



U.S. Department of Justice

*United States Attorney's Office
Eastern District of New York*

*271 Cadman Plaza East
Brooklyn, New York 11201*

April 3, 2017

VIA ECF

Honorable Nicholas G. Garaufis
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. State of New York, 13-cv-4165 (NGG)
O'Toole et al. v. Cuomo et al., 13-cv-4166 (NGG)

The United States respectfully submits this letter pursuant to the Court's Order dated March 30, 2017, directing Plaintiffs to respond to the submission of the New York State Office of the Attorney General (OAG) dated March 29, 2017, and to advise the Court whether the United States intends to seek sanctions against the State Defendants.

OAG's March 29, 2017 submission supplements OAG's February 28, 2017 motion to withdraw as counsel. The actions of the State Defendants surrounding the entry of the Temporary Restraining Order in *Doe v. Zucker* are clearly troubling, and we appreciate OAG's efforts to clarify the record. However, the United States and private plaintiffs are in the process of negotiating an agreement with the State that would prevent nullification of the Amended Stipulation and Order of Settlement (the Settlement Agreement) and allow the parties to return to dedicating their full attention and resources to the critically important task of pursuing the relief to which adult home residents are entitled under the Settlement Agreement. If the parties are able to reach such an agreement, we respectfully submit that the additional discovery granted at the March 22 hearing and the scheduled May 17 hearing will not be necessary.

Accordingly, the United States does not intend to seek sanctions at this time. However, if we are unable to reach agreement with the State to resolve the current issues, we intend to proceed with the scheduled discovery and the May 17 hearing. In that event, we may seek leave to supplement this submission and request that the Court strike section O.1 from the Settlement Agreement.

Respectfully Submitted,

BRIDGET M. ROHDE
Acting United States Attorney

By: _____/s/_____
Michael J. Goldberger
Chief of Civil Rights, Civil Division
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6052
Michael.Goldberger@usdoj.gov

_____/s/_____
Eliza Dermody
Jennifer Bronson
Trial Attorneys
Disability Rights Section
Civil Rights Division
U.S. Department of Justice
(202) 305-0463
Eliza.Dermody@usdoj.gov
Jennifer.Bronson2@usdoj.gov

cc: All counsel (By ECF)