

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:09-CT-03187-D

SANDRA ETTERS, et al.,)	
)	
Plaintiffs,)	JOINT MOTION TO EXPEDITE
)	ENTRY OF ORDER AND
v.)	AGREEMENT
)	
BOYD BENNETT, et al.,)	Fed. R. Civ. P. 7(a)
)	Local Civil Rule 7.1, EDNC
Defendants.)	

Now come Defendants Reuben F. Young, Secretary of the North Carolina Department of Public Safety,¹ Jennie Lancaster, Chief Deputy Secretary, Division of Adult Correction of the Department of Public Safety,² and Annie Harvey (hereinafter, “Defendants”), through counsel, North Carolina Attorney General Roy Cooper, Special Deputy Attorney General Joseph Finarelli and Assistant Attorney General Kimberly D. Grande, and Plaintiff Sandra Eppers, through counsel North Carolina Prisoner Legal Services (hereinafter, “NCPLS”) attorneys Michele Luecking-Sunman, Elizabeth Albiston and J. Phillip Griffin, to request the Court’s expedited consideration, approval, and entry of the Order and Agreement, negotiated by the parties to resolve the disputed claims in this action and to facilitate the performance by Defendants and the North Carolina Department of Public Safety, Division of Adult Correction (hereinafter, “DAC”) of assorted prospective relief provided for therein. In support of this motion, the parties show unto the Court the following:

¹Secretary Young is the successor in office to original defendant Alvin Keller and, pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, should be automatically substituted as a party.

²Ms. Lancaster is the successor in office to original defendant Boyd Bennett and, pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, should be automatically substituted as a party.

1. On 18 November 2009, Plaintiff Etters³ filed a Class Action Complaint against Defendants, among others, alleging violations of 42 U.S.C. § 1983 and seeking declaratory relief pursuant to 28 U.S.C. § 2201.

2. Since November 2011, the parties have engaged in settlement negotiations in an effort to resolve the Plaintiff's requests for monetary damages as well as devise changes to various policies and procedures covering the reporting and investigating of complaints of sexual abuse as well as changes to the physical plants of correctional facilities housing adult female inmates and operated by DAC. The negotiations were undertaken in an ongoing effort to reduce the risk to adult female inmates of sexual abuse by employees, contractors, and agents of DAC and, if possible, to prevent future incidents of sexual abuse. The results of those successful negotiations are embodied in the Order and Agreement, a copy of which is attached hereto as Exhibit A.

3. In the Order and Agreement, the parties have negotiated for and are requesting the Court to order prospective relief, dismiss the claims of Plaintiff Etters with prejudice, but to still maintain jurisdiction to provide a mechanism for NCPLS to enforce any substantial breach by DAC of the terms of the Order and Agreement.

4. As part of the Order and Agreement, the North Carolina Department of Public Safety has entered into a contract with a consulting firm, The Moss Group, for a variety of services including, but not limited to, conducting sexual safety assessments of several adult female prison

³The Complaint asserted claims on behalf of four named plaintiffs. The claims of two of those plaintiffs, Louretha King and Rhonda Singletary, were dismissed by this Court in its order granting Defendants' motion for judgment on the pleadings. [D.E. #57]. Following a separately negotiated settlement, the fourth plaintiff, Deven K. Deal, has agreed to dismiss her claims with prejudice against several of the defendants (Keller, Bennett, Harvey, Timothy Kimble and Lamar Blalock) who she alleged had violated her constitutional rights. A Stipulation of Dismissal with Prejudice on behalf of Ms. Deal and dismissing her claims against those defendants was filed on 18 May 2012. [D.E. # 129]

facilities, assisting in the training of staff, and making other recommendations to facilitate DAC's performance under the Order and Agreement. The Court's approval of the Order and Agreement is required before The Moss Group can begin its work under the contract, a copy of which is attached to the Order and Agreement as Exhibit 1.

4. In addition, as part of the Order and Agreement, Defendants have agreed to a financial settlement with Plaintiff Ethers that will be finalized upon this Court's approval and entry of the Order and Agreement, which entry would operate not only to dismiss with prejudice the claims of Plaintiff Ethers – excepting the right by NCPLS to enforce DAC's compliance with the Order and Agreement – but also obligate DAC to pay Plaintiff Ethers the agreed upon settlement proceeds.

WHEREFORE, the parties respectfully move the Court to expedite its review, approval, and entry of the Order and Agreement and to file it as an official order of the Court at the Court's earliest opportunity.

Respectfully submitted, this the 21st day of May, 2012.

ROY COOPER
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on 21 May 2012, I electronically filed the foregoing Joint Motion to Expedite Entry of Order and Agreement with the Clerk of Court using the CM/ECF system which will send notification of such filing to the Plaintiffs' counsel of record:

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This the 21st day of May, 2012.

Respectfully submitted,

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