

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JEFFREY FOWLER, PAUL WHOOTEN,
MICHAEL TURNER, and MICHAEL
FITZPATRICK, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

THOMAS TURCO,
Commissioner of Massachusetts Department
of Correction, in his official capacity, and
MASSACHUSETTS PARTNERSHIP FOR
CORRECTIONAL HEALTHCARE, INC.,

Defendants.

C.A. NO. 1:15CV12298

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION TO AMEND
COMPLAINT**

Plaintiff Jeffrey Fowler seeks leave from this court to amend the Complaint, pursuant to Fed. R. Civ. P. 15(a)(2). Mr. Fowler seeks to join additional Plaintiffs to this proposed class action challenging the Defendants' policies and practices around the treatment of Hepatitis C: Paul Whooten, Michael Turner, and Michael Fitzpatrick. The proposed First Amended Complaint also makes some changes in the allegations, in light of changing circumstances. It adds no new defendants or causes of action.

Rule 15(a)(2) permits amendment of a complaint by leave of court and advises that "[t]he court should freely give leave when justice so requires." Such leave should be granted here. Defendants will not be prejudiced by an amendment, as discovery has not yet commenced. There is ample time for Defendants to take discovery concerning the new Plaintiffs and the allegations in the proposed First Amended Complaint. The Court and the parties discussed

Plaintiff's intention to add plaintiffs at the Scheduling Conference on March 15, 2016, and no objection was raised to the idea at that time.

Plaintiffs also move today for certification of a Rule 23(b)(2) class, and additional plaintiffs/class representatives will help ensure that the case will be litigated to completion on behalf of the proposed class. (Mr. Fowler's original co-Plaintiff, Emilian Paszko, died of complications from Hepatitis C. *See* Document No. 27.) Denial of an amendment would only burden the Court and the parties, as the four new Plaintiffs would bring their own separate action seeking similar relief.

For these reasons, Plaintiff Jeffrey Fowler respectfully requests that this Court grant his Motion to Amend the Complaint and allow the proposed First Amended Complaint to be docketed.

Plaintiffs, by their attorneys,

/s/ Joel H. Thompson

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