

The State Defendants have initiated steps internally to address the issues raised in this litigation. This plan is designed to build on those efforts in a positive manner and seeks to determine if the matter can be resolved through a collaborative implementation process.

Plaintiffs and the State Defendants (hereafter, “parties”) enter into this case management plan in order to coordinate their investigation and discovery so that facts may be expeditiously determined and the prospects for settlement readily addressed. **By entering into this plan, no party agrees to waive its right to fully litigate all aspects of this case.** Rather, the parties simply agree to delay normal litigation efforts and instead pursue this alternative path of collaborative fact finding and negotiation for a limited period of time.

II. FACT FINDING

The parties agree to defer formal discovery efforts except as set forth in this plan while they pursue fact finding through the procurement of an expert’s report and during the negotiations that follow submission of the report.

The parties agree to the appointment of experts in the area of prison mental health (the “Consultants”) as independent fact finders in this case. The Consultants shall conduct a thorough, independent, neutral examination of the facts related to the delivery of mental health services in light of the Second Amended Complaint. The Consultants’ investigation shall proceed consistent with a protocol to be adopted by the Consultants and agreed to by the parties. The Consultants shall use their best professional judgment to determine what matters need to be examined, and the methods required for such examination. The protocol adopted by the Consultants may divide areas of investigation among members of the panel. As they examine all issues, the Consultants will take special note of staffing levels, staff credentialing, staff training, and disciplinary procedures (as they relate to prisoners with mental illness). The Consultants will review policies and procedures as well as the actual administration of the entire system.

The Protocol describing the scope and methodology for fact finding and the schedule for reports shall be proposed by the Consultants and approved by the parties. The final fact finding report, including appendices setting forth the basis of any findings in the report and any recommendations for remedial measures should any deficiencies be identified, shall be issued not later than December 15, 2011, though the parties request that the work be completed before that date if possible. The compensation and expenses of the Consultants shall be paid by the IDOC but the Consultants shall in all respects work independently and shall be permitted to have access to all persons on all sides of the case as they see fit, consistent with the approved protocol.

The parties also agree that, in order to carry out their assignments, the Consultants will have timely and complete access to all relevant files, reports, memoranda, or other relevant documents within the control of the State Defendants or subject to access by the State Defendants; have access, subject to security and safety concerns, during announced on-site tours and inspections of the institutions encompassed by this case management plan, as well as any administrative offices; have unobstructed access to staff and access, subject to security and safety concerns, to other persons having information relevant to the implementation of this case management plan; and have the authority to engage in private conversations with any party hereto and their counsel.

The parties agree that any reports produced by the experts will not be disclosed except to the parties to this action or their counsel. The reports will not be filed with the court or used as evidence in subsequent proceedings except by agreement of the parties. The parties further agree that any statements made to the experts in the settlement process will not be used for any purposes beyond the settlement process, either as substantive evidence or for impeachment; and,

if settlement is not reached, the Consultants will not be allowed to testify as to any personal knowledge gained through the settlement process.

III. CASE SCHEDULE AND MANAGEMENT

A. Class Certification and Notice. The parties have stipulated that a plaintiff class should be certified in this case for settlement purposes only; a Stipulated Motion for Class Certification for Settlement Purposes is filed herewith, together with a proposed order preliminarily certifying the class for settlement purposes. In the event this process does not result in settlement of this litigation, the parties agree that the settlement class will be decertified. The plaintiffs then will be allowed to move for certification of a class for purposes other than settlement.

B. Protective Order. The parties will jointly submit to this Court, no later than December 15, 2010, a proposed HIPPA compliant protective order preserving the confidentiality of medical records of members of the proposed class and all other inmates incarcerated in the Illinois Department of Corrections whose records are identified by the Consultants as requiring review for purposes of the proposed investigation.

C. Access to Records. All records produced to the experts during the settlement process shall be returned to the Department of Corrections upon receipt of the expert's report and will only be produced to the plaintiffs if the case does not settle and the records are otherwise discoverable.

D. Negotiation. Upon the issuance of the fact finding report prepared pursuant to this case management plan, the parties will enter into negotiations in a good faith effort to resolve this matter. **Nothing in this paragraph shall be interpreted as an admission by the State Defendants of liability in any respect and no party agrees to waive its right to fully litigate any and all aspects of this case.**

E. Report to Court. The parties agree to report to the Court every thirty days or as otherwise requested by the Court.

F. Stay of Litigation. The parties will submit to the Court for approval a proposed class certification order, a proposed notice to the class of class certification, and a proposed protective order. All other pleadings and discovery in this case, except those filed pursuant to this joint case management plan, shall be stayed unless otherwise directed by the Court.

Respectf

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/s/ Harold C. Hirshman
of the Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on November 19, 2010, she caused the foregoing document to be filed with the Clerk of the Court using the CM/ECF system, which will send notice of electronic filing to:

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