

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

DISABILITY RIGHTS FLORIDA, INC.,
on Behalf of its Clients and Constituents,

Plaintiff,

vs.

Civil Action No. 14-23323-Civ-SCOLA
Consolidated Action Case No. 14-24140-Civ-
SCOLA

JULIE JONES,
Secretary, Florida Department of Corrections,
in her Official Capacity;
WEXFORD HEALTH SOURCES, INC.; and
FLORIDA DEPARTMENT OF CORRECTIONS,
an Agency of the State of Florida,

Defendants.

**JOINT MOTION FOR EXTENSION
OF COURT'S JURISDICTION AND ADMINISTRATIVE CLOSURE**

In April 2015, this Court issued an Order administratively closing this case for approximately two years to allow time for implementation of a Settlement Agreement that could resolve the case. (Doc. 61). Per the Agreement and Order, the case was to be dismissed with prejudice on May 31, 2017 unless the Plaintiff filed a timely Motion to Reopen the case alleging breach of the agreement. (*Id.*). For the reasons stated below, the Parties respectfully request the Court extend the date for dismissal or reopening this case by six months, until November 30, 2017.¹

(1) This action for injunctive and declaratory relief was brought by Disability Rights Florida (DRF), an organization empowered and charged by Federal law to protect the rights of

¹ This request should not affect any case management deadlines or activities in the matter of *Chapman, et al. v. Florida Dept. of Corrections, et al.*, which is currently consolidated with this case.

mentally ill individuals in Florida, including persons with mental illness confined by the State of Florida at Dade Correctional Institution (Dade CI). (Doc. 46, ¶ 4). DRF is the Protection and Advocacy System (“P&A”) in Florida mandated under federal law to “ensure that rights of individuals with mental illness are protected.” 42 U.S.C. § 10801(b)(1).

(2) This case was originally stayed in November 2014 to allow the Parties an opportunity to settle the case. (Doc. 27).

(3) Through a series of mediations, the Parties reached a private Settlement Agreement (Agreement) intended to resolve and eventually dismiss this litigation. (Doc. 59-1). The Agreement provided for expert assessments and recommendations for improvements of the inpatient unit, development of a plan to implement those recommendations, a period for implementation of the plan and follow-up monitoring of the implementation. (*Id.*). The Agreement also contained time frames for carrying out the Agreement over a two-year period. (*Id.*).

(4) The Agreement was contingent on this Court entering an order administratively closing the case until May 31, 2017 to allow the parties to carry out the terms of the Agreement. (*Id.*). If all aspects of the Agreement were complied with, the Parties were to file a stipulated dismissal of the case at that time. (*Id.*).

(5) The Parties filed a joint motion for administrative closure of the case to allow time for the implementation of the Settlement Agreement. (Doc. 59).

(6) On April 15, 2015, this Court granted the motion and directed the clerk to administratively close the case. (Doc. 61). The Order states that the case will be dismissed with prejudice on May 31, 2017 unless the Plaintiff files a timely Motion to Reopen the case alleging breach of the agreement. (*Id.*).

(7) Since the Court's Order, the Parties have followed the timeline provided in the Agreement including: the Parties' experts conducted multi-day visits at the Dade inpatient mental health unit to assess and identify any issues with the care and treatment being provided on the unit; the Parties' experts drafted reports regarding their findings; and the Parties, with the assistance of a mediator, created a Plan of Compliance based on the experts' findings and recommendations.

(8) The Defendants had an agreed upon implementation period during which to implement the Plan of Compliance. After that time, in accordance with the Agreement, the Parties' experts again engaged in multiple multi-day visits to determine the level of compliance with the Plan of Compliance. Based on its expert's conclusions, Plaintiff sent a Notice of Non-Compliance as required by the Notice-and-Cure Provision of the Agreement.

(9) In response, the Defendants created a Corrective Action Plan (CAP). Per the Agreement, there was a CAP implementation period and follow-up monitoring of the CAP as required by the Notice-and-Cure Provision.

(10) After the CAP monitoring, Plaintiff sent a Notice of Intent to Re-Open the case as the result of concerns regarding compliance with the Plan of Compliance and CAP, in accordance with the requirements of the Agreement. Instead of reopening the case now, the Parties have agreed to request an additional six months to allow substantial compliance with the agreement in an effort to avoid litigation. In addition, Defendant Jones and the Department of Corrections have recently decided to change the vendor providing mental health services at Dade. The additional six months will allow for transition to a new vendor.

(11) The Parties submit that the relatively brief extension of time requested is justified by the strong possibility that it will avoid the prospect of reopening litigation.

(12) The Settlement Agreement allows the Parties to change the terms of the Agreement in writing by mutual agreement. (Doc 59-1 at p. 14). The Parties have jointly agreed to extend the date by which Plaintiff is required to dismiss or re-open the case with the Court by six months with all other terms of the Agreement remaining unchanged.

MEMORANDUM OF LAW

This Honorable Court has the authority to continue the administrative closure of this case. A federal court has the inherent authority to manage its docket. *See In re Application of Alves Barga*, 789 F. Supp. 2d 1294, 1307 (S.D. Fla. 2011). Administrative closings provide a “familiar way” in which courts can remove cases from their active files without making any final adjudication. *Lehman v. Revolution Portfolio LLC*, 166 F.3d 389, 392 (1st Cir. 1999). The method is used in various districts throughout the nation. *Id.*

As the First Circuit has noted, “an administrative closing has no effect other than to remove a case from the court's active docket and permit the transfer of records associated with the case to an appropriate storage repository.” *Id.* Further, “designating a case ‘closed’ does not prevent the court from reactivating a case either of its own accord or at the request of the parties.” *Florida Ass'n for Retarded Citizens, Inc. v. Bush*, 246 F.3d 1296, 1298 (11th Cir. 2001) (Citing *Lehman* with approval).

The Parties respectfully submit that an additional six months of administrative closure and retention of jurisdiction will permit the Parties to allow for transition to the new vendor and compliance with the Agreement is in the interest of judicial convenience. The extension of the Agreement does not require the Court’s active involvement or enforcement of the terms.

The Parties recognize that it is “highly unusual” for the Court to stay a matter for over two years while the parties pursue Settlement. (Doc. 61). However, the Court also noted that

“this is not a usual case.” (*Id.*). The Parties respectfully submit that any burden or inconvenience created by the brief extension of the deadline in the Agreement for dismissal or reopening is more than outweighed by the possibility of avoiding extended litigation.

WHEREFORE, the Parties jointly request this Court extend its jurisdiction over this case to allow an extension of the deadline for dismissal or reopening of six months, until November 30, 2017.

Respectfully submitted,

/s/ Peter P. Sleasman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this pleading was served upon the Defendants via CM/ECF on May 19, 2017.

/s/ Peter P. Sleasman
Attorney for Plaintiff