

**United States District Court
Southern District of West Virginia (Charleston)
CIVIL DOCKET FOR CASE #: 2:15-cv-09655**

T. et al v. Bowling et al
Assigned to: Judge Thomas E. Johnston
Cause: 42:1983 Civil Rights Act

Date Filed: 07/09/2015
Date Terminated: 09/25/2018
Jury Demand: None
Nature of Suit: 446 Civil Rights:
Americans with Disabilities – Other
Jurisdiction: Federal Question

Plaintiff

Michael T.
a person with diminished capacity

represented by **Bren J. Pomponio**
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Plaintiff

Eric D.
by his guardian

represented by **Bren J. Pomponio**
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Gary M. Smith
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Plaintiff

Connie D.

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Lydia C. Milnes
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Plaintiff

Sara F.
by her guardians

represented by **Bren J. Pomponio**
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Gary M. Smith
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Plaintiff

Rebecca F.
and

represented by **Bren J. Pomponio**
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Plaintiff

David F.

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Plaintiff

Jeremy C.
by his guardian

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Gary M. Smith
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Plaintiff

Jo C.
and

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Gary M. Smith
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Lydia C. Milnes
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Plaintiff

Tara R.
by her guardian

represented by **Bren J. Pomponio**
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Gary M. Smith
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Lydia C. Milnes
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Plaintiff

Harv Christian R.
*on their own behalf and on behalf of all
others similarly situated*

represented by **Bren J. Pomponio**
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Gary M. Smith
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LEAD ATTORNEY
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Lydia C. Milnes
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ATTORNEY TO BE NOTICED

V.

Defendant

Karen Bowling

*in her official capacity as Secretary of the
TERMINATED: 04/26/2017*

represented by **Caroline M. Brown**
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*TERMINATED: 10/02/2018
PRO HAC VICE*

Defendant

**West Virginia Department of Health
and Human Resources**

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*LEAD ATTORNEY
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Kimberly L. Stitzinger
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Philip J. Peisch
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Shruti C. Barker
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TERMINATED: 10/02/2018
PRO HAC VICE

Defendant

Bill J. Crouch
in his official capacity as Secretary of
DHHR

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Kimberly L. Stitzinger
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Philip J. Peisch
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Shruti C. Barker
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TERMINATED: 10/02/2018
PRO HAC VICE

Guardian ad Litem

Julia B. Shalhoup

represented by **Bren J. Pomponio**
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Date Filed	#	Docket Text
07/09/2015	<u>1</u>	COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF. Filing Fee \$400.00. Receipt # 0425-4003786. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Civil Cover Sheet) (jsa)
07/09/2015	<u>2</u>	ELECTRONIC SUMMONS ISSUED as to Karen Bowling, re: <u>1</u> Complaint,. Summons returnable 21 days. Instructions to Counsel: This is your electronic summons. Please print as many copies of the Summons and Complaint as are necessary to effectuate service under Fed. R. Civ. P. 4. See Proof of Service page of

		this Summons form for filing a return of service if required by Fed. R. Civ. P. 4(l). (jsa)
07/09/2015	<u>3</u>	STANDING ORDER IN RE: ASSIGNMENT AND REFERRAL OF CIVIL ACTIONS AND MATTERS TO MAGISTRATE JUDGES ENTERED MAY 7, 2014. Discovery referred to Magistrate Judge Tinsley. (cc:attys; any unrepresented party) (jsa)
07/09/2015		CASE assigned to Judge Thomas E. Johnston. (ras) (Entered: 07/10/2015)
07/27/2015	<u>4</u>	SUMMONS ACCEPTED FOR SERVICE BY SECRETARY OF STATE re: <u>1</u> Complaint. Accepted by Secretary of State on 7/24/2015 as to Karen Bowling; answer due 8/14/2015. (tmh) (Image rescanned and replaced on 7/29/2015)
08/14/2015	<u>5</u>	STIPULATION by Karen Bowling in her official capacity as Secretary of the West Virginia Department of Health and Human Resources, Michael T., Eric D., Connie D., Sara F., Rebecca F., David F., Jeremy C., Harv Christian R. (Jones, Kimberly) (Modified on 8/17/2015 to add party filers) (rea).
09/08/2015	<u>6</u>	STATEMENT OF VISITING ATTORNEY from Caroline M. Brown on behalf of Karen Bowling. Local counsel: Kimberly Stitzinger Jones. (Jones, Kimberly) (Modified on 9/9/2015 to add names of visiting attorney and local counsel) (skh).
09/08/2015	<u>7</u>	STATEMENT OF VISITING ATTORNEY from Philip J. Peish on behalf of Karen Bowling. Local counsel: Kimberly Stitzinger Jones. (Jones, Kimberly) (Modified on 9/9/2015 to add name of visiting attorney) (skh).
09/08/2015	<u>8</u>	LETTER to Clerk, USDC/SDWV, from Philip J. Peisch, Esquire, dated 9/4/2015, enclosing a \$150.00 check in payment of Pro Hac Vice fees for Caroline Brown, Philip Peisch and Shruti Barker (Receipt No. 1BLUE000882 attached) (arb) (Modified on 9/10/2015 to replace image of receipt with corrected image) (skh). (Entered: 09/09/2015)
09/08/2015	<u>9</u>	PRO HAC VICE FEE in the sum of \$150.00 received from Caroline M. Brown, Philip J. Peisch, Shruti C. Barker. Receipt Number 1BLUE000882. (cc: Administrative Services) (skh) (Entered: 09/10/2015)
09/14/2015	<u>10</u>	MOTION by Karen Bowling to Dismiss <u>1</u> Complaint (Attachment: # <u>1</u> Exhibit 1 – Template Letter – Taniua Hardy)(Peisch, Philip)
09/14/2015	<u>11</u>	MEMORANDUM OF LAW by Karen Bowling in support of <u>10</u> MOTION by Karen Bowling to Dismiss <u>1</u> Complaint (Peisch, Philip)
09/15/2015	<u>12</u>	STATEMENT OF VISITING ATTORNEY from Shruti C. Barker on behalf of Karen Bowling. Local counsel: Kimberly Stitzinger Jones. (Jones, Kimberly) (Modified on 9/15/2015 to add names of visiting attorney and local counsel) (skh).
09/28/2015	<u>13</u>	INCORRECT ENTRY; SEE ENTRY #14. (Modified on 9/29/2015 to remove image and re-file it as entry #14) (skh).
09/28/2015	<u>14</u>	FIRST AMENDED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF by Michael T., Eric D., Connie D., Sara F., Rebecca F., David F., Jeremy C., Jo C., Tara R., Harv Christian R. against Karen Bowling, West Virginia Department of Health and Human Resources. (Attachment: # <u>1</u> Exhibits 1–7) (skh) (Entered: 09/29/2015)
09/29/2015		NOTICE OF DOCKET CORRECTION re: #13 Response by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. ERROR: Incorrect event selected. CORRECTION: Image removed and filed as an Amended Complaint, entry <u>14</u> . (skh)
10/13/2015	<u>15</u>	ANSWER TO <u>14</u> First Amended Complaint for Injunctive and Declaratory Relief by Karen Bowling.(Peisch, Philip)
10/13/2015	<u>16</u>	MOTION by Karen Bowling to Dismiss Counts III and IV and to Dismiss the Claims of Plaintiffs Michael T. and Eric D. re: <u>14</u> First Amended Complaint for Injunctive and Declaratory Relief (Attachment: # <u>1</u> Exhibits 1–3)(Peisch, Philip)

10/13/2015	<u>17</u>	MEMORANDUM OF LAW by Karen Bowling in support of <u>16</u> MOTION by Karen Bowling to Dismiss Counts III and IV and to Dismiss the Claims of Plaintiffs Michael T. and Eric D. re: <u>14</u> First Amended Complaint for Injunctive and Declaratory Relief (Peisch, Philip)
10/21/2015	<u>18</u>	ORDER AND NOTICE: Rule 12(b) Motions 11/20/2015. Rule 26(f) Meeting 12/28/2015. Last day to file report of Rule 26(f) Meeting 1/4/2015. Telephonic Scheduling Conference at 03:30 PM on 1/15/2016 in Charleston. Entry of Scheduling Order 1/25/2016. Last Day to make Rule 26(a)(1) disclosures 1/29/2016. Signed by Judge Thomas E. Johnston on 10/21/2015. (cc:attys; any unrepresented party) (mmw)
10/26/2015	<u>19</u>	UNOPPOSED MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. to Extend Deadline for Response to Defendant's Motion to Dismiss the Amended Complaint to 11/6/2015 (Attachment: # <u>1</u> Proposed Order)(Smith, Gary)
10/28/2015	<u>20</u>	ORDER granting plaintiffs' <u>19</u> UNOPPOSED MOTION to Extend Deadline for Response to defendant's Motion to Dismiss the Amended Complaint; plaintiffs may file their opposition briefing to defendant's <u>16</u> Motion to Dismiss Counts III and IV and to Dismiss the Claims of Plaintiffs Michael T. and Eric D., by 11/6/2015. Signed by Judge Thomas E. Johnston on 10/28/2015. (cc: counsel of record; any unrepresented party) (taq)
10/28/2015		RESPONSE DEADLINE re: <u>16</u> MOTION to Dismiss Counts III and IV and to Dismiss the Claims of Plaintiffs Michael T. and Eric D.; Response due by 11/6/2015 pursuant to <u>20</u> order. (taq)
11/06/2015	<u>21</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in opposition to <u>16</u> MOTION by Karen Bowling to Dismiss Counts III and IV and to Dismiss the Claims of Plaintiffs Michael T. and Eric D. re: <u>14</u> First Amended Complaint for Injunctive and Declaratory Relief (Attachment: # <u>1</u> Exhibit 1)(Smith, Gary)
11/06/2015	<u>22</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. to Exceed the Page Limit for Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Injunction (Attachment: # <u>1</u> Proposed Order)(Smith, Gary)
11/12/2015	<u>23</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Appointment of Guardian ad Litem for Plaintiff Michael T. (Attachment: # <u>2</u> Exhibit 1)(Smith, Gary) (Modified on 11/12/2015 to remove memorandum in support (attachment #1) and file it as entry #32) (skh).
11/12/2015	<u>24</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Leave to File Under Seal Exhibits 2-4 in Support of Motion for Appointment of Guardian Ad Litem for Plaintiff Michael T. (Attachment: # <u>1</u> Exhibits 2-4)(Smith, Gary)
11/12/2015	<u>25</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in support of <u>24</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Leave to File Under Seal Exhibits 2-4 in Support of Motion for Appointment of Guardian Ad Litem for Plaintiff Michael T. (Smith, Gary) (Modified on 11/12/2015 to remove link to #23 motion)(skh).
11/12/2015	<u>26</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Class Certification (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3)(Smith, Gary)
11/12/2015	<u>27</u>	MEMORANDUM OF LAW by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in support of <u>26</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Class Certification (Smith, Gary)
11/12/2015	<u>28</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Preliminary Injunction (Attachments: # <u>1</u> Appendix - Table of Contents, # <u>2</u> Appendix Part 1, # <u>3</u> Appendix Part 2)(Smith, Gary)

11/12/2015	<u>29</u>	MEMORANDUM OF LAW by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in support of <u>28</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Preliminary Injunction (Smith, Gary)
11/12/2015	<u>30</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Leave to File Under Seal Declarations in Support of Motion for Preliminary Injunction. (Attachments: # <u>1</u> Decl. of Connie D., # <u>2</u> Decl. of Rebecca F., # <u>3</u> Decl. of Jo C., # <u>4</u> Decl. of Harv Christian R., # <u>5</u> Decl. of Kenneth F., Sr.)(Smith, Gary)
11/12/2015	<u>31</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in support of <u>30</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Leave to File Under Seal Declarations in Support of Motion for Preliminary Injunction. (Smith, Gary)
11/12/2015	<u>32</u>	MEMORANDUM OF LAW by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in support of <u>23</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Appointment of Guardian ad Litem for Plaintiff Michael T. (skh)
11/12/2015		NOTICE OF DOCKET CORRECTION re: <u>23</u> Motion by Plaintiffs for Appointment of Guardian ad Litem for Plaintiff Michael T. ERROR: Memorandum in support attached. CORRECTION: Memorandum removed and filed using the event Memorandum In Support, entry <u>32</u> . (skh)
11/13/2015	<u>33</u>	REPLY by Karen Bowling to <u>21</u> Response In Opposition. (Peisch, Philip)
11/25/2015	<u>34</u>	MOTION by Karen Bowling for Expedited Discovery and Briefing Schedule on <u>28</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Preliminary Injunction and <u>26</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Class Certification (Peisch, Philip). (Modified on 11/26/2015 to add links to #26 and #28 motions) (skh).
11/25/2015	<u>35</u>	JOINT MOTION by Karen Bowling, Plaintiffs for a Telephonic Conference to Schedule Briefing and Expedited Discovery for Plaintiffs' Motion for Preliminary Injunction and Motion for Class Certification (Peisch, Philip) (Modified on 11/26/2015 to add all plaintiffs as filers) (skh).
11/25/2015	<u>36</u>	MOTION by Karen Bowling to Stay Briefing on Plaintiffs' Motions for Preliminary Injunction and Class Certification (Peisch, Philip)
11/25/2015	<u>37</u>	RESPONSE by Karen Bowling to <u>23</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Appointment of Guardian ad Litem for Plaintiff Michael T. (Peisch, Philip)
11/30/2015	<u>38</u>	ORDER the Court will hold a telephonic status conference on 12/4/2015 at 09:00 AM before Judge Thomas E. Johnston. Signed by Judge Thomas E. Johnston on 11/30/2015. (cc: counsel of record; any unrepresented party) (tmh)
12/02/2015	<u>39</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in opposition to <u>36</u> MOTION by Karen Bowling to Stay Briefing on Plaintiffs' Motions for Preliminary Injunction and Class Certification and <u>34</u> MOTION by Karen Bowling for Expedited Discovery and Briefing Schedule on <u>28</u> MOTION by Plaintiffs for Preliminary Injunction and <u>26</u> MOTION by Plaintiffs for Class Certification (Smith, Gary)
12/03/2015	<u>40</u>	MOTION by Karen Bowling to Cancel the December 4, 2015 Telephonic Status Conference re: <u>38</u> Order (Peisch, Philip)
12/03/2015	<u>41</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in reply to <u>40</u> MOTION by Karen Bowling to Cancel the December 4, 2015 Telephonic Status Conference re: <u>38</u> Order (Smith, Gary)

12/04/2015	<u>42</u>	TELEPHONE CONFERENCE held by Judge Thomas E. Johnston on 12/4/2015. (slw) (Entered: 12/07/2015)
12/07/2015	<u>43</u>	ORDER granting the parties <u>35</u> JOINT MOTION for a Telephonic Conference to Schedule Briefing and Expedited Discovery for Plaintiffs' Motion for Preliminary Injunction and Motion for Class Certification, denying defendant's <u>40</u> MOTION to Cancel the December 4, 2015 Telephonic Status Conference re: <u>38</u> Order; Telephonic Status Conference set for 12/11/2015 09:00 AM in Charleston before Judge Thomas E. Johnston. Signed by Judge Thomas E. Johnston on 12/7/2015. (cc: counsel of record; any unrepresented party) (tmh)
12/09/2015	<u>44</u>	REPLY by Karen Bowling to <u>39</u> Memorandum In Opposition. (Peisch, Philip)
12/11/2015	<u>45</u>	TELEPHONE CONFERENCE held by Judge Thomas E. Johnston on 12/11/2015. (slw)
12/14/2015	<u>46</u>	ORDER upon telephonic hearing held 12/11/2015; granting plaintiffs' <u>23</u> MOTION for appointment of guardian, subject to the parties agreement on a guardian; denying defendants' <u>34</u> MOTION for expedited discovery and briefing schedule; denying defendants' <u>36</u> MOTION to stay briefing; Responses to the <u>28</u> preliminary injunction motion due by 1/8/2016; and replies due by 1/22/2016; the Court will hold a preliminary injunction hearing on 2/5/2016 at 9:00 a.m. Signed by Judge Thomas E. Johnston on 12/14/2015. (cc: counsel of record; any unrepresented party) (taq) (Modified on 12/14/2015 to add link to #23 motion)
12/14/2015		SET DEADLINES as to <u>28</u> MOTION for Preliminary Injunction. Responses due by 1/8/2016 and Replies due by 1/22/2016. Hearing set for 2/5/2016 at 9:00 AM in Charleston before Judge Thomas E. Johnston; pursuant to the court's <u>46</u> order. (taq)
01/04/2016	<u>47</u>	RULE 26(f) REPORT OF PLANNING MEETING by Karen Bowling, Plaintiffs. (Peisch, Philip) (Modified on 1/4/2016 to add all plaintiffs as filers)(skh).
01/05/2016	<u>48</u>	UNOPPOSED MOTION by Karen Bowling to Extend Page Limit for Defendant's Response to Plaintiffs' Motion for Preliminary Injunction (Peisch, Philip)
01/06/2016	<u>49</u>	ORDER granting Plaintiffs' <u>22</u> MOTION to Exceed the Page Limit for Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Injunction; granting Defendants' <u>48</u> UNOPPOSED MOTION to Extend Page Limit for Defendant's Response to Plaintiffs' Motion for Preliminary Injunction; the Court will consider Plaintiffs' <u>29</u> MEMORANDUM OF LAW for Preliminary Injunction, despite its page length; Defendants may file a responsive briefing to Plaintiffs' <u>28</u> MOTION for Preliminary Injunction in excess of 20 pages, but no longer than 50 pages. Signed by Judge Thomas E. Johnston on 1/6/2016. (cc: counsel of record; any unrepresented party) (tmh)
01/07/2016	<u>50</u>	MOTION by West Virginia Department of Health and Human Resources, Karen Bowling to Enter a Qualified Protective Order to Facilitate the Disclosure of Protected Health Information (Peisch, Philip) (Modified on 1/7/2016 to add party filer) (skh).
01/08/2016	<u>51</u>	MOTION by Karen Bowling for Leave to File Under Seal Exhibit 2, Declaration of Patricia Nisbet (and exhibits thereto). (Attachments: # <u>1</u> Exhibit 2 – Nisbet Declaration, # <u>2</u> Addendum to Nisbet Declaration)(Peisch, Philip)
01/08/2016	<u>52</u>	MEMORANDUM by Karen Bowling in support of <u>51</u> MOTION by Karen Bowling for Leave to File Under Seal Exhibit 2, Declaration of Patricia Nisbet (and exhibits thereto). (Peisch, Philip)
01/08/2016	<u>53</u>	RESPONSE by Karen Bowling in opposition to <u>26</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Class Certification (Peisch, Philip)
01/08/2016	<u>54</u>	RESPONSE by Karen Bowling in opposition to <u>28</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Preliminary Injunction (Attachments: # <u>1</u> Exhibit 1 – Atkins Declaration, # <u>2</u> Exhibit 2 – Nisbet Declaration, # <u>3</u> Exhibit 3 – Samples Declaration)(Peisch, Philip) (Additional attachment(s) added on 9/4/2019: # <u>4</u> Cover Letter and Fed Ex Envelope) (lca).

01/08/2016	<u>55</u>	VACATED PURSUANT TO <u>147</u> ORDER ENTERED 1/18/2017: SCHEDULING ORDER: The Scheduling Conference previously scheduled for 1/15/2016, is canceled. Joinder of Parties, amended pleadings due by 1/18/2016. Discovery requests to be completed by 8/15/2016 and all depositions by 9/30/2016. Expert Witness List by parties bearing the burden of proof due by 8/1/2016, by party not bearing burden of proof due by 9/1/2016, and to solely contradict or rebut evidence due by 9/20/2016. Discovery to close 09/30/2016. Summary Judgment and Other Dispositive Motions except those filed under Rule 12(b) due by 10/20/2016, with responses due by 11/3/2016 and replies due by 11/10/2016. Settlement Meeting to be held by 12/21/2016. Motions in Limine to be filed by 12/28/2016, with responses due by 1/4/2017. Plaintiffs' portion of proposed Pretrial Order to defendants due by 12/26/2016, Proposed Integrated Pretrial Order due by 1/2/2017. Pretrial Conference set for 1/26/2017 at 09:00 AM in Charleston before Judge Thomas E. Johnston. Proposed Charges to the Jury due by 1/31/2017. Final Settlement Conference at 09:00 AM on 1/26/2017 in Charleston. Jury Trial set for 2/7/2017 at 09:00 AM in Charleston before Judge Thomas E. Johnston. Signed by Judge Thomas E. Johnston on 1/8/2016. (cc: attys; any unrepresented party) (tmr) (Modified on 1/18/2017 to noted order is vacated)(taq).
01/13/2016	<u>56</u>	JOINT MOTION by Karen Bowling, Plaintiffs to Amend <u>46</u> Scheduling Order (Attachment: # <u>1</u> Proposed Order)(Peisch, Philip) (Modified on 1/13/2016 to add all plaintiffs as filers)(skh).
01/14/2016	<u>57</u>	ORDER granting the <u>56</u> JOINT MOTION by Karen Bowling, Plaintiffs to Amend <u>46</u> Scheduling Order; the deadline for Plaintiffs' replies in support of their motions for preliminary injunction and class certification are extended to 1/25/2016. Signed by Judge Thomas E. Johnston on 1/14/2016. (cc: counsel of record; any unrepresented party) (tmh)
01/17/2016	<u>58</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in support of <u>51</u> MOTION by Karen Bowling for Leave to File Under Seal Exhibit 2, Declaration of Patricia Nisbet (and exhibits thereto) (Smith, Gary)
01/17/2016	<u>59</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Leave to File Reply Memorandum of No More than Twenty-Five Pages in Length (Smith, Gary)
01/17/2016	<u>60</u>	PROPOSED ORDER Granting leave to exceed page limits by five pages by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. (Smith, Gary)
01/20/2016	<u>61</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in opposition to <u>50</u> MOTION by West Virginia Department of Health and Human Resources, Karen Bowling to Enter a Qualified Protective Order to Facilitate the Disclosure of Protected Health Information (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Smith, Gary)
01/21/2016	<u>62</u>	REPLY by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. to <u>53</u> Response In Opposition. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Smith, Gary) (Modified on 1/21/2016 to remove links to #36 motion and #37 memorandum) (skh).
01/22/2016	<u>63</u>	NOTICE of the Parties' Agreement Upon Candidate for Appointment as Guardian ad Litem for Plaintiff Michael T. by Michael T. re: <u>46</u> Order. (Smith, Gary)
01/22/2016	<u>64</u>	PROPOSED ORDER Agreed Order Appointing Guardian ad Litem by Michael T., West Virginia Department of Health and Human Resources, Karen Bowling (Smith, Gary) (Modified on 1/22/2016 to add party filers) (skh).
01/25/2016	<u>65</u>	ORDER granting Plaintiffs' <u>59</u> MOTION for Leave to File Reply Memorandum of No More than Twenty-Five Pages in Length; directing that Plaintiffs may file a reply brief in support of their <u>28</u> Motion for Preliminary Injunction, in excess of 20 pages, but no longer than 25 pages. Signed by Judge Thomas E. Johnston on 1/25/2016. (cc: counsel of record; any unrepresented party) (taq)
01/25/2016	<u>66</u>	REPLY MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. to <u>54</u> Response In

		Opposition. (Attachments: # <u>1</u> Exhibit 1 – Declaration of Kenneth F., Sr, # <u>2</u> Exhibit 2 – 2015 HBSC State Plan Waiver Description, # <u>3</u> Exhibit 3 – 2015 HBSC State Plan App. A, p. 21, # <u>4</u> Exhibit 4 – Excerpt Trans. 15–BOR– 2035, # <u>5</u> Exhibit 5 – Excerpt Trans. 15–BOR–1612, # <u>6</u> Exhibit 6 – IDWW Manual 12.1.15 revision, # <u>7</u> Exhibit 7 – Excerpts from West Virginia Olmstead Plan (2005), # <u>8</u> Exhibit 8 – Declaration of Joy Arbuckle)(Smith, Gary) (Modified on 1/26/2016 to remove link to #29 memorandum) (skh).
01/27/2016	<u>67</u>	MOTION by Karen Bowling for an Expedited Status Conference to Resolve Medical Privacy Issues for the Preliminary Injunction Hearing (Attachment: # <u>1</u> Exhibit 1)(Peisch, Philip)
01/27/2016	<u>68</u>	REPLY by Karen Bowling to <u>61</u> Memorandum In Opposition. (Peisch, Philip) (Modified on 1/27/2016 to remove link to #61 memorandum) (skh).
01/28/2016	<u>69</u>	ORDER directing that a telephone conference regarding Defendant's <u>50</u> MOTION to Enter a Qualified Protective Order to Facilitate the Disclosure of Protected Health Information is set for 2/3/2016 at 10:00 AM; counsel will be advised of call in information via email. Signed by Magistrate Judge Dwane L. Tinsley on 1/28/2016. (cc: counsel of record; any unrepresented party) (tmh)
01/28/2016	<u>70</u>	ORDER directing that the Preliminary Injunction Hearing is rescheduled for 2/19/2016 at 09:00 AM in Charleston before Judge Thomas E. Johnston; denying without prejudice the <u>67</u> MOTION by Karen Bowling for an Expedited Status Conference to Resolve Medical Privacy Issues for the Preliminary Injunction Hearing. Signed by Judge Thomas E. Johnston on 1/28/2016. (cc: counsel of record; any unrepresented party) (tmh)
01/29/2016	<u>71</u>	JOINT MOTION by Karen Bowling, Plaintiffs for Reconsideration of the <u>70</u> Order Rescheduling the Preliminary Injunction Hearing (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Joint Stipulation)(Peisch, Philip) (Modified on 1/30/2016 to add party filers) (skh).
02/01/2016	<u>72</u>	ORDER denying the parties' <u>71</u> JOINT MOTION for Reconsideration of the Order Rescheduling the Preliminary Injunction Hearing; as noted by its 1/28/2016 <u>70</u> order, the Court will conduct the hearing regarding Plaintiffs' <u>28</u> Motion for Preliminary Injunction on 2/19/2016 at 9:00 a.m. Signed by Judge Thomas E. Johnston on 2/1/2016. (cc: counsel of record; any unrepresented party) (mmw)
02/01/2016	<u>73</u>	MOTION by Karen Bowling to Continue Preliminary Injunction Hearing (Attachment: # <u>1</u> Proposed Order)(Peisch, Philip)
02/03/2016	<u>74</u>	ORDER directing that the continuation of the telephone conference regarding Defendant's <u>50</u> MOTION to Enter a Qualified Protective Order to Facilitate the Disclosure of Protected Health Information is scheduled for 2/8/2016 at 1:00 PM in Charleston before Magistrate Judge Dwane L. Tinsley; the call in information will be the same. Signed by Magistrate Judge Dwane L. Tinsley on 2/3/2016. (cc: counsel of record; any unrepresented party) (taq)
02/03/2016	<u>76</u>	TELEPHONIC STATUS CONFERENCE held by Magistrate Judge Dwane L. Tinsley on 2/3/2016; Court Reporter: Ayme Cochran. (taq) (Entered: 02/08/2016)
02/04/2016	<u>75</u>	ORDER granting <u>73</u> MOTION to Continue Preliminary Injunction Hearing; the preliminary injunction hearing scheduled for 2/19/2016 is continued to 3/11/2016 at 9:00 a.m. Signed by Judge Thomas E. Johnston on 2/4/2016. (cc: counsel of record; any unrepresented party) (tmh)
02/08/2016	<u>77</u>	TELEPHONIC STATUS CONFERENCE held by Magistrate Judge Dwane L. Tinsley on 2/8/2016; Court Reporter: Lisa Cook. (taq)
02/08/2016	<u>78</u>	ORDER directing that the continuation of the telephone conference regarding Defendant's <u>50</u> MOTION to Enter a Qualified Protective Order to Facilitate the Disclosure of Protected Health Information is scheduled for 2/16/2016 at 10:00 a.m. in Charleston before Magistrate Judge Dwane L. Tinsley; the call in information will be the same as from the previous telephone conferences. Signed by Magistrate Judge Dwane L. Tinsley on 2/8/2016. (cc: counsel of record; any unrepresented party) (taq)
02/11/2016	<u>79</u>	ORDER directing that the continuation of the telephone conference regarding Defendant's <u>50</u> MOTION to Enter a Qualified Protective Order to Facilitate the

		Disclosure of Protected Health Information has been rescheduled for 2/19/2016 at 10:00 a.m.; the call information will be the same as from the previous telephone conferences. Signed by Magistrate Judge Dwane L. Tinsley on 2/11/2016. (cc: counsel of record; any unrepresented party) (tmh)
02/19/2016	<u>80</u>	TELEPHONIC STATUS CONFERENCE held by Magistrate Judge Dwane L. Tinsley on 2/19/2016. (tmr)
02/19/2016	<u>81</u>	CERTIFICATE OF SERVICE by Karen Bowling for Rule 26(a)(1) Initial Disclosures. (Peisch, Philip)
02/22/2016	<u>82</u>	CERTIFICATE OF SERVICE by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Rule 26(a)(1) Initial Disclosures. (Smith, Gary)
02/24/2016	<u>83</u>	AGREED ORDER APPOINTING JULIA B. SHALHOUP AS GUARDIAN AD LITEM FOR PLAINTIFF MICHAEL T. SOLELY FOR THE PURPOSES OF THIS LITIGATION directing that Julia B. Shalhoup is appointed guardian ad litem for plaintiff Michael T. to act as his personal surrogate, fiduciary, and representative in connection with the prosecution of this litigation on his behalf, until further order of the Court. Signed by Judge Thomas E. Johnston on 2/24/2016. (cc: attys; any unrepresented party; Julia B. Shalhoup) (tmh)
02/24/2016	<u>84</u>	MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S POSITION REGARDING PARAGRAPH 4(d) OF THE DRAFT AGREED PROTECTIVE ORDER by Karen Bowling re: <u>50</u> MOTION by West Virginia Department of Health and Human Resources, Karen Bowling to Enter a Qualified Protective Order to Facilitate the Disclosure of Protected Health Information (Attachment: # <u>1</u> Attachment A)(Peisch, Philip)
02/26/2016	<u>85</u>	NOTICE OF CHANGE OF ADDRESS by Lydia C. Milnes (Milnes, Lydia)
02/26/2016	<u>86</u>	MEMORANDUM ON CONTESTED PROTECTIVE ORDER PARAGRAPH 4(d) by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. (Attachment: # <u>1</u> WVEB-P102)(Smith, Gary)
03/02/2016	<u>87</u>	MOTION by Rebecca F. for Protective Order (Smith, Gary)
03/02/2016		MOTION REFERRED to Magistrate Judge Dwane L. Tinsley: <u>87</u> MOTION by Rebecca F. for Protective Order (skh)
03/02/2016	<u>88</u>	NOTICE OF CERTIFICATION FOR USE OF COURTROOM TECHNOLOGY on March 11, 2016 at Judge Johnston's Courtroom (Peisch, Philip)
03/03/2016	<u>89</u>	OPPOSITION by Karen Bowling to <u>87</u> MOTION by Rebecca F. for Protective Order (Peisch, Philip)
03/07/2016	<u>90</u>	ORDER granting defendant's <u>50</u> MOTION to Enter a Qualified Protective Order to Facilitate the Disclosure of Protected Health Information; directing the parties to FILE the attached Agreed Protective Order with the Court. Signed by Magistrate Judge Dwane L. Tinsley on 3/7/2016. (Attachment: # <u>1</u> Agreed Protective Order) (cc: counsel of record; any unrepresented party) (taq)
03/07/2016	<u>91</u>	ORDER denying the <u>87</u> MOTION for Protective Order; directing the parties to confer and reach an agreed upon date and time for the oral deposition of Rebecca F. in Lewisburg, West Virginia; the parties to conclude the deposition prior to the preliminary injunction hearing as currently scheduled. Signed by Magistrate Judge Dwane L. Tinsley on 3/7/2016. (cc: counsel of record) (taq)
03/10/2016	<u>92</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. Seeking Judicial Notice of Certain Documents (Milnes, Lydia)
03/10/2016	<u>93</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in support of <u>92</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. Seeking Judicial Notice of Certain Documents (Milnes, Lydia)

03/10/2016	<u>94</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. to Strike the Declarations attached to the <u>54</u> Response In Opposition (Attachment: # <u>1</u> Exhibit 1)(Smith, Gary)
03/10/2016	<u>95</u>	RESPONSE by Karen Bowling in opposition to <u>94</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. to Strike the Declarations attached to the <u>54</u> Response In Opposition (Peisch, Philip)
03/10/2016	<u>96</u>	MOTION by Karen Bowling to Quash Subpoena (Peisch, Philip)
03/10/2016		MOTION REFERRED to Magistrate Judge Dwane L. Tinsley: <u>96</u> MOTION by Karen Bowling to Quash Subpoena (skh) (Entered: 03/11/2016)
03/11/2016	<u>97</u>	RETURN OF SERVICE ON SUBPOENA for Tony Atkins. (Smith, Gary)
03/11/2016	<u>98</u>	MOTION HEARING held by Judge Thomas E. Johnston on 3/11/2016 re: <u>28</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Preliminary Injunction Court Reporter: Ayme Cochran. (slw) (Entered: 03/17/2016)
03/17/2016	<u>99</u>	PROPOSED ORDER Agreed Protective Order by Karen Bowling, All Plaintiffs (Peisch, Philip) (Modified on 3/17/2016 to add all plaintiffs as filers) (skh).
03/18/2016	<u>100</u>	AGREED PROTECTIVE ORDER Setting forth the terms for the handling of confidential documents. Signed by Magistrate Judge Dwane L. Tinsley on 3/18/2016. (cc: attys; any unrepresented party) (jk)
03/18/2016	<u>101</u>	MOTION by Karen Bowling for Leave to File the Declaration of Cynthia Beane (Attachments: # <u>1</u> Declaration, # <u>2</u> Proposed Order)(Peisch, Philip)
03/21/2016	<u>102</u>	ORDER pursuant to the 3/11/2016 preliminary injunction hearing; directing the Clerk to place the following exhibits from that hearing UNDER SEAL: Plaintiffs' Exhibit Numbers 1, 10, 13, 21, and 25; Defendant's Exhibit Number 3, and pages 10–19 of Defendant's Exhibit Number 1. Signed by Judge Thomas E. Johnston on 3/21/2016. (cc: counsel of record; any unrepresented party) (taq)
03/21/2016	<u>103</u>	DECLARATION of Michael Wolfe, filed on behalf of Karen Bowling (Attachment: # <u>1</u> Declaration)(Peisch, Philip)
03/21/2016	<u>104</u>	ADMINISTRATIVE RECORD, SEALED, submitted by Karen Bowling re: <u>103</u> Declaration (Peisch, Philip)
03/21/2016	<u>105</u>	WITNESS LIST for hearing held 3/11/2016. (taq)
03/21/2016	<u>106</u>	EXHIBIT LIST FROM MOTION HEARING held 3/11/2016. (taq)
03/21/2016	<u>107</u>	SEALED EXHIBITS for Hearing held 3/11/2016 pursuant to the Court's Order entered 3/21/2016. (Attachments: # <u>1</u> Plaintiff's Exhibit No. 1, # <u>2</u> Plaintiff's Exhibit No. 10, # <u>3</u> Plaintiff's Exhibit No. 13, # <u>4</u> Plaintiff's Exhibit No. 21, # <u>5</u> Plaintiff's Exhibit No. 25, # <u>6</u> Defendant's Exhibit No. 3, # <u>7</u> Defendant's Exhibit No. 1 (pages 10–19) (taq) (Entered: 03/22/2016)
03/21/2016	<u>108</u>	EXHIBITS FROM MOTION HEARING Plaintiffs' Exhibit Numbers: 2–9; 11–12; 14–20; 22–24. (Attachments: # <u>1</u> Plaintiff's Exhibit No. 2, # <u>2</u> Plaintiff's Exhibit No. 3, # <u>3</u> Plaintiff's Exhibit No. 4, # <u>4</u> Plaintiff's Exhibit No. 5, # <u>5</u> Plaintiff's Exhibit No. 6, # <u>6</u> Plaintiff's Exhibit No. 7, # <u>7</u> Plaintiff's Exhibit No. 8, # <u>8</u> Plaintiff's Exhibit No. 9, # <u>9</u> Plaintiff's Exhibit No. 11, # <u>10</u> Plaintiff's Exhibit No. 12, # <u>11</u> Plaintiff's Exhibit No. 14, # <u>12</u> Plaintiff's Exhibit No. 15, # <u>13</u> Plaintiff's Exhibit No. 16, # <u>14</u> Plaintiff's Exhibit No. 17, # <u>15</u> Plaintiff's Exhibit No. 18, # <u>16</u> Plaintiff's Exhibit No. 19, # <u>17</u> Plaintiff's Exhibit No. 20, # <u>18</u> Plaintiff's Exhibit No. 22, # <u>19</u> Plaintiff's Exhibit No. 23, # <u>20</u> Plaintiff's Exhibit No. 24) (taq) (Entered: 03/22/2016)
03/21/2016	<u>109</u>	EXHIBITS FROM MOTION HEARING Defendant's Exhibit Number: 2 (Attachment: # <u>1</u> Defendant's Exhibit No. 2) (taq) (Entered: 03/22/2016)
03/29/2016	<u>110</u>	RESPONSE by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. in opposition to <u>101</u> MOTION by Karen Bowling for Leave to File the Declaration of Cynthia Beane (Milnes, Lydia)

04/05/2016	<u>111</u>	DECLARATION of Michael Wolfe, dated April 1, 2015, filed on behalf of Eric D., Julia B. Shalhoup, Jeremy C., Sara F., David F., Harv Christian R., Michael T., Tara R., Rebecca F., Jo C., Connie D. re: <u>28</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Preliminary Injunction (Attachments: # <u>1</u> Declaration, # <u>2</u> Certificate of Service)(Milnes, Lydia) (Modified on 4/5/2016 to add link to #28 motion) (skh).
04/05/2016	<u>112</u>	NOTICE OF COMPLETION OF EVIDENTIARY RECORD for the March 11, 2016 Hearing on Plaintiffs' Motions for Class Certification and Preliminary Injunction by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. (Attachments: # <u>1</u> Deposition of Tony Atkins, # <u>2</u> Exhibit 1 to Atkins Deposition, # <u>3</u> Exhibit 2 to Atkins Deposition, # <u>4</u> Authenticated portions of Exhibit 3 to Atkins deposition)(Smith, Gary)
04/05/2016	<u>113</u>	REPLY by Karen Bowling to <u>110</u> Response In Opposition. (Peisch, Philip)
04/06/2016	<u>114</u>	LETTER-FORM NOTICE OF RELEVANT PORTIONS OF ATKINS DEPOSITION TRANSCRIPT by Karen Bowling re: <u>112</u> Notice of Completion of Evidentiary Record (Peisch, Philip)
04/14/2016	<u>115</u>	TRANSCRIPT OF PROCEEDINGS of Motions Hearing held on 03/11/2016, before Judge Thomas E. Johnston. Court Reporter Ayme Cochran, Telephone number 304-347-3128. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due 4/25/2016. Redaction Request due 5/5/2016. Redacted Transcript Deadline set for 5/16/2016. Release of Transcript Restriction set for 7/13/2016. (aac)
08/16/2016	<u>116</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. to Modify <u>55</u> Scheduling Order (Milnes, Lydia)
08/25/2016	<u>117</u>	OPPOSITION by Karen Bowling to <u>116</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. to Modify <u>55</u> Scheduling Order (Attachment: # <u>1</u> Attachment A)(Peisch, Philip)
08/30/2016	<u>118</u>	NOTICE re: <i>Status of Innovative Resource Group, LLC v. Bowling, 16-cv-06475</i> by Karen Bowling (Attachment: # <u>1</u> Exhibit 1)(Peisch, Philip)
09/09/2016	<u>119</u>	RETURN OF SERVICE ON SUBPOENA for Innovative Resource Group, Inc. (Pomponio, Bren)
09/09/2016	<u>120</u>	RETURN OF SERVICE ON SUBPOENA for Innovative Resource Group, Inc. (Pomponio, Bren)
09/13/2016	<u>121</u>	ORDER telephonic status conference set for 9/20/2016 at 2:00 p.m. in Charleston before Judge Thomas E. Johnston. Signed by Judge Thomas E. Johnston on 9/13/2016. (cc: counsel of record; any unrepresented party) (taq)
09/13/2016	<u>122</u>	MEMORANDUM OPINION AND ORDER granting in part the <u>28</u> MOTION for Preliminary Injunction, to the extent Plaintiffs request a preliminary injunction restoring the named Plaintiffs' 2014 individualized waiver benefits; the Court PRELIMINARILY ENJOINS AND ORDERS Defendant to reinstate the named Plaintiffs' individualized I/DD Waiver Program budgets to the amounts Plaintiffs received in 2014, but only for those Plaintiffs that received a reduction in their individualized budgets after 2014; this preliminary injunction to remain in force and effect pending the outcome of this action; the Clerk to UNSEAL and DOCKET the following pages within Exhibit 2 (Nisbet Declaration) and its Addendum attached to Defendant's 1/8/2016 <u>51</u> Motion for Leave to File under Seal: ECF No. 51-1 at 19, 124; ECF No. 51-2 at 1546; denying as moot <u>94</u> MOTION to Strike; denying as moot <u>96</u> MOTION to Quash Subpoena; denying as moot <u>10</u> MOTION to Dismiss Plaintiffs' Complaint; granting <u>24</u> MOTION for Leave to File under Seal; granting <u>30</u> MOTION for Leave to File under Seal; granting in part <u>51</u> MOTION for Leave to File under Seal, to the extent that the Declaration and Addendum contain protected health and other confidential information of the Plaintiffs; within Exhibit 2, Ms. Nisbet's Declaration, pages 1 through 9 shall be made public; granting <u>101</u> MOTION for Leave to File the Declaration of Cynthia Bean; directing that the Rule 65(c) bond requirement

		is WAIVED as to the preliminary injunction provided herein. Signed by Judge Thomas E. Johnston on 9/13/2016. (cc: counsel of record; any unrepresented party) (taq)
09/13/2016	<u>123</u>	EXHIBIT 2 (Nisbet Declaration 1–9) filed pursuant to to the Court's <u>122</u> Order, re: <u>51</u> Motion for Leave to File Under Seal. (taq)
09/13/2016	<u>124</u>	ADDENDUM (hearing request form) filed pursuant to the Court's <u>122</u> Order, re: <u>51</u> Motion for Leave to File Under Seal. (taq)
09/13/2016	<u>125</u>	DECLARATION of Cynthia Beane filed pursuant to the Court's <u>122</u> Order, re: <u>28</u> Motion for Preliminary Injunction. (taq)
09/20/2016	<u>126</u>	TELEPHONE CONFERENCE held by Judge Thomas E. Johnston on 9/20/2016. (slw) (Entered: 09/21/2016)
09/23/2016	<u>127</u>	RETURN OF SERVICE ON SUBPOENA for Hannah Kinsey. (Peisch, Philip)
09/23/2016	<u>128</u>	RETURN OF SERVICE ON SUBPOENA for Jessica Limley. (Peisch, Philip)
09/23/2016	<u>129</u>	RETURN OF SERVICE ON SUBPOENA for Michael Wolfe. (Peisch, Philip)
09/23/2016	<u>130</u>	RETURN OF SERVICE ON SUBPOENA for Joy Arbuckle. (Peisch, Philip)
09/23/2016	<u>131</u>	RETURN OF SERVICE ON SUBPOENA for Open Doors, Inc. (Peisch, Philip)
09/23/2016	<u>132</u>	RETURN OF SERVICE ON SUBPOENA for Jackson County Developmental Center, Inc. (Peisch, Philip)
09/23/2016	<u>133</u>	RETURN OF SERVICE ON SUBPOENA for REM–West Virginia. (Peisch, Philip)
09/23/2016	<u>134</u>	ORDER telephonic status conference set for 9/30/2016 at 10:00 a.m. in Charleston before Judge Thomas E. Johnston. Signed by Judge Thomas E. Johnston on 9/23/2016. (cc: counsel of record; any unrepresented party) (taq)
09/29/2016	<u>135</u>	JOINT MEMORANDUM by Karen Bowling, All Plaintiffs on Status of Plaintiffs Michael T. and Eric D. (Peisch, Philip) (Modified on 9/29/2016 to add party filers)(skh).
09/30/2016	<u>136</u>	ORDER denying the defendant's <u>16</u> MOTION to Dismiss Counts III and IV and the Claims of Plaintiffs Michael T. and Eric D.; and granting plaintiffs' <u>26</u> MOTION for Class Certification; Gary Smith, Bren Pomponio, and Lydia Milnes, to serve as class counsel in accordance with Federal Rule of Civil Procedure 23(g), and defines the class as set forth more fully herein; settlement conference set for 10/28/2016 at 9:00 a.m.; all persons with full authority to settle the matter are directed to be in attendance. Signed by Judge Thomas E. Johnston on 9/30/2016. (cc: counsel of record; any unrepresented party) (taq)
09/30/2016	<u>137</u>	TELEPHONE CONFERENCE held by Judge Thomas E. Johnston on 9/30/2016. (slw)
10/12/2016	<u>138</u>	TRANSCRIPT OF PROCEEDINGS of Telephonic Pretrial Conference held on 09/30/2016, before Judge Thomas E. Johnston. Court Reporter Ayme Cochran, Telephone number 304–347–3128. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due 10/24/2016. Redaction Request due 11/2/2016. Redacted Transcript Deadline set for 11/14/2016. Release of Transcript Restriction set for 1/10/2017. (aac)
10/13/2016	<u>139</u>	CERTIFICATE OF SERVICE filed by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Responses to First Set of Interrogatories, Requests for Production of Documents and Requests for Admissions (Smith, Gary)
10/26/2016	<u>140</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. to Extend Preliminary Injunctive Relief to Class Members (Attachments: # <u>1</u> Exhibit 1 – Affidavit of Thomas Basile, # <u>2</u> Exhibit 2 – Declaration of Jessica H., # <u>3</u> Exhibit 3 – Declaration of Kenneth F., Sr., # <u>4</u> Exhibit 4 – Declaration of Tracey G.)(Milnes, Lydia)

10/26/2016	<u>141</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. in support of <u>140</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. to Extend Preliminary Injunctive Relief to Class Members (Milnes, Lydia)
10/28/2016	<u>142</u>	SETTLEMENT CONFERENCE held by Judge Thomas E. Johnston on 10/28/2016. (slw) (Entered: 11/02/2016)
11/02/2016	<u>143</u>	ORDER telephonic status conference set for 11/30/2016 at 10:00 a.m. in Charleston before Judge Thomas E. Johnston. Signed by Judge Thomas E. Johnston on 11/2/2016. (cc: counsel of record; any unrepresented party) (taq)
11/30/2016	<u>144</u>	TELEPHONE CONFERENCE held by Judge Thomas E. Johnston on 11/30/2016. (slw) (Entered: 12/01/2016)
12/01/2016	<u>145</u>	ORDER pursuant to the telephonic status conference conducted on 11/30/2016; granting the <u>92</u> MOTION Seeking Judicial Notice of Certain Documents; and denying as moot the <u>116</u> MOTION to Modify Scheduling Order; the Court will hold another telephonic status conference in this case on 1/20/2017 at 10:00 a.m. Signed by Judge Thomas E. Johnston on 12/1/2016. (cc: counsel of record; any unrepresented party) (taq)
01/13/2017	<u>146</u>	MOTION by Karen Bowling, West Virginia Department of Health and Human Resources, Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. to Continue the January 20, 2017 Status Conference (Attachment: # <u>1</u> Joint Status Update)(Peisch, Philip) (Modified on 1/13/2017 to add party filers) (skh).
01/18/2017	<u>147</u>	ORDER granting the <u>146</u> JOINT MOTION to continue the status conference; vacating the current scheduling order; the telephonic status conference is CONTINUED to 3/10/2017 at 10:00 a.m. Signed by Judge Thomas E. Johnston on 1/18/2017. (cc: counsel of record; any unrepresented party) (taq)
03/10/2017	<u>148</u>	TELEPHONE CONFERENCE held by Judge Thomas E. Johnston on 3/10/2017. (slw) (Entered: 03/14/2017)
03/14/2017	<u>149</u>	ORDER telephonic status conference set for 4/28/2017 at 2:00 p.m. in Charleston before Judge Thomas E. Johnston. Signed by Judge Thomas E. Johnston on 3/14/2017. (cc: counsel of record; any unrepresented party) (taq)
04/24/2017	<u>150</u>	CONSENT MOTION by Karen Bowling, West Virginia Department of Health and Human Resources to Substitute Party (Peisch, Philip) (Modified on 4/25/2017 to add party filer) (kp).
04/26/2017	<u>151</u>	ORDER granting the <u>150</u> CONSENT MOTION to Substitute a Party; directing the Clerk to substitute Bill J. Crouch, in his official capacity as Secretary of DHHR, as the named Defendant in this matter Signed by Judge Thomas E. Johnston on 4/26/2017. (cc: counsel of record; any unrepresented party) (taq)
04/27/2017	<u>152</u>	JOINT STATUS REPORT by Bill J. Crouch and all Plaintiffs (Peisch, Philip) (Modified on 4/28/2017 to add party filers) (dvb).
04/28/2017	<u>153</u>	TELEPHONE CONFERENCE held by Judge Thomas E. Johnston on 4/28/2017. (slw)
04/28/2017	<u>154</u>	ORDER pursuant to a telephonic status conference held 4/28/2017; and for reasons more fully stated on the record at that hearing, directing the case to proceed as follows: Defendant to file any opposition to Plaintiffs' motion to extend the preliminary injunction by 5/12/2017; Defendant to file any motion to lift the preliminary injunction by 5/12/2017; Plaintiffs to file any reply in support of their motion to extend the preliminary injunction by 5/19/2017; Plaintiffs to file any opposition to Defendant's motion to lift the preliminary injunction by 5/26/2017; and Defendant to file any reply in support of its motion to lift the preliminary injunction by 6/2/2017. Signed by Judge Thomas E. Johnston on 4/28/2017. (cc: counsel of record; any unrepresented party) (taq)
05/12/2017	<u>155</u>	MOTION by Bill J. Crouch to Vacate or Modify the Preliminary Injunction Order Re: <u>122</u> Memorandum Opinion and Order (Attachments: # <u>1</u> Exhibit 1 Description of New Service Authorization Process, # <u>2</u> Exhibit 2 Declaration of Cynthia Beane)(Peisch,

		Philip)
05/12/2017	156	MEMORANDUM by Bill J. Crouch in support of 155 MOTION by Bill J. Crouch to Vacate or Modify the Preliminary Injunction Order Re: 122 Memorandum Opinion and Order (Peisch, Philip)
05/12/2017	157	OPPOSITION by Bill J. Crouch to 140 MOTION by All Plaintiffs to Extend Preliminary Injunctive Relief to Class Members (Attachment: # 1 Exhibit 1 May 4, 2017 Email)(Peisch, Philip)
05/19/2017	158	REPLY MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. to 157 Response In Opposition. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2)(Smith, Gary) (Modified on 5/22/2017 to remove link to # 140 motion)(ts).
05/26/2017	159	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. for Extension of Time to File Response to 155 MOTION by Bill J. Crouch to Vacate 122 Memorandum Opinion and Order to May 31, 2017 and for Defendant's to Reply to June 7, 2017. (Pomponio, Bren) (Modified on 5/30/2017 to remove link to # 156 memorandum and add party filers) (ts).
05/30/2017	160	NOTICE of Errata as to Docket 158 Reply Memorandum by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. (Smith, Gary) (Modified on 5/31/2017 to add link to # 158 reply memorandum) (kp).
05/31/2017	161	ORDER granting the 159 MOTION for Extension of Time; plaintiffs must file their response to defendant's 155 MOTION to Vacate or Modify the 122 Preliminary Injunction Order by 5/31/2017; and defendant must file his reply by 6/7/2017. Signed by Judge Thomas E. Johnston on 5/31/2017. (cc: counsel of record; any unrepresented party) (taq)
05/31/2017	162	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. for Leave to File Response Memorandum of Thirty Four Pages in Length (Attachment: # 1 Proposed Order)(Smith, Gary) (Modified on 6/1/2017 to remove party filer)(ts).
05/31/2017	163	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in opposition to 155 MOTION by Bill J. Crouch to Vacate or Modify the Preliminary Injunction Order Re: 122 Memorandum Opinion and Order (Attachments: # 1 Affidavit – Plaintiff Rebecca F., # 2 Affidavit – Plaintiff H. Christian R., # 3 Affidavit – Plaintiff Connie D., # 4 Affidavit – David Kuckuck, # 5 REM – Kuckuck, # 6 Affidavit – M. A. Games, # 7 Games – Northwood, # 8 Internet Materials CMS Olmstead Ltr 4)(Smith, Gary) (Modified on 6/7/2017 to remove link to # 162 and remove party filer) (ts). (Modified on 6/7/2017 to substitute and replace Exhibit #7 pursuant to #166 order)) (taq).
06/02/2017	164	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Michael T., Julia B. Shalhoup, Sara F., Tara R. to Replace Image filed as Exhibit 7 attached to 163 Response In Opposition. (Attachment: # 1 Corrected Exhibit 7) (Smith, Gary) (Modified on 6/5/2017 to add party filers) (kp).
06/02/2017	165	ORDER granting plaintiffs' 162 MOTION for Leave to File Response Memorandum of Thirty Four Pages in Length. Signed by Judge Thomas E. Johnston on 6/2/2017. (cc: counsel of record; any unrepresented party) (taq)
06/07/2017	166	ORDER granting plaintiffs' 164 MOTION to Replace Image; and directing the Clerk to substitute ECF No. 164 –1 for ECF No. 163 –7. Signed by Judge Thomas E. Johnston on 6/7/2017. (cc: counsel of record; any unrepresented party) (taq)
06/07/2017	167	REPLY by Bill J. Crouch to 163 Memorandum In Opposition. (Attachments: # 1 Exhibit 1 2015 I/DD Waiver (Excerpted), # 2 Exhibit 2 2015 I/DD Waiver – Chart of Service Caps)(Peisch, Philip) (Modified on 6/8/2017 to remove link to #155 motion) (dvb).
09/15/2017	168	NOTICE of Timetable for New Service Authorization Process by Bill J. Crouch (Peisch, Philip)

09/20/2017	<u>169</u>	MEMORANDUM OPINION AND ORDER denying without prejudice plaintiffs' <u>140</u> MOTION to Extend Preliminary Injunctive Relief to Class Members. Signed by Judge Thomas E. Johnston on 9/20/2017. (cc: counsel of record; any unrepresented party) (taq)
03/26/2018	<u>170</u>	MEMORANDUM OPINION AND ORDER granting in part and denying in part <u>155</u> MOTION to Vacate or Modify Preliminary Injunction Order; granting in part the Motion to Vacate or Modify Preliminary Injunction Order to the extent Defendant requests that the Court lift the injunction to allow DHHR to begin implementing the proposed service authorization system as to the named Plaintiffs; otherwise denying said motion; the Court MODIFIES its <u>122</u> memorandum opinion and order entered on 9/13/2016 as follows: the preliminary injunction will expire individually as to each named Plaintiff on the individual's first anchor date following this memorandum opinion and order's entry unless the anchor date falls within 90 days of entry in which case the preliminary injunction will expire on the individual's second anchor date subsequent to this order's entry; Defendant to provide the Court with an updated status report as to the new system's implementation within 30 days of this memorandum opinion and order's entry. Signed by Judge Thomas E. Johnston on 3/26/2018. (cc: counsel of record; any unrepresented party) (taq)
04/15/2018		IMPORTANT NOTICE: The United States District Court for the Southern District of West Virginia (WVSD) will be upgrading its current CM/ECF system to the Next Generation of CM/ECF (NextGen CM/ECF) on Monday, June 11, 2018 . Complete information regarding the WVSD NextGen CM/ECF implementation can be found at http://www.wvsd.uscourts.gov/nextgen-information . Currently, many attorneys within a firm may share a single PACER account. This will no longer be allowed with the new WVSD NextGen CM/ECF system because each attorney must have an individual upgraded PACER account that will be linked to their e-filing account. Shared PACER accounts cannot be used by WVSD e-filing attorneys once the WVSD NextGen CM/ECF system is implemented. Preparing for NextGen CM/ECF is a two-step process. Step one is to upgrade your PACER account, and step two is to link your upgraded PACER account to the WVSD e-filing account in the upgraded NextGen CM/ECF system. This notice only addresses the first step because the second step can't be completed until on or after June 11, 2018. The first step is to check and see if your PACER account is an "Upgraded" PACER account. Many PACER accounts have already been upgraded. If any of the following is true, you have an upgraded PACER account and no action is required until after the WVSD NextGen CM/ECF upgrade on June 11, 2018: 1) You have an upgraded PACER account for another NextGen court; or, 2) Your PACER account was created after August 10, 2014. If none of these are true, you must upgrade your legacy PACER account before you will be able to link your PACER account to your current WVSD CM/ECF account for your new NextGen CM/ECF account. Additional notices will be sent at a later date on how to handle the second step in this process. If you still have questions please contact the PACER Service Center at 800-676-6856 or the WVSD Clerk's Office CM/ECF Help Desk at (304)-347-3111. (mwk) (ADI)
04/25/2018	<u>171</u>	STATUS REPORT by Bill J. Crouch (Attachment: # <u>1</u> Exhibit A)(Peisch, Philip)
04/30/2018	<u>172</u>	ORDER telephonic status conference set for 5/7/2018 at 2:00 p.m. before Judge Thomas E. Johnston. Signed by Judge Thomas E. Johnston on 4/30/2018. (cc: counsel of record; any unrepresented party) (taq)
05/07/2018	<u>173</u>	TELEPHONE CONFERENCE held by Judge Thomas E. Johnston on 5/7/2018. (slw) (Modified on 5/30/2018 to correct proceeding date) (rea). (Entered: 05/09/2018)
05/10/2018	<u>174</u>	AMENDED SCHEDULING ORDER: Pursuant to a telephonic status conference held 5/7/2018; directing the case to proceed as follows: Dispositive Motions except those filed under Rule 12(b) due by 7/2/2018, with responses due by 7/31/2018 and replies due by 8/15/2018. Signed by Judge Thomas E. Johnston on 5/9/2018. (cc: counsel of record; any unrepresented party) (taq)
05/17/2018		IMPORTANT NOTICE: The United States District Court for the Southern District of West Virginia (WVSD) will be upgrading its current CM/ECF system to the Next Generation of CM/ECF (NextGen CM/ECF) on Monday, June 11, 2018 . Complete information regarding the WVSD NextGen CM/ECF implementation can be found at http://www.wvsd.uscourts.gov/nextgen-information . Preparing for NextGen CM/ECF is a two-step process. Step one was to upgrade your PACER account. Each attorney

		should have their own individual upgraded PACER account at this time. Step two will be to link your upgraded PACER account to your WVSD e-filing account in the new NextGen CM/ECF system on or after June 11, 2018. Please log in to the WVSD CM/ECF system at http://ecf.wv.sd.uscourts.gov before June 7, 2018 to make sure you know your current WVSD e-filing login and password. Do not rely on your username and password being saved in your web browser, because that method will not work with the NextGen upgrade. If you do not know your login or password or have any additional questions please call the WVSD Clerk's Office CM/ECF Help Desk at (304)-347-3111. (mwk) (ADI)
06/06/2018		IMPORTANT NOTICE: The United States District Court for the Southern District of West Virginia (WVSD) will be upgrading its current CM/ECF system to the Next Generation of CM/ECF (NextGen CM/ECF) on Monday, June 11, 2018. The WVSD CM/ECF system will be unavailable from 12:00pm (noon) on Friday, June 8, 2018 until 6:00am on Monday, June 11, 2018. Preparing for NextGen CM/ECF is a two-step process. Step one was to upgrade your PACER account. Each attorney should have their own individual upgraded PACER account at this time. Step two will be to link your upgraded PACER account to your WVSD e-filing account in the new NextGen CM/ECF system on or after June 11, 2018. Instructions for linking your account can be found at http://www.wvsd.uscourts.gov/pdfs/NextGen/WVSD_Link_PACER_to_CM-ECF.pdf . If you have any additional questions please call the WVSD Clerk's Office CM/ECF Help Desk at (304)-347-3111. (mwk) (ADI)
06/15/2018	<u>175</u>	MOTION by Bill J. Crouch, West Virginia Department of Health and Human Resources to Amend <u>174</u> Amended Scheduling Order. (Attachment: # <u>1</u> Proposed Order) (Barker, Shruti) (Modified on 6/16/2018 to add party filer) (kp).
06/21/2018	<u>176</u>	RESPONSE by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. in opposition to <u>175</u> MOTION by Bill J. Crouch, West Virginia Department of Health and Human Resources to Amend <u>174</u> Amended Scheduling Order (Pomponio, Bren) (Modified on 6/21/2018 to add party filer) (kp).
06/21/2018	<u>177</u>	NOTICE OF CHANGE OF ATTORNEY INFORMATION by Bren J. Pomponio updating name and/or firm information on behalf of Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. (Pomponio, Bren) (Modified on 6/21/2018 to add party filer) (kp).
06/25/2018	<u>178</u>	ORDER the Court elects to maintain the dates set forth in the <u>174</u> Amended Scheduling Order; denying <u>175</u> MOTION by Bill J. Crouch, West Virginia Department of Health and Human Resources to Amend Scheduling Order. Signed by Judge Thomas E. Johnston on 6/25/2018. (cc: counsel of record; any unrepresented party) (taq)
07/02/2018	<u>179</u>	MOTION by Bill J. Crouch, West Virginia Department of Health and Human Resources to Dismiss <u>14</u> Amended Complaint or, in the Alternative, Motion for Summary Judgment (Attachments: # <u>1</u> Statement of Undisputed Facts, # <u>2</u> Declaration, # <u>3</u> Proposed Order) (Barker, Shruti)
07/02/2018	<u>180</u>	MEMORANDUM by Bill J. Crouch, West Virginia Department of Health and Human Resources in support of <u>179</u> MOTION by Bill J. Crouch, West Virginia Department of Health and Human Resources to Dismiss <u>14</u> Amended Complaint or, in the Alternative, Motion for Summary Judgment (Barker, Shruti)
07/02/2018	<u>181</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. for Leave to File Response Memorandum in Support of Partial Motion for Summary Judgment of no More Than Twenty-Five Pages in Length (Attachment: # <u>1</u> Proposed Order)(Milnes, Lydia)
07/02/2018	<u>182</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. for Partial Summary Judgment (Attachments: # <u>1</u> DHHR Chapter 513 (thru 1/31/18), # <u>2</u> DHHR Chapter 513 (current), # <u>3</u> Affidavit of Tracey G, # <u>4</u> Affidavit of Teresa I, # <u>5</u> Affidavit of Robert J, # <u>6</u> Affidavit of Charles M, # <u>7</u> DHHR Chapter 511, # <u>8</u> Affidavit of Connie Walsh, # <u>9</u> Exhibit to Walsh Declaration 8A, # <u>10</u> DHHR New Methodology Power Point, # <u>11</u> Affidavit of Victoria B, # <u>12</u> Internet Materials DHHR website)(Smith, Gary)

07/02/2018	<u>183</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. in support of <u>182</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. for Partial Summary Judgment (Smith, Gary)
07/31/2018	<u>184</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. to Strike Description of New Service Authorization Process (Pomponio, Bren) (Modified on 7/31/2018 to add party filer) (kp).
07/31/2018	<u>185</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. to Strike Paragraph Fifteen and Sixteen of the Third Declaration of Patricia S. Nisbet (Pomponio, Bren) (Modified on 7/31/2018 to add party filer) (kp).
07/31/2018	<u>186</u>	MEMORANDUM by Bill J. Crouch in opposition to <u>182</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. for Partial Summary Judgment (Attachment: # <u>1</u> Exhibit 1)(Barker, Shruti)
07/31/2018	<u>187</u>	MOTION by Bill J. Crouch to Seal Fourth Nisbet Declaration of Patricia S. Nisbet and Accompanying Attachments. (Attachment: # <u>1</u> Proposed Order, # <u>2</u> Exhibit 1)(Barker, Shruti)
07/31/2018	<u>188</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. in opposition to <u>179</u> MOTION by Bill J. Crouch, West Virginia Department of Health and Human Resources to Dismiss <u>14</u> Amended Complaint or, in the Alternative, Motion for Summary Judgment (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9)(Smith, Gary)
07/31/2018	<u>189</u>	RESPONSE by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. in opposition to <u>179</u> MOTION by Bill J. Crouch, West Virginia Department of Health and Human Resources to Dismiss <u>14</u> Amended Complaint or, in the Alternative, Motion for Summary Judgment (Attachments: # <u>1</u> Declaration of Michael Wolfe, # <u>2</u> Declaration of Teresa I., # <u>3</u> Letter)(Smith, Gary)
08/08/2018	<u>190</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. for Leave NuncPro Tunc to File Memorandum Forty-Five Pages in Length in Response to Motion to Dismiss, or, in the Alternative, Motion for Summary Judgment (Attachment: # <u>1</u> Proposed Order)(Smith, Gary)
08/14/2018	<u>191</u>	CONSOLIDATED RESPONSE by Bill J. Crouch in opposition to <u>184</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. to Strike Description of New Service Authorization Process and <u>185</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Michael T. to Strike Paragraph Fifteen and Sixteen of the Third Declaration of Patricia S. Nisbet. (Barker, Shruti)
08/15/2018	<u>192</u>	REPLY by Bill J. Crouch to <u>188</u> Memorandum In Opposition. (Attachment: # <u>1</u> Exhibit 1)(Barker, Shruti)
08/15/2018	<u>193</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. to Seal Second Declaration of Victoria B. and Accompanying Attachments. (Attachment: # <u>1</u> Exhibit 1)(Smith, Gary)
08/15/2018	<u>194</u>	REPLY MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. in support of <u>186</u> Memorandum In Opposition. (Attachments: # <u>1</u> Declaration of Rebecca Curtis, # <u>2</u> Declaration of Charles M with exhibit, # <u>3</u> Declaration of Robert J, # <u>4</u> Declaration of Tracey G, # <u>5</u> Declaration of Theresa I)(Smith, Gary) (Modified on 8/16/2018 to remove link to #183 memorandum) (kp).
08/15/2018	<u>195</u>	PROPOSED ORDER by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. (Smith, Gary)

09/25/2018	<u>196</u>	MEMORANDUM OPINION AND ORDER The <u>179</u> Motion to Dismiss or, in the Alternative, Motion for Summary Judgment insofar as it requests that this Court dismiss Plaintiffs' claims as moot is GRANTED IN PART and the motion insofar as it requests summary judgment is DENIED; the <u>182</u> Motion for Partial Summary Judgment is DENIED; this case is DISMISSED and the Clerk is directed to remove this matter from the Court's docket. Signed by Judge Thomas E. Johnston on 9/25/2018. (cc: counsel of record; any unrepresented party) (kp)
10/02/2018	<u>197</u>	NOTICE OF A CHANGE IN ADDRESS AND CONTACT INFORMATION FOR COUNSEL by Caroline M. Brown and Philip J. Peisch (Barker, Shruti)
10/02/2018	<u>198</u>	NOTICE OF WITHDRAWAL by Shruti C. Barker for Bill J. Crouch, West Virginia Department of Health and Human Resources (Barker, Shruti) (Modified on 10/2/2018 to add party filer) (kp).
12/03/2018	<u>199</u>	JUDGMENT ORDER in accordance with this Court's <u>196</u> Memorandum Opinion and Order entered 9/25/2018, this Court GRANTS IN PART Defendant's <u>179</u> Motion to Dismiss or, in the Alternative, Motion for Summary Judgment insofar as it requests that this Court dismiss Plaintiffs' claims as moot and DENIES IN PART the motion insofar as it requests summary judgment; the Court further DENIES Plaintiffs' <u>182</u> Motion for Partial Summary Judgment; and DIRECTS the Clerk to remove this case from the Court's docket Signed by Judge Thomas E. Johnston on 12/3/2018. (cc: counsel of record; any unrepresented party) (taq)
12/03/2018	<u>200</u>	TRANSMITTED CERTIFIED COPY of <u>199</u> Judgment Order to counsel of record and any unrepresented party. (taq)
12/17/2018	<u>201</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. to Extend Time in Which to File for Award of Fees and Costs to 01/18/2019 (Attachment: # <u>1</u> Proposed Order)(Smith, Gary)
12/20/2018	<u>202</u>	ORDER granting <u>201</u> MOTION for Extension of Time to File for Award of Fees and Costs; directing that plaintiffs shall have until 1/18/2019 to move for an award of attorney fees and costs, pursuant to Federal Rule of Civil Procedure 54(d). Signed by Judge Thomas E. Johnston on 12/20/2018. (cc: counsel of record; any unrepresented party) (taq)
01/14/2019	<u>203</u>	NOTICE OF CHANGE OF ADDRESS by Philip J. Peisch, Caroline M. Brown (Peisch, Philip)
01/17/2019	<u>204</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. for Award of Fees and Costs (Attachments: # <u>1</u> Declaration of Bren Pomponio, # <u>2</u> Declaration of Gary M. Smith, # <u>3</u> Declaration of Lydia Milnes, # <u>4</u> Declaration of Jennifer Wagner, # <u>5</u> Supporting Declaration of Forman, # <u>6</u> Supporting Declaration of Stroebel, # <u>7</u> Exhibit 2015–2016 National Survey Attorney Rates, # <u>8</u> Internet Materials WV Auditor official website: vendor payment records)(Smith, Gary)
01/17/2019	<u>205</u>	MEMORANDUM by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. in support of <u>204</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. for Award of Fees and Costs (Smith, Gary)
01/23/2019	<u>206</u>	UNOPPOSED MOTION by Bill J. Crouch, West Virginia Department of Health and Human Resources to Extend Time to Respond to <u>204</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. for Award of Fees and Costs to 3/4/2019 (Attachment: # <u>1</u> Proposed Order)(Peisch, Philip) (Modified on 1/23/2019 to add party filer) (kp).
01/28/2019	<u>207</u>	ORDER granting the <u>206</u> UNOPPOSED MOTION to extend time to respond to the plaintiffs' motion for attorney's fees and costs; extending defendants' response to the <u>204</u> MOTION for Award of Fees and Costs to 3/4/2019. Signed by Judge Thomas E. Johnston on 1/28/2019. (cc: counsel of record; any unrepresented party) (taq)
02/27/2019	<u>208</u>	JOINT MOTION by Bill J. Crouch, Michael T., Eric D., Connie D., Sara F., Rebecca F., David F., Jeremy C., Jo C., Tara R., Harv Christian R., West Virginia Department

		of Health and Human Resources to Extend Time to Respond to <u>204</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. for Award of Fees and Costs to 04/03/2019 (Attachment: # <u>1</u> Proposed Order)(Peisch, Philip) (Modified on 2/27/2019 to add party filers) (kp).
03/04/2019	<u>209</u>	ORDER granting the <u>208</u> JOINT MOTION for extension of the deadline to respond to the plaintiffs' <u>204</u> motion for attorney's fees and costs; defendant must file his response by 4/3/2019. Signed by Judge Thomas E. Johnston on 3/4/2019. (cc: counsel of record; any unrepresented party) (taq)
03/26/2019	<u>210</u>	JOINT MOTION by Bill J. Crouch, Michael T., Eric D., Connie D., Sara F., Rebecca F., David F., Jeremy C., Jo C., Tara R., Harv Christian R., West Virginia Department of Health and Human Resources to Extend Time to Respond to <u>204</u> MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. for Award of Fees and Costs to 4/18/2019 (Attachment: # <u>1</u> Proposed Order)(Peisch, Philip) (Modified on 3/26/2019 to add party filers) (kew).
04/02/2019	<u>211</u>	ORDER granting <u>210</u> Joint Motion to Extend Time to Respond to <u>204</u> Motion for Award of Fees and Costs; Defendant's Response is due by 4/18/2019. Signed by Judge Thomas E. Johnston on 4/2/2019. (cc: counsel of record; any unrepresented party) (kew)
04/16/2019	<u>212</u>	JOINT MOTION by Bill J. Crouch, Michael T., Eric D., Connie D., Sara F., Rebecca F., David F., Jeremy C., Jo C., Tara R., Harv Christian R., West Virginia Department of Health and Human Resources, Julia B. Shalhoup to Stay Deadlines for Responding to <u>204</u> Motion for Award of Fees and Costs (Peisch, Philip) (Modified on 4/17/2019 to add party filers) (kew).
04/17/2019	<u>213</u>	ORDER re: <u>212</u> JOINT MOTION to Stay Defendant's Deadlines for Responding to <u>204</u> Motion for Award of Fees and Costs; the briefing deadline set forth in the Court's 4/2/2019 <u>211</u> Order is CONTINUED GENERALLY; the parties to file a status report by 5/17/2019, indicating whether the briefing deadline should remain suspended or whether the Court should enter a new briefing schedule. Signed by Judge Thomas E. Johnston on 4/17/2019. (cc: counsel of record; any unrepresented party) (taq)
05/17/2019	<u>214</u>	STATUS REPORT by Bill J. Crouch, Michael T., Eric D., Connie D., Sara F., Rebecca F., David F., Jeremy C., Jo C., Tara R., Harv Christian R., West Virginia Department of Health and Human Resources. (Peisch, Philip) (Modified on 5/17/2019 to add party filers) (kew).
08/13/2019	<u>215</u>	MOTION by Jeremy C., Jo C., Connie D., Eric D., David F., Rebecca F., Sara F., Harv Christian R., Tara R., Julia B. Shalhoup, Michael T. to Withdraw <u>204</u> Motion by All Plaintiffs for Award of Fees and Costs. (Milnes, Lydia) (Modified on 8/14/2019 to add link to #204 motion and to add party filers) (kew).
08/14/2019	<u>216</u>	ORDER The <u>215</u> MOTION to Withdraw <u>204</u> Motion for Award of Fees and Costs is GRANTED; and the <u>204</u> MOTION for Attorney Fees is DENIED AS MOOT. Signed by Judge Thomas E. Johnston on 8/14/2019. (cc: counsel of record; any unrepresented party) (ts)
08/19/2019	<u>217</u>	STIPULATION OF DISMISSAL With Prejudice by Plaintiffs and Defendants (Milnes, Lydia) (Modified on 8/21/2019 to add party filers) (ts).
08/21/2019	<u>218</u>	ORDER Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), this civil action is DISMISSED WITH PREJUDICE and retired from the docket of the Court. Signed by Judge Thomas E. Johnston on 8/21/2019. (cc: counsel of record; any unrepresented party) (kew)