

Subject: Re: US ex rel PsychRights v. Matsutani et al
From: Jim Gottstein <jim.gottstein@psychrights.org>
Date: Thu, 25 Feb 2010 12:39:36 -0900
To: "Taylor, R Scott (LAW)" <scott.taylor@alaska.gov>
CC: "Kraly, Stacie L (LAW)" <stacie.kraly@alaska.gov>, Jim Gottstein <jim.gottstein@psychrights.org>, daniel.sullivan@alaska.gov

Hi Scott,

A couple of things on timing. First, the extension to the 15th has only been granted to defendants for whom entries of appearance have been filed. Second, it is my expectation that we will set a proposed schedule for responsive pleadings and pre-answer motions at the Rule 26(f) conference next Friday.

I could see where representation of Hogan, etc., by the Department of Law with respect to their personal liability might be an issue that you might want to sort out before appearing on their behalf in the case, but if that is not an issue for the Department, and maybe even if it is, it seems it would be really good for Hogan *et al.*, to have someone formally in the case to ensure they get notice of any filings. And, of course, that will get them the extension until the 15th.

Also, from my perspective, the Alaska Department of Law's apparent advice to

1. Hogan and Streur, that they should continue to approve claims to Medicaid, and
2. Sandoval and McComb should continue to run programs that bill claims to Medicaid,

for psychotropic prescriptions used on children and youth that are not for medically accepted conditions, has subjected them to the probability of financial ruin if they don't settle, and that you should advise them they should consider retaining independent counsel to represent their personal interests.

On 2/25/2010 11:55 AM, Taylor, R Scott (LAW) wrote:

Jim,

Thank you for the courtesy of the preview of your response to our proposed Motion to Dismiss the state defendants. We understand from your reply that PsychRights will not be voluntarily dismissing the state defendants and that we should proceed with motion practice on this issue. In light of the statement in PsychRights' Rule 26(f) Conference Memorandum, we will re-draft the motion to address *Stoner* and file it on or before March 15 – the agreed date for responsive pleadings.

-Scott

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From: Jim Gottstein [<mailto:jim.gottstein@psychrights.org>]
Sent: Monday, February 22, 2010 5:01 PM
To: Taylor, R Scott (LAW)
Cc: Kraly, Stacie L (LAW); Sullivan, Daniel S (LAW); Jim Gottstein
Subject: Re: USS ex rel Law Project v. Matsutani et al

Hi Scott,

Thank you for the courtesy.

Perhaps you should review the controlling case of *Stoner v. Santa Clara County Office of Educ.*, 502 F.3d 1116, 1122-1124 (9th Cir. 2007), in which the Ninth Circuit has already rejected your argument regarding the personal liability of state employees acting within the scope of their official responsibilities and expressed no opinion on the issue of whether the district court was correct in concluding "the individually named defendants could not be sued for damages in their official capacities because such a suit would, in effect, be against the state."

Since this was included in PsychRights' Rule 26(f) Conference Memorandum provided Ms. Kraly this morning and it must not have been transmitted to you, I am (hopefully) attaching it for your consideration.

On 2/22/2010 4:34 PM, Taylor, R Scott (LAW) wrote:
Jim,

Please see the attached letter and enclosure; the State of Alaska would like to give the plaintiff/relator the opportunity to voluntarily dismiss the four state official defendants from this action before incurring the fees and costs of motion practice. Feel free to contact us if you have any questions.

Regards,

-Scott

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The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Extensive information about this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.

--

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