

1992 WL 373516

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United States District Court, N.D. New York.

INMATES OF NEW YORK WITH HUMAN  
IMUNODEFICIENCY VIRUS, for themselves and  
all other similarly situated, Plaintiffs,  
v.  
Mario CUOMO, Governor of the State of New  
York; Thomas A. Coughlin, Commissioner of State  
Department of Correctional Services; et al.,  
Defendants.

No. 90-CV-252. | Nov. 30, 1992.

#### Attorneys and Law Firms

Legal Aid Society, New York City, for plaintiffs; Michael  
Wiseman, John A. Beck, Jonathan Chasan, Milton  
Zelermeyer, of counsel.

Robert Abrams, Atty. Gen. of the State of New York, for  
defendants; Darren O'Connor, Victor Paladino, Asst.  
Atty. Gen., of counsel.

#### Opinion

### DECISION & ORDER

MCAVOY, District Judge.

\*1 In a decision rendered from the bench on September 14, 1992 the court rendered a decision on Plaintiffs' motion to compel Defendants to respond to certain discovery requests. An order was signed by the court on October 22, 1992 which directed Defendants to produce certain documents previously withheld. Some of the documents which the court ordered produced were the subject of an argument by Defendants that a state law privilege protected them from disclosure. In that decision, the court balanced the policy reasons behind that privilege against Plaintiffs' need for the discovery sought and concluded that disclosure was warranted.

In a motion properly filed pursuant to Rule 10(M) of the Local Rules of the Northern District of New York, Defendants seek reconsideration of that portion of the court's decision regarding certain medical quality assurance documents. In the event that the requested relief is denied, Defendants move the court for an order staying the October 22, 1992 order pending a determination by the Second Circuit Court of Appeals. Plaintiffs strenuously oppose the motion for reconsideration, and

argue that the application for a stay borders on the frivolous. For the reasons that follow, Defendants' motion for reconsideration is denied, and the application for the stay is granted.

The granting of a motion for reconsideration is clearly within the discretion of the court whose order is the subject of the motion. *McCarthy v. Manson*, 714 F.2d 234, 237 (2d Cir.1983). Such a motion will be granted "only where the court has overlooked matters or controlling decisions which might have materially influenced the earlier decision." *Park South Tenants Corp. v. 200 Central Part South Associates, L.P.*, 754 F.Supp. 352, 354 (S.D.N.Y.), *aff'd*, 941 F.2d 112 (2d Cir.1991); *see also New York News Inc. v. Newspaper and Mail Deliverers Union of New York*, 139 F.R.D. 294 (S.D.N.Y.1991). Defendants have not presented the court with any matters or controlling decisions which were not previously considered. Rather, they argue once again that the medical quality assurance documents at issue should be protected from discovery.

The court is mindful of the privilege asserted by Defendants and recognizes the policy reasons which support the protection afforded by it. However, as explained in its oral decision, the court feels that the public interest in enforcing the federal civil rights laws involved in this action clearly outweighs the public interest in maintaining the confidentiality of the subject documents. This decision was rendered after careful consideration of the very important, but competing public interests involved. Therefore, the court is not persuaded that the standard for a motion for reconsideration has been met.

Nevertheless, since the court recognizes Defendants' strenuous opposition to disclosure and the seriousness of the issues involved, Defendants' application for a stay of the October 22, 1992 order is hereby granted. Defendants have twenty days from the entry of this order to file their application for a writ of mandamus with the Second Circuit Court of Appeals. This stay shall only be effective as to that portion of the order which pertains to the medical quality assurance documents at issue, and will remain in effect until such time as the Court of Appeals rules on Defendants' application. The court has considered Plaintiffs' arguments in this regard, and does not feel that Plaintiffs will be unduly prejudiced by such a stay.

### CONCLUSION

Having considered the submissions of the parties, for the foregoing reasons Defendants' motion for reconsideration

is denied, and their request for a stay pending an appellate ruling on the matter is granted. Defendants have twenty days from the entry of this order to file their application with the Court of Appeals.

\*2 Additionally, Defendants represent in their motion papers that they withdraw their objection to disclosure of certain materials demanded in Plaintiffs' April, 1990

Request for Production. Plaintiffs' motion to compel responses to that request, which is now pending before the court, is hereby dismissed as moot.

IT IS SO ORDERED.