

**FIRST IMPLEMENTATION REPORT OF MEDIATOR**

**IN RE:**        **SETTLEMENT AGREEMENT** between T.R., P.R., K.W., AND A.M. on behalf of themselves and others similarly situated,; and Protection and Advocacy for People with Disabilities, Inc., and the South Carolina Department of Corrections (SCDC); et. al.

**DATE:**        JUNE 14, 2016

**TO:**           Stuart M. Andrews, Jr.  
                Daniel Westbrook  
                Roy F. Laney

**CC:**           Raymond Patterson, M.D.  
                Emmitt Sparkman  
                Jeffrey Metzner, M.D.  
                Tammie M. Pope

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The Implementation Panel conducted its first monitoring visit of the SCDC facilities and operations between May 2<sup>nd</sup> and May 5<sup>th</sup>, 2016. At the time of the visit, the terms of the Settlement Agreement between the above parties had been determined, but the written agreement was still in the final stages of being redrafted. Subsequent to the visit, the Agreement was completed and was executed by the parties with an effective date of May 31, 2016. The Settlement Agreement was submitted to the South Carolina Supreme Court for approval by joint motion pursuant to Rule 261 (b), SCACR and Rule 23(c), SCRCP on June 1, 2016. Proceedings for approval are currently pending before the Court.

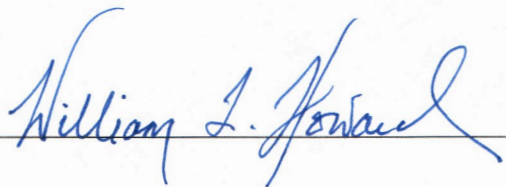
On June 3, 2016, the Implementation Panel issued the First Report of the Implementation Panel. As explained in the introduction to its report, neither the Settlement Agreement nor the policies and procedures had been finalized at the time of the May 2-5 site visit. Consequently, the Panel determined it would be more helpful to the process for them to focus the first visit on consultation and technical assistance to SCDC and meet with the staff to discuss their

understanding of the process contemplated for implementation of the Settlement Agreement. Consequently, the report issued by the Implementation Panel was descriptive of the facilities they visited and current operations they observed, identifying various issues to be addressed during implementation, but did not attempt to measure the degree of progress by SCDC toward substantial compliance of each component of the Remedial Plan.

Final Court approval of the Settlement Agreement, including the policies underpinning the processes to be implemented pursuant to its terms, is a necessary prerequisite to implementation, and to the ability to evaluate progress toward substantial compliance by the Implementation Panel. The evaluation by the implementation Panel, in turn, informs the undersigned mediator to allow for a determination of the degree of compliance and to identify when SCDC is in substantial compliance with the Remedial Plan set forth in the Agreement.

The next site visit by the Implementation Panel is scheduled for October 31 through November 4, 2016. It is anticipated that Court approval of the Settlement Agreement and finalization of all policies will be accomplished by that time, allowing the Panel to make its initial evaluation of SCDC compliance under the terms of the Settlement. It is also anticipated that the next Implementation Report of the undersigned mediator will summarize the status of the Implementation and the progress towards achievement of the Implementation Goal as required by Section 4(e) of the Settlement Agreement.

Respectfully submitted this <sup>th</sup>~~12~~ day of June, 2016

  
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