

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

HELEN GEMMELL, and MEA MARTINEZ, :

Plaintiffs, :

v. :

COURTNEY HAWKINS, in her official
capacity as Director of the Rhode Island
Department of Human Services, :

Defendant. :

CA No.: 16-00650

DEFENDANT'S ASSENTED TO
MOTION TO TERMINATE
COURT JURISDICTION AND THE
PARTIES' STIPULATION
REGARDING PLAINTIFFS' FEES
REQUEST AND PROPOSED
ORDER

WHEREAS, this action was commenced by Plaintiffs pursuant to 42 U.S.C. § 1983 under the Due Process Clause of the Fourteenth Amendment of the United States Constitution and federal statutes and regulations;

WHEREAS, Defendant denies any and all claims of wrongdoing asserted in connection with Plaintiffs' complaint;

WHEREAS, no finding of liability has been made;

WHEREAS, this Court, on March 1, 2017 approved and So Ordered the Stipulation and Order of Settlement ("Settlement") between the parties resolving the claims in this action, *see* ECF 18;

WHEREAS, the Court issued an Order Appointing a Special Master in this matter, *see* ECF 24;

WHEREAS, the Parties agree that Defendant has complied with the terms of the Settlement;

WHEREAS, the Parties agree that the Court's jurisdiction in this matter should be

terminated pursuant to Paragraph 29 of the Settlement;

WHEREAS, the Parties agree that the Special Master's services are no longer needed and his term of service should be ended pursuant to Section IV.B of the Order Appointing Special Master;

WHEREAS, Plaintiffs now seek fees and costs pursuant to 42 U.S.C. § 1988 for any and all work of any nature performed on this matter at any time that has not yet been resolved through fee settlements;

WHEREAS, the Parties wish to avoid the expense and disruption of litigation on the issue of plaintiffs' request for attorneys' fees, and are prepared to settle their differences without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY ORDERED, UPON DEFENDANT'S ASSENTED TO MOTION AND THE STIPULATION OF THE PARTIES, through their undersigned attorneys for the respective parties herein, that the Court's jurisdiction in this matter is terminated and the Special Master's term of service is ended;

FURTHER, IT IS HEREBY ORDERED, UPON THE STIPULATION AND AGREEMENT OF THE PARTIES, through their undersigned attorneys for the respective parties herein, that Plaintiffs' request for attorney's fees and costs pursuant to 42 U.S.C. § 1988 is settled on the following terms and conditions:

1. Defendant shall, no later than forty-five (45) days after the Court's ordering the entry of this Stipulation, pay plaintiffs' attorneys, Lynette Labinger and National Center for Law and Economic Justice, costs and attorneys' fees for any and all work of any nature performed on this matter at any time that has not yet been resolved through fee settlements, in the agreed-upon amounts of:

Lynette Labinger: \$6,885.00
NCLEJ: \$3,197.70

2. The Court further finds that the sharing of the tribunal-approved award with the American Civil Liberties Union Foundation of Rhode Island and National Center for Law and Economic Justice is consistent with this Court's decision in *Inmates of the RI Training School v. Martinez*, 465 F.Supp.2d 131 (D.R.I. 2006), and Rhode Island R.P.C. 5.4(a)(4).¹

ENTERED as the Order of the Court this 31st day of October, 2019.

By Order,

Enter: W. S. Aaron
United States District Judge

P. J. Jo
Clerk 11/1/19

AGREED TO AS TO FORM AND SUBSTANCE:

/s/ Lynette Labinger
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Dated: October 17, 2019

/s/ Brenda Baum
Katherine Connolly Sadeck
Attorneys for Defendant

¹ Defendant does not object to the inclusion of paragraph 2 in this Stipulation and Order but takes no position on its substance.

Brenda Baum
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Dated: October 17, 2019