 1990, Order entered on July 24, 1990, NOA Supplement and Docket Entries as fwd. to USCA8, St. Paul via cert. rrr mail this date; TO APPELLANTS: Appeal Form A, Docket Entries; TO APPELLEES: Appeal Form B, Notice of Appeal, Docket Entries, (Filing fee paid). NO TRANSCRIPT TO BE ORDERED. (dst) [Entry date 08/14/91]

9/17/90 736 (Copy) of ORDER of USCA8, Appellant's motion for a stay of certain portions of the district court's injunction has been considered and is hereby granted with NOTICE OF ENTRY: (cc: all counsel) (dst) [Entry date 08/14/91]

8/14/91 738 (Copy) of JUDGMENT of USCA8: The order denying the State's motion for Rule 60(b) relief is reversed, and the case is remanded for further proceedings consistent with this opinion with NOTICE OF ENTRY: (cc: all counsel) (dst)

9/5/91 739 AFFIDAVIT in compliance with Local Rule 4 re: DEFENDANTS' INTERROGATORIES AND REQUEST FOR PRODUCTION TO PLAINTIFFS. (dst)

10/9/91 740 MANDATE from Circuit Court of Appeals reversing and remanding the Decision of the District Court [Appeal [725-1] IT IS HEREBY ORDERED AND ADJUDGED that the judgment of the district court in this cause is reversed and cause is remanded to the district court for proceedings consistent with the opinion of this Court. (Copies to all counsel, Judge Van Sickle). (dst)

10/15/91 741 AFFIDAVIT in compliance with Local Rule 4 re: Defendant's Interrogatories and Request for Production to Plaintiffs. (dst)

11/6/91 742 AFFIDAVIT in compliance with Local Rule 4 re: DEFENDANTS' RESPONSE TO PLAINTIFFS' INTERROGATORIES AND REQUEST FOR PRODUCTION TO DEFENDANTS. (dst)

11/25/91 743 MEMORANDUM AND ORDER by Honorable Bruce M. Van Sickle re [740-1] IT IS ORDERED THAT: PARAGRAPHS 4, 5, 6, 7 AND 8 OF THE ORDER ENTERED BY THE COURT IN THIS ACTION ON MARCH 19, 1990 ARE HEREBY STAYED UNTIL FURTHER ACTION BY THIS COURT with NOTICE OF ENTRY: (cc: all counsel, copy to Judge Van Sickle) (dst)

11/26/91 744 MEMORANDUM AND ORDER by Honorable Bruce M. Van Sickle re [740-1] IT IS ORDERED THAT: BY FEBRUARY 1, 1992, COUNSEL FOR THE PARTIES SHALL FILE ANY BRIEFS THEY DESIRE ON THE ISSUE OF THE STANDARDS WHICH THE CONSTITUTION AND FEDERAL STATUTES IMPOSE ON THE DEFENDANTS with NOTICE OF ENTRY: (cc: all counsel, copy to Judge Van Sickle) (dst)

1/8/92 745 ATTORNEY APPEARANCE for defendant's by Sara B. Gullickson. (dst)

1/10/92 746 MOTION by plaintiffs for modification of order (ss)

1/10/92 747 MEMORANDUM by plaintiff in support of motion for modification of order [746-1] (ss)

1/10/92 748 AFFIDAVIT of Michael J. Williams, Leland F. Hagen, H. Patrick Weir and David L. Peterson regarding motion for modification of order [746-1] (ss)

1/17/92 749 LETTER from attorney Williams amending his motion to modify attorney fee award from \$75.00 set in 1982 to \$111.00; with copy of letter from economist [746-1]. (dst) [Entry date 01/22/92]

1/17/92 750 AFFIDAVIT in compliance with Local Rule 4 re: MOTION FOR MODIFICATION OF ORDER (ARC V. GEORGE A. SINNER, ET AL.). (dst) [Entry date 01/22/92]

1/17/92 751 AFFIDAVIT in compliance with Local Rule 4 re: PLAINTIFFS' BRIEF IN SUPPORT OF MOTION FOR MODIFICATION (ARC V. GEORGE A. SINNER, ET AL.). (dst) [Entry date 01/22/92]

1/17/92 752 AFFIDAVIT in compliance with Local Rule 4 re: AFFIDAVIT OF MICHAEL J. WILLIAMS (ARC V. GEORGE A. SINNER, ET AL.). (dst) [Entry date 01/22/92]

1/17/92 753 AFFIDAVIT in compliance with Local Rule 4 re: AFFIDAVIT OF LELAND F. HAGEN (ARC V. GEORGE A. SINNER, ET AL.). (dst) [Entry date 01/22/92]

1/17/92 754 AFFIDAVIT in compliance with Local Rule 4 re: AFFIDAVIT OF H. PATRICK WEIR (ARC V. GEORGE A. SINNER, ET AL.). (dst) [Entry date 01/22/92]

1/17/92 755 AFFIDAVIT in compliance with Local Rule 4 re: AFFIDAVIT OF DAVID L. PETERSON (ARC V. GEORGE A. SINNER, ET AL.). (dst) [Entry date 01/22/92]

1/28/92 756 RESPONSE by defendant's to motion for modification of order [746-1] (dst)

1/29/92 757 MOTION by defendant's to strike plaintiffs' supplemental pleading. (dst) [Edit date 10/21/92]

1/31/92 758 BRIEF IN RESPONSE TO ORDER OF NOVEMBER 26, 1991 by plaintiff's re [744-1] (dst)

2/3/92 759 AFFIDAVIT in compliance with Local Rule 4 re: PLAINTIFFS' BRIEF IN RESPONSE TO ORDER OF NOVEMBER 26, 1991. (dst)

2/3/92 760 RESPONSE/BRIEF on federal law pursuant to the court's November 26, 1991, Order by defendant's re [744-1] (dst) [Entry date 02/04/92]

2/4/92 761 RESPONSE by plaintiff's to motion to strike [757-1] (dst)

2/24/92 762 SUPPLEMENT/ADDENDUM by plaintiff re motion for modification of order [746-1] (dst)

3/19/92 763 MOTION by plaintiffs for discovery order (ss) [Edit date 10/21/92]

3/19/92 764 MEMORANDUM by plaintiffs in support of motion for discovery order [763-1] (ss)

3/24/92 765 RESPONSE by defendant's to motion for discovery order [763-1] (dst)

3/24/92 -- PROPOSED Order re motion for discovery order [763-1] lodged with the Clerk (dst)

3/26/92 766 REPLY by plaintiff's to response to motion for discovery order [763-1] (dst)

4/7/92 767 MOTION by defendant for leave to file a Reply Brief (dst) [Edit date 10/21/92]

4/7/92 768 REPLY BRIEF by defendant re [744-1] (dst)

4/13/92 769 RESPONSE by plaintiff's to motion for leave to [767-1] (dst)

4/14/92 770 REPLY by defendant's to response to motion for leave to [767-1] (dst)

4/29/92 771 ORDER by Honorable Bruce M. Van Sickle with NOTICE OF ENTRY: setting out standards of care mandated by federal law; stating that further order outlining procedures to be followed in determining deft compliance with standards of care will be issued. (cc: all counsel) (ks)

5/13/92 772 MOTION by defendant's to alter order, and to amend order dated April 29, 1992 (dst)

5/13/92 773 MEMORANDUM by defendant in support of motion to alter order [772-1], of motion to amend order [772-2] (dst)

5/21/92 774 MEMORANDUM AND ORDER by Honorable Bruce M. Van Sickle re [740-1] The court orders that, pursuant to its inherent powers and Fed. R. Civ. P. 53, a panel of special masters is hereby appointed to receive and evaluate such evidence as the parties present, and to make and file with the court a report answering the following questions: 1. Where, if at all, are defendants failing to meet the standards of care mandated by those federal rights outlined in this court's April 29, 1992 order? 2. (If needed). What relief is required to correct the failure(s) to comply with the

necessary standards of care? 3. (If needed.) How will that relief directly address and relate to those violations of federal law? The special master panel shall consist of the following persons: CHAIRMAN: Mr. Randy J. Lee, Esq. MEMBERS: Hon. Tish Kelly, Hon. Jack Dalrymple, Mickey Knutson, R.N., M.N., Darrel Vollmers, Esq. The special master panel shall determine its own schedule and orders of procedure, but is urged to proceed as expeditiously as possible. The Federal Rules of Civil Procedure and the Federal Rules of Evidence shall govern its proceedings. The chairman shall call the panel into session and shall preside at all of its sessions. The Clerk of this court shall furnish a court reporter as needed, and a courtroom deputy for all hearings of the panel. Each panel member shall receive \$300.00 for each day spent on the business of the panel and shall receive the same reimbursement for travel expenses and other costs as that received by Assistant Attorneys General of the State of North Dakota. The State of North Dakota shall pay this remuneration and reimbursement. All claims shall be submitted on forms approved by the State of North Dakota. The claims shall be submitted to the chairman of the panel who shall first determine if the billing is accurate and proper. He shall then endorse his approval thereon and forward the billing to the Attorney General of North Dakota who shall arrange with the appropriate agency for prompt payment thereof. A copy of all such bills shall be filed with the clerk of this court. with NOTICE OF ENTRY: (cc: all counsel) (dst)

5/27/92 775 RESPONSE by plaintiffs' to motion to alter order [772-1], motion to amend order [772-2] (dst)

6/5/92 776 MOTION by defendant's for revocation/vacate, or modification/ amend of reference (dst)

6/5/92 777 MEMORANDUM by defendant's in support of motion for revocation/vacate [776-1], of motion modification/ amend [776-2] (dst)

6/15/92 778 RESPONSE by plaintiff's to motion for revocation/vacate [776-1], motion modification/ amend [776-2] (dst)

6/25/92 779 ORDER by Honorable Bruce M. Van Sickle with NOTICE OF ENTRY: granting motion modification/ amend [776-2] Counsel for Pltfs and others are allowed reasonable access to all information, records, residential environments, program areas, or any other program, service or facility serving any class member herein; (2) Counsel for the parties shall not disclose information obtained pursuant to this Order, except to persons directly associated with them and seeking implementation of this Court's orders, or except when necessary in proceedings before this Court (cc: all counsel) (ks)

7/2/92 780 MOTION by defendant for ruling (ks) [Edit date 10/21/92]

7/13/92 781 MEMORANDUM AND ORDER by Honorable Bruce M. Van Sickle denying motion to alter order [772-1] denying motion to amend order [772-2] denying motion for revocation/vacate

[776-1] denying motion modification/ amend [776-2] with
NOTICE OF ENTRY: (cc: all counsel) (ks)

7/24/92 782 Notice of appeal by defendant from Dist. Court order
[781-1] Appeal fee paid (dst) [Entry date 07/28/92]

7/24/92 -- 2 CERTIFIED and one plain copy of Notice of Appeal,
Memorandum and Order entered on 07/13/92, Order entered
4/29/92, NOA Supplement, Docket Entries, forwarded to
USCA8, St. Paul via cert. rrr mail; TO APPELLANTS: Appeal
Form A, Docket Entries; TO APPELLEES: Notice of Appeal,
Appeal Form B, Docket Entries; TO COURT REPORTER: Notice
of Appeal (dst) [Entry date 07/28/92]

7/24/92 783 MOTION by defendant's to stay pending appeal (dst)
[Entry date 07/28/92]

7/24/92 784 MEMORANDUM by defendant's in support of motion to stay
pending appeal [783-1] (dst) [Entry date 07/28/92]

7/28/92 785 RECEIPT #061127 in the sum of \$105 (dst)

7/29/92 786 STIPULATION/MOTION by plaintiff's for substitution of
parties Counsel for the parties hereby stipulate to
substitute Charles Mertens for Richard Rayl and Yvonne
Smith for Lee Smutzler as defendants to this action.
Counsel for the parties further agree to strike "and Chief
of Administrative Officer of San Haven Division" from Henry
Meece's title. (dst) [Entry date 07/30/92]

7/31/92 787 MEMORANDUM AND ORDER by Honorable Bruce M. Van Sickle
granting motion for modification of order [746-1] with
NOTICE OF ENTRY: (cc: all counsel, panel of special
masters) The court finds that the allowable hourly rate for
plaintiffs' counsel shall be increased to \$110.00 per hour.
(dst)

8/11/92 788 RESPONSE by plaintiff's to motion to stay pending appeal
[783-1] (dst)

8/12/92 789 ORDER by Honorable Bruce M. Van Sickle with NOTICE OF
ENTRY: denying motion to stay pending appeal [783-1] (cc:
all counsel, JVS, Panel) (dst)

9/28/92 790 MOTION by plaintiffs to clarify, and/or to amend and
seek authority from the district court to retain the support
staff necessary to adequately present pltfs case to the
Master's Panel (ks) [Edit date 10/21/92]

9/28/92 791 MEMORANDUM (Brief) by plaintiffs in support of motion to
clarify [790-1], of motion to amend [790-2] (ks)

9/28/92 792 AFFIDAVIT of Michael J Williams (ks)

10/6/92 793 RESPONSE by defendant to motion to clarify [790-1], motion
to amend [790-2] (ks)

10/6/92 794 AFFIDAVIT of Sara B. Gullickson (ks)

10/8/92 795 AFFIDAVIT in compliance with Local Rule 4 re: Defendants' Interrogatories and Request for Production to Plaintiffs (dst)

10/16/92 796 LETTER from plaintiff ARC advising parties have agreed as to the level of necessary legal support that can be accessed by plaintiffs, rendering motion moot and said motion may be withdrawn. (de) [Entry date 10/18/92]

10/27/92 797 AFFIDAVIT in compliance with Local Rule 4 re: Dft Resp to Pla Request for Production of Documents (de) [Entry date 10/28/92]

11/11/92 -- CLERK'S MINUTES: of Compliance Hrg 1st Day before Special Masters: Opening remarks by Chairman Randy Lee. Opening Stmt by Sara Gullickson on behalf of Defts. Dft case commences. (de) [Entry date 11/23/92] [Edit date 06/02/93]

11/12/92 -- CLERK'S MINUTES: of Compliance Hrg 2nd Day before Panel of Special Masters: Dft case continues. (de) [Entry date 11/23/92] [Edit date 06/02/93]

11/13/92 -- CLERK'S MINUTES: of Compliance Hrg 3rd Day before Panel of Special Masters: Dft case continues. Recess to 12/03/92 @ 9:00 am. (de) [Entry date 11/23/92] [Edit date 06/02/93]

11/30/92 798 AFFIDAVIT in compliance with Local Rule 4 re: Defendants' Answers to Plaintiffs' Interrogatories (dst)

11/30/92 799 MANDATE from Circuit Court of Appeals dismissing the appeal [782-1] for lack of jurisdiction (dst)

12/3/92 -- CLERK'S MINUTES: of Compliance Hrg 4th Day before Panel of Special Masters: Chairman Lee advises that counsel have indicated that negotiations for settlement are being discussed and will advise if further hearings are necessary. Hrgs scheduled for 12/3, 12/4 & 12/5 cancelled; Hrg scheduled for 12/14 remains scheduled at this time & counsel will advise re progress of settlement negotiations. Recess. (de) [Edit date 06/02/93]

12/14/92 -- CLERK'S MINUTES: of Compliance Hrg 5th Day before Panel of Special Masters: Counsel advise unable to reach settlement in the case. Dft case continues. Recess. (de) [Entry date 12/18/92] [Edit date 06/02/93]

12/15/92 -- CLERK'S MINUTES: of Compliance Hrg 6th Day before Panel of Special Masters: Dft case continues. Recess. (de) [Entry date 12/18/92] [Edit date 06/02/93]

12/16/92 -- CLERK'S MINUTES: of Compliance Hrg 7th Day before Panel of Special Masters: Dft case continues. Recess. (de) [Entry date 12/18/92] [Edit date 06/02/93]

12/17/92 -- CLERK'S MINUTES: of Compliance Hearing 8th Day before Panel of Special Masters: Dft case continues. Chairman Lee advises of rulings on Pla Exhibits 219 thru 286 & 288 thru 296, and will send counsel a letter of explanation thereof and file with the Clerk in Fargo when Hrg reconvenes on

12/28/92; to be marked "Panel Ex. No. 1." Recess. (de)
[Entry date 12/18/92] [Edit date 06/02/93]

12/18/92 -- CLERK'S MINUTES: of Compliance Hrg 9th Day before Panel of
Special Masters: Deft case continues. Recess. (de)
[Entry date 12/21/92] [Edit date 06/02/93]

12/19/92 -- CLERK'S MINUTES: of Compliance Hrg 10th Day before Panel of
Special Masters: Deft case continues. Recess until 9:00 am,
12/28/92 at Fargo. (de) [Entry date 12/21/92]
[Edit date 06/02/93]

12/28/92 -- CLERK'S MINUTES: of COMPLIANCE HRG (in Fargo) - 11th DAY -
before Honorable Panel of Special Masters: Chairman Lee
provided copies of Panel Ex. #1, Evidentiary Rulings on
certain exhibits, to all counsel; Dfts case continues -
RECESS 4:05 PM (dj) [Entry date 12/29/92]
[Edit date 06/02/93]

12/29/92 -- CLERK'S MINUTES: of Compliance Hrg (in Fgo) 12th Day; before
Panel of Special Masters Deft. case continues; Recess 2:50
(jo) [Edit date 06/02/93]

1/12/93 800 ORDER by Honorable Bruce M. Van Sickle with NOTICE OF
ENTRY: denying motion for substitution of parties [786-1]
(cc: all counsel) (ks) [Entry date 01/13/93]

3/23/93 801 TRANSCRIPT OF TESTIMONY OF KATHLEEN SCHWANINGER filed (dst)

5/26/93 802 NOTICE of Hearings at 9:00 AM, Ct Rm #2, Bismarck on June
7-9; July 6-10; July 12-14; July 19; July 21-24 and August
5-7, 1993 cc:special master panel members; counsel of
record (cs)

6/8/93 803 MOTION IN LIMINE by defendants to exclude report of Dr.
Kevin Schumacher (de)

6/10/93 -- CLERK'S MINUTES: of Compliance Hrg before Panel of Special
Masters on 06/07,08,09/93: Dft advises rested on 12/29/92.
Chairman Lee advises Pla entitled to State records and
refers to order of 06/25/92. Dfts advise Governor Schafer
automatically substituted as party def. Pla Opening Stmt;
Pla case commences. Panel stands on 6/7/93 ruling re
current compliance. Motion to exclude report of Dr. Kevin
Schumacher denied [803-1]. Recess to 7/6/93 1:00 pm. (de)

6/15/93 804 MOTION by defendants' for protective order (dst)

6/15/93 805 MEMORANDUM by defendants' in support of motion for
protective order [804-1] (dst)

6/21/93 806 RESPONSE by plaintiff's to motion for protective order
[804-1] (dst)

6/23/93 807 MOTION by defendant's for leave to file reply brief (dst)

6/23/93 808 MEMORANDUM by defendant's in support of motion for leave to
file reply brief [807-1] (dst)

7/6/93 809 MEMORANDUM AND ORDER by Honorable Bruce M. Van Sickle denying motion for protective order [804-1] denying memorandum [805-1] denying motion response [806-1] denying motion for leave to file reply brief [807-1] denying memorandum [808-1] with NOTICE OF ENTRY: (cc: all counsel) (de)

7/6/93 810 RULINGS by Master Panel Chairman Lee re depo of Dr. David Braddock. (de) [Entry date 07/14/93] [Edit date 07/14/93]

7/6/93 811 RULING by Master Panel Chairman Lee re "additional fact witnesses (de) [Entry date 07/14/93]

7/6/93 812 DEFTS MOTION in limine to redact certain portions of the Report of Dr. Sue Gant (de) [Entry date 07/14/93]

7/8/93 813 DEFTS MOTION in limine to redact certain portions of the Report of Gerald R. Provencal (de) [Entry date 07/14/93]

7/14/93 -- CLERK'S MINUTES: of Compliance Hrg before Panel of Special Masters 07/06/93 through 07/14/93; denying item #1, sustaining objection re items 2 thru 6 & overruling items 7 & 8 of motion in limine to redact certain portions of the Report of Dr. Sue Gant [812-1] denying motion in limine to redact certain portions of the Report of Gerald R. Provencal [813-1] Pla case continues. Recess to 07/19/93 at 9:00 am. (de)

7/21/93 814 DEFTS MOTION in limine to exclude Witness Larry Burd's Pharmacological Use Survey, Education Report & Expert Testimony (de) [Entry date 07/22/93]

7/22/93 815 DEFTS MOTION in limine to exclude Ms. Kari Conrad's Expert Report and Expert Testimony (de)

7/23/93 816 PLA MOTION in limine to restrict testimony of dfts rebuttal witnesses (de)

7/26/93 -- CLERK'S MINUTES: of Compliance Hrg before Panel of Special Masters 07/19/93 & 07/21 through 07/24/93; Chairman Lee advises will rule as testimony develops re dft mtn in limine to exclude Witness Larry Burd's Pharmacological Use Survey, Education Report & Expert Testimony [814-1]; re motion in limine to disallow testimony of Ms. Kari Conrad's Expert Report and Expert Testimony: Chairman Lee advises he feels he does not have the authority to preclude testimony of witness Conrad as a sanction for discovery & directs witness Conrad to comply with subpoena duces tecum under Rule 37, requests deposition & disallows testimony of witness Conrad at this time; (on 7/22 Chairman Lee denies mtn in limine to exclude testimony of witness Conrad & testimony was taken from said witness); Chairman Lee advises will rule as testimony develops re pla motion in limine to restrict testimony of dfts rebuttal witnesses [816-1] On 07/19/93 Pla case continues. On 07/23/93 Dft Rebuttal case commences; Hrgs recessed on 07/24/93 until 08/05/93. (de) [Edit date 07/26/93]

7/30/93 817 TRANSCRIPT OF PROCEEDINGS, testimony of Dr. Alice Udvari-Solner on 12/29/92, filed (de)

8/6/93 818 MOTION in limine by Pla to exclude testimony of Sandi Noble (de) [Entry date 08/09/93]

8/6/93 819 RESPONSE to motion in limine by Pla to exclude testimony of Sandi Noble [818-1] (de) [Entry date 08/09/93]

8/9/93 -- CLERK'S MINUTES: of Compliance Hrg before Panel of Special Masters 08/05,06,07/93; denying motion in limine by Pla to exclude testimony of Sandi Noble [818-1]. 08/05/93: Chairman Lee directs that all transcripts shall be sealed. Pla commences Rebuttal. Dft continues Rebuttal. Parties Rest & Counsel to present Panel post-hrg briefs, schedule for filing same discussed. Chairman Lee calls attention to Court Order of 04/29/92, pg. 8. Panel plans to meet in Fargo either on 11/03 or 11/17/93. Discussion held re: time for completion of transcript & counsel will attempt to provide final documentation as soon as possible after filing of transcript. (de)

8/9/93 820 CLERK'S MINUTES: of Compliance Hrg before Panel of Special Masters. (de)

8/13/93 821 MOTION by plaintiffs for attorney fees, costs and expert witness fees (ss)

8/13/93 822 MEMORANDUM by plaintiffs in support of motion for attorney fees, costs and expert witness fees [821-1]; AFFIDAVIT of Michael Williams. (ss) [Edit date 08/13/93]

8/27/93 823 DEFENDANTS' RESPONSE to motion for attorney fees, costs and expert witness fees [821-1] (de)

8/27/93 823 DEFENDANTS' RENEWED MOTION to terminate pla atty fees (de)

9/3/93 824 RESPONSE by plaintiff ARC to motion to terminate pla atty fees [823-1] (dst)

9/16/93 825 MOTION by defendants' for leave to file reply brief to response to mtn to terminate attorney's fees (dst)

9/16/93 826 REPLY by defendants' to response to motion to terminate pla atty fees [823-1] (dst)

10/4/93 827 MEMORANDUM AND ORDER by Honorable Bruce M. Van Sickle granting motion for attorney fees, costs and expert witness fees [821-1] denying motion to terminate pla atty fees [823-1] with NOTICE OF ENTRY: (cc: all counsel) (dst)

10/14/93 828 MOTION by defendants to amend and alter the court's order of 10/4/93 (ks)

10/14/93 829 MEMORANDUM (Brief) by defendants in support of motion to amend and alter the court's order of 10/4/93 [828-1] (ks)

10/20/93 830 RESPONSE by defendants' to motion to amend and alter the

court's order of 10/4/93 [828-1] (dst)

10/27/93 831 MEMORANDUM AND ORDER by Hon. Bruce M. Van Sickle denying motion to amend and alter the court's order of 10/4/93 as to the issue of expert witness fees [828-1] granting motion to amend and alter the court's order of 10/4/93 to prohibit billing by both counsel, for travel with the same expert witness [828-1] the billings by Ms. Pladson for touring with an expert witness for 2/26/93 for 8 hours (\$320), and the billing by her for 2/27/93 for 13 hours (\$520) are disallowed with NOTICE OF ENTRY: (cc: all counsel) (dst)

11/18/93 832 RULING ON DEFINITION OF CLASS by Panel of Special Masters (cc: all counsel by Chairman of Special Masters) (de) [Entry date 11/23/93]

11/18/93 833 RULING ON CLASS MEMBERSHIP [STATUS OF CERTAIN INDIVIDUALS] by Panel of Special Masters (cc: all counsel by Chairman of Special Masters) (de) [Entry date 11/23/93]

11/23/93 834 ORDER by Hon. Bruce M. Van Sickle with NOTICE OF ENTRY: granting motion for leave to file reply brief [825-1] (cc: all counsel) (de)

11/26/93 835 RECEIPT #061866 in the sum of \$105.00 (ks)

11/26/93 836 Notice of appeal by defendants from Dist. Court Memorandum and order [831-1] entered 10/27/93 Appeal fee paid (ks)

11/26/93 -- 2 CERTIFIED and one plain copy of Notice of Appeal, Memorandum and Order entered 10/27/93, NOA Supplement, Docket Entries forwarded to USCA8 St. Paul; TO APPELLANT: Appeal Form A, Docket Entries; TO APPELLEE: Notice of Appeal, Appeal Form B, Docket Entries; TO COURT REPORTER: Notice of Appeal (ks)

12/7/93 837 TRANSCRIPT OF EVIDENTIARY HEARING BEFORE THE PANEL OF SPECIAL MASTERS (36 Volumes), filed (de) [Entry date 12/08/93]

12/10/93 -- PROPOSED Pltf's Findings of Fact submitted by plaintiff lodged with the Clerk (ks)

12/13/93 -- Briefing schedule from USCA8; USCA Number: 93-3949NDBI (ks)

12/23/93 838 MOTION by defendants' to stay pending appeal (dst)

12/27/93 839 MOTION by plaintiff for sanctions, or in the alternative, for order compelling payment of the costs and fees (dst)

12/27/93 840 MEMORANDUM by plaintiffs' in support of motion for sanctions [839-1], of motion for order compelling payment of the costs and fees [839-2] (dst)

12/27/93 841 AFFIDAVIT of Michael J. Williams regarding motion for sanctions [839-1], regarding motion for order compelling payment of the costs and fees [839-2] (dst)

12/29/93 842 RESPONSE by defendants' to motion for sanctions [839-1],

for order compelling payment of the costs and fees [839-2]
(dst)

12/29/93 843 AFFIDAVIT of Sara B. Gullickson regarding motion response
[842-1] (dst)

1/3/94 844 MEMORANDUM by defendants in support of motion to stay
pending appeal [838-1] (dst)

1/3/94 845 MEMORANDUM AND ORDER by Hon. Bruce M. Van Sickle denying
motion to stay pending appeal [838-1] denying motion for
sanctions [839-1], denying motion for order compelling
payment of the costs and fees [839-2] with NOTICE OF ENTRY:
(cc: all counsel) (dst)

1/5/94 846 RESPONSE by plaintiff to Motion to Stay pending Appeal (dst)

1/31/94 -- REMARK - Dispositive Order filed by USCA8 dismissing the
appeal (ks)

3/10/94 847 ORDER by Randy H. Lee, Chairman of special masters
directing payment of deposition #2 of Kari Conrad by pla (de)
[Entry date 03/14/94]

4/12/94 -- Copy of ORDER filed by USCA8 that the panel's separate
order granting rehearing moots the suggestion for rehearing
en banc, the suggestion is denied as moot. (ks)

5/17/94 -- ORDER from USCA8 that Appellee's suggestion for rehearing
en banc is denied (ks)

5/31/94 848 MANDATE from Circuit Court of Appeals remanding the matter
back to District Court [Appeal [836-1] that petition for
rehearing is granted. The order entered 12/26/94,
dismissing the appeal for lack of appellate jurisdiction is
vacated. The appeal is dismissed for lack of appellate
jurisdiction because the district court orders entered Oct
4, 93, and Oct 27, 93, did not award a specific amount of
attorney's fees and expert witness fees. In addition, the
court notes that there was no separate document as required
by FRCivP 58 and 79(a). After the district court enters an
order awarding a specific amount of attorney's fees and
expert witness fees and that order is set forth on a
separate document as required by FRCiv P 58 and 79(a), the
parties may then file new notices of appeal. (ks)

6/7/94 849 MEMORANDUM AND ORDER by Hon. Bruce M. Van Sickle re [848-1]
with NOTICE OF ENTRY: (cc: all counsel) 1. This court
will not issue a partial judgment pursuant to Fed. R. Civ.
P. 54(b) at this time. 2. This court finds that the balance
of due and unpaid partial fees and costs is \$65,298.00 as
of October 27, 1993 (Docket No. 831). Subject to a
forty-five day delay, measured from the date of this order,
the unpaid balance shall bear interest at the rate of one
and three-fourths percent per month compounded monthly
until paid. (dst)

7/1/94 850 RECEIPT #062179 in the sum of \$105.00 (ks)

7/1/94 851 Notice of appeal by defendant Edward T Schafer from Dist. Court Memorandum and Orders of 10/4/93 (827), 10/27/93 (831) and 6/7/94 (849), Appeal fee paid (ks)

7/1/94 -- 2 CERTIFIED and one plain copy of Notice of Appeal, Memorandum and Orders of 10/4/93, 10/27/93 and 6/7/94, NOA Supplement, Docket Entries and completed Appeal Form A to USCA8 St. Paul; TO APPELLANT: Docket Entries; TO APPELLEE: Notice of Appeal, Appeal Form B, Docket Entries; TO COURT REPORTER: Notice of Appeal (ks)

7/13/94 -- USCA Number: 94-2696 (ks)

7/14/94 852 MOTION by plaintiff for attorney fees costs and expert witness fees (dst)

7/14/94 853 AFFIDAVIT of Michael J. Williams regarding motion for attorney fees [852-1] (dst)

7/14/94 854 MEMORANDUM by plaintiff in support of motion for attorney fees [852-1] (dst)

7/26/94 855 RESPONSE by defendants' to motion for attorney fees [852-1] (dst)

8/18/94 -- ADVANCE COPY OF Opinion from Cir Crt of Appeals LODGED re appeal dismiss as premature [851-1] (ak) [Entry date 08/22/94]

9/2/94 856 TRANSCRIPT OF EVIDENTIARY HEARING BEFORE THE PANEL OF SPECIAL MASTERS (12 Volumes) filed (de)

9/12/94 857 MANDATE from Circuit Court of Appeals dismissing the appeal as premature [851-1] (ks)

11/16/94 858 REPORT OF THE PANEL OF SPECIAL MASTERS (dst)

1/3/95 -- REMARK: (Copies of billing statements as submitted to State of ND rec'd) (Court & Counsel advised as requested by Chairman Lee) (de) [Edit date 01/03/95]

1/11/95 859 ORDER by Hon. Bruce M. Van Sickle with NOTICE OF ENTRY: panel members are dismissed; permanent inj is terminated and dismissed; within 15 days of the filing of this order plfs shall present outstanding atty fees, and separately costs, which are allowed; within 15 days of the filing of plfts outstanding atty fees and statutory costs, dfts shall present their obj. terminating case (cc: all counsel) (dst)

1/19/95 860 MOTION by plaintiff ARC for attorney fees, for costs (de) [Edit date 02/07/95]

1/19/95 860 AFFIDAVIT of Michael J. Williams (de)

1/20/95 861 RESPONSE by defendants to motion for attorney fees [860-1], motion for costs [860-2] (de)

2/7/95 862 MEMORANDUM AND ORDER by Hon. Bruce M. Van Sickle with NOTICE OF ENTRY: 1. Plaintiffs are the prevailing parties in this action and are entitled to an award of attorney's

fees, including expert fees and costs; 2. Plaintiffs are awarded an amount of \$202,335.15 for attorney's fees and costs. This amount includes an award of \$57,908.04 in expert fees. Interest shall accrue on the total amount of \$202,335.15 at a rate in accordance with 28 U.S.C. #1961 from the date judgment is entered; 3. This Court amends its June 7, 1994 Order (Doc. # 849) with respect to the award of interest in that no prejudgment interest shall be awarded to plaintiffs (cc: all counsel) (dst)

2/7/95 863 JUDGMENT: by Hon. Bruce M. Van Sickle with NOTICE OF ENTRY: 1. That all outstanding injunctive orders are dissolved. 2. That plaintiffs shall receive their attorney's fees and costs in the amount of \$202,335.15. This amount includes an award of expert fees in the amount of \$57,908.04. (cc: all counsel) (dst)

2/24/95 864 RECEIPT #062510 in the sum of \$105.00 (ks)

2/24/95 865 Notice of appeal by defendants from Dist. Court judgment [863-1] and order [862] entered 2/7/95 (ks)

2/24/95 -- 2 CERTIFIED and one plain copy of Notice of appeal, Order and Judgment entered 2/7/95, NOA Supplement, Docket Entries forwarded to USCA8, St Paul; TO APPELLANT: Appeal Form A, Docket Entries; TO APPELLEE: Notice of appeal, Appeal Form B, Docket Entries; TO COURT REPORTER: Notice of Appeal (ks)

3/6/95 -- USCA Number: 95-1496 for appeal (doc 865) entered 2/24/95 (ks)

9/11/95 -- Briefing schedule from USCA8 set for 10/16/95 at 9:00; USCA Number: 95-1496 (ks)

5/20/96 -- Opinion from Circuit Court of Appeals LODGED re appeal [865-1] (dst)

7/1/96 -- ORDER from USCA8 denying the suggestion for rehearing en banc and petition for rehearing by the panel (ks)

7/12/96 866 MANDATE from Circuit Court of Appeals reversing decision of the District Court [Appeal [865-1] (ks)

9/27/96 867 LETTER from Supreme Crt that petition for writ of cert has been filed w/USCA8 (ks)

12/2/96 868 LETTER from USCA8 in re Order of the U S Supreme Court denying certiorari in the above action (dst)
[Entry date 12/03/96] [Edit date 12/03/96]

Case Flags:
TERMED

END OF DOCKET: 1:80cv141

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