

EXHIBIT 11

From: Howard, Theodore
Sent: Monday, September 15, 2014 11:42 AM
To: Parsons, J. Michael
Cc: Isaacs, James M.; Dwyre, Kate E.; Mary Bauer (mary@justice4all.org); Abigail Turner; Brenda Castaneda (brenda@justice4all.org); angela@justice4all.org; erin@justice4all.org; ivy@justice4all.org; deborah_golden@washlaw.org; elliott_minchberg@washlaw.org
Subject: RE: Scott, et al. v. Clarke, et al., Case No. 3:12-cv-00036-NKM (W.D. Va.)

Michael: From the Plaintiffs' perspective, a settlement premised upon commitments to provide the prisoners residing at FCCW with an heightened level of medical care will be worth little without some mechanism for oversight and monitoring of the performance of the providers to ensure that the commitments made are actually honored. The Plaintiffs have proposed a court-appointed monitor to serve this compliance/enforcement function. The Plaintiffs are willing to entertain the possibility of an alternative to a court-appointed monitor, so long as any such alternative offers them meaningful protections comparable to the protections that would be afforded by a court-appointed monitor. However, we have stated our proposed terms. If the VDOC wishes to propose an alternative for the Plaintiffs' consideration, it should do so.

Thanks. Ted

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From: Parsons, J. Michael [<mailto:jparsons@oag.state.va.us>]
Sent: Monday, September 15, 2014 10:47 AM
To: Howard, Theodore
Cc: Isaacs, James M.; Dwyre, Kate E.; Mary Bauer (mary@justice4all.org); Abigail Turner; Brenda Castaneda (brenda@justice4all.org); angela@justice4all.org; erin@justice4all.org; ivy@justice4all.org; deborah_golden@washlaw.org; elliott_minchberg@washlaw.org
Subject: RE: Scott, et al. v. Clarke, et al., Case No. 3:12-cv-00036-NKM (W.D. Va.)

Ted,

I apologize for no getting back with you last week.

I have consulted with VDOC concerning Plaintiffs' Outline of Proposed Terms for Settlement. VDOC does not agree to the terms described in the Outline, particularly the provisions concerning a court-appointed monitor and the creation of policies and procedures regarding medical care considering that there is no evidence in the record that VDOC's current policies and procedures are constitutionally deficient.

Are Plaintiffs insistent on a court-appointed monitor as part of a settlement? If not, could you suggest an alternative term?

Thanks,
Michael

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From: Howard, Theodore [<mailto:THoward@wileyrein.com>]
Sent: Monday, September 15, 2014 10:33 AM
To: Parsons, J. Michael
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Subject: Scott, et al. v. Clarke, et al., Case No. 3:12-cv-00036-NKM (W.D. Va.)

Dear Michael:

As you know, the currently operative Amended Scheduling Order, entered March 31, 2014 (ECF Docket No. 105), provided that “[t]he parties *shall* conduct settlement discussions and/or mediation” between September 8 and September 14. (Emphasis added.) In this regard, we contacted you the first week in August to inquire about how the VDOC might wish to proceed with respect to addressing a possible settlement, and reminded you that the Plaintiffs had provided the defendants with a written outline or framework for settlement at the request of counsel for Corizon Health back in February 2014. Subsequently, you advised us that although the VDOC did not wish to proceed with a formal mediation process, it did have an interest in exploring the possibilities for settlement through informal discussions, and that you would provide us with written comments in response to the Plaintiffs’ settlement outline as a predicate to such negotiations. Even more recently, in connection with telephone communications I had with you concerning the scheduling of the expert witness depositions and the *de bene esse* deposition of Dr. Ramsdale, you again promised to provide us with something in writing setting forth the VDOC’s views regarding settlement. Contrary to your express representations, nothing was provided and the time allotted by the Court in the Amended Scheduling Order for settlement discussions has now come and gone without any indication from you regarding the VDOC’s position and intentions – if any – on the subject of settlement.

The Plaintiffs remain ready, willing and able to participate in good-faith discussions with the VDOC regarding settlement, and remain hopeful that the VDOC will conclude that exploration of a negotiated resolution of this litigation is in its interests as well. However, to the extent that the parties are in violation of the Amended Scheduling Order as a result of having failed to conduct the settlement discussions ordered by the Court to occur sometime last week, that violation is solely attributable to the VDOC and the Plaintiffs will advise the Court accordingly when and if they are called upon to do so.

Please do not hesitate to contact me if you have any questions in this regard.

Ted

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