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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS, FLORIDA

ROGER G. CANUPP, JACOB MYERS,
LAWRENCE MCGEE, HUBERT DAVIDSON,
TYWAUN JACKSON, CHARLES DURDEN,
Plaintiffs,

vs.

Case No. 2:04-cv-260-FtM-MMH-DNF

SECRETARY OF THE DEPARTMENT OF
CHILDREN AND FAMILIES,

Defendants.

ORDER

This matter comes before the Court upon review of Plaintiff's "First Motion for Joinder of GEO, Inc. as a Defendant" (Doc. #172) and attachment, filed February 23, 2007. The attachment consists of the "Request for Proposals for the Financing, Design, Construction, Acquisition and Operation of the Secure Civil Commitment and Treatment Facility for Sexually Violent Predators," dated June, 2005. Defendant Secretary of the Department of Children and Families (hereinafter "DCF") filed a Response in opposition (Doc. #181) on March 13, 2007. This matter is ripe for review.

Plaintiffs filed a Complaint pursuant to 42 U.S.C. § 1983 (Doc. #1) naming as Defendants: the Secretary of the Department of Children and Families and Liberty Behavioral Healthcare Corporation, who at the time was the service provider of the Florida Civil Commitment Center ("FCCC") pursuant to a contract with the Department of Children and Families. On January 16, 2007,

the Court granted Defendant Liberty's unopposed motion to dismiss Liberty since as of July 1, 2006, Liberty no longer provided services to operate the FCCC. (Doc. #154.)

In the motion *sub judice*, Plaintiffs request that the Court join GEO, Inc. (hereinafter "GEO") as a Defendant pursuant to Fed. R. Civ. P. 20 and 21 because "[t]he services that GEO, Inc. is required to provide are the same or substantially similar to the services that Liberty was providing." Doc. #172 at 2. Judicial economy supports joining GEO as Plaintiffs contend that joinder will prevent the possible necessity of filing a second lawsuit naming GEO. *Id.* at 7. Further, Plaintiffs state that joinder of GEO "will help this Court with its assessment of relief, as well as its analysis of liability" since the questions of law and fact are related to both the DCF and GEO. *Id.* at 3. Plaintiffs state that their motion for joinder is timely, in spite of the motion falling outside the parameters of the Case Management and Scheduling Order since the deadline for adding parties was October 6, 2006, only three months after GEO assumed the FCCC contract. Plaintiffs contend that they have received GEO's revised policies, "which indicate the facility is still significantly inadequate." *Id.* at 2-3 fn 2. Upon review of the Plaintiffs' attachment, the Court notes that under the section titled "Scope of Programmatic Services," the Department of Children and Families informed the offerors that "[t]he successful offeror must be able to meet all the care,

custody, and **treatment** needs of all persons detained or committed."¹ DCF's Request for Proposals at 2 (emphasis added).

In response, Defendant DCF contends that the Court should deny Plaintiffs motion for joinder because the motion is untimely. Doc. #181 at 2-3. Defendant further contends that GEO is unnecessary since the real party in interest for purposes of the injunctive relief is DCF. Id. at 3-4. Adding GEO as a Defendant would cause unwarranted delay in the disposition of the case and unwarranted expense to GEO. Id.

Federal Rule of Civil Procedure 20(a) provides:

All persons . . . may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all defendants will arise in the action.

Thus, Fed. R. Civ. P. 20 first requires that a party requesting joinder establish the right to relief arising out of the same transaction or occurrence; or series of transactions or occurrences. Second, the rule requires that a similar question of law or fact. To determine what constitutes a "transaction or occurrence," courts have referred to the meaning of "transaction" within Fed. R. Civ. P. 13(a). Alexander v. Fulton County, 207 F.3d 1303, 1323 (11th Cir. 2000). "'Transaction' is a word of flexible

¹The Court notes that the attached document is a proposal and not the actual contract entered between DCF and GEO, Inc.

meaning. It may comprehend a series of many occurrences, depending not so much upon the immediateness of their connection as upon their logical relationship." Id. (internal citations omitted). With regard to the second prong involving questions of law or fact, Fed. R. Civ. P. 20(a) requires "only that some question of law or fact be common to all parties." Id. at 1324 (emphasis in original) (internal citations omitted).

The Court previously noted and the parties have conceded that GEO is the current provider operating the FCCC pursuant to a contract with DCF. GEO assumed contractual responsibilities of the FCCC sometime around July 1, 2006. Plaintiffs contend that GEO is "required to provide . . . the same or substantially similar" services as Liberty was previously providing at the FCCC. There is a logical relationship between DCF and GEO since GEO has become the contracted provider. Further, GEO is revising FCCC policies, including those policies pertaining to the FCCC's treatment programs. Id. at 2-3, 6. Since the issues in this case involve the FCCC residents' treatment, or lack thereof, there are questions of fact or law common to both DCF and GEO. As such, the Court will grant Plaintiff's motion for joinder of GEO.

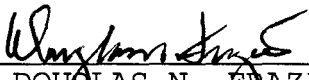
ACCORDINGLY, it is hereby **ORDERED**:

1. Plaintiff's "First Motion for Joinder of GEO, Inc. as a Defendant" (Doc. #172) is **GRANTED**.

2. The Clerk of Court shall correct the caption of the case to include GEO, Inc. as a Defendant in this action.

3. The parties shall correct the caption of the case on future pleadings to reflect the addition of GEO, Inc. as a Defendant in this action and the style of the case as 2:04-cv-260-FTM-MMH-DNF.

DONE AND ORDERED in Fort Myers, Florida, on this 26th day of March, 2007.



DOUGLAS N. FRAZIER
UNITED STATES MAGISTRATE JUDGE

SA: alj
Copies: All Parties of Record