

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

JOSEPH SCLAFANI, MICHAEL FEINSTEIN,
and BRET CAPPOLA,

Plaintiffs,

CAROL A. MICI, in her official capacity as
Commissioner of the Massachusetts Department
of Correction, DOUGLAS DEMOURA, in his
official capacity as Superintendent of MCI-Cedar
Junction, and STEVE SILVA, in his official
capacity as Superintendent of MCI-Norfolk,

Defendants.

C.A. No. 19-12550-LTS

SETTLEMENT AGREEMENT

On December 19, 2019, Plaintiffs Joseph Sclafani, Michael Feinstein, and Bret Cappola initiated this action against Defendants Carol A. Mici, Commissioner of the Massachusetts Department of Correction (DOC), Douglas DeMoura, Superintendent of MCI-Cedar Junction, and Steve Silva, Superintendent of MCI-Norfolk. ECF No. 1. Plaintiffs alleged violations of the Eighth Amendment and the Americans with Disabilities Act. On January 10, 2020, the parties jointly stipulated to stay preliminary injunction proceedings pursuant to certain conditions, as reflected in ECF No. 47, while they attempted to resolve the matter without further involvement from the Court.

To resolve this matter, the parties enter into the following agreement (“Agreement”) as follows:

1. Defendants will, for the duration of Plaintiffs’ incarceration in the custody of any Defendant, continue to provide Plaintiffs with buprenorphine maintenance treatment

- at doses prescribed by the Defendants' medical providers based on an individualized assessment of their medical needs by a qualified addiction specialist.
2. Defendants agree to provide notice¹ within 48 hours to Plaintiffs' counsel of any decrease in dose or cessation of Plaintiffs' buprenorphine maintenance treatment;
 3. Defendants will ensure that the dosing of buprenorphine for each Plaintiff will be based upon Plaintiffs' individual medical needs and will not be subject to set dosing guidelines;
 4. Defendants will ensure that, if a Plaintiff's buprenorphine dose is reduced at any time during his incarceration, he will receive upon request, at the time of the dosing decision, a copy of the medical recordkeeping documentation describing the medical reason for the prescribed dose;
 5. For the duration of Plaintiffs' incarceration in Defendants' custody, Defendants will house Plaintiffs in units consistent with Plaintiffs' custody levels. Nothing in this paragraph is intended to limit the Commissioner of Correction's discretion in classifying, disciplining or otherwise placing Plaintiffs in appropriate housing in accordance with the Department of Correction policies including but not limited to 103 CMR 420, 423, 425 and 430, provided that Plaintiffs' receipt of buprenorphine maintenance treatment cannot provide the basis for increasing Plaintiffs' classification or placing them in housing that exceeds their classification.
 6. Upon implementation of any buprenorphine maintenance treatment program at MCI-Norfolk, Plaintiff Sclafani may request an early reclassification review, including the reasons for the request and any pertinent information. Upon receipt of such a request,

¹ Notice shall be provided via email Jessie Rossman (jrossman@aclum.org) and Alexandra Valenti (AValenti@goodwinlaw.com).

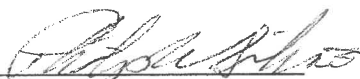
the Institutional Director of Classification or designee shall review pertinent information, and make a recommendation to the Superintendent or designee as to whether or not an earlier reclassification hearing is warranted. Plaintiff Sclafani shall be informed of the Superintendent or designee's decision in writing. If the request is denied, Plaintiff Sclafani may request reconsideration by the Director of the Central Classification Division. If the Director of the Central Classification Division denies the request for an early reclassification review, Plaintiff Sclafani will receive documentation describing the rationale for the decision.

7. While housed at MCI-Shirley, upon his request, Plaintiff Sclafani will be placed on the wait lists for programs and work assignments for institutional employment while participating in the CRA program and, absent being found guilty of any disciplinary offenses, continue to move up the wait lists as positions are filled until reaching the top of the list. Upon successful completion of the CRA program, barring a scheduling conflict between available work assignments and programs, Sclafani will receive a program placement and a work assignment for open positions for which he is qualified and is next on the list or request consideration for another position with current openings.
8. Defendants will ensure that Plaintiffs' buprenorphine maintenance treatment in no way limits their access to services, programs, or activities, including work assignments, educational and vocational programs, and treatment programs, subject to the same qualifications and waiting lists applied to other incarcerated individuals. Defendants will ensure that Plaintiffs' receipt of buprenorphine maintenance treatment does not affect their prioritization on or movement off such waiting lists. In

complying with this provision, Defendants shall not be required to fundamentally alter the nature of any service, program or activity.

9. Within a reasonable time following the execution of this Agreement, the Parties shall file a joint motion asking the Court to dismiss the case against Defendants without prejudice, with the condition that the Court retains jurisdiction to enforce this Agreement through December 31, 2020.
10. Each Party hereto shall bear its own respective costs, expenses, and attorneys' fees with respect to the Action and this Agreement.
11. The provisions of this Agreement embody and reflect the entire understanding of the Parties and there are no representations, warranties, or undertakings other than those set forth in this Agreement. The provisions of this Agreement shall not be modified or amended in any way except by writing signed by all parties.

Nancy Ankers White
Special Assistant Attorney General

By: 

Date: 2/27/20

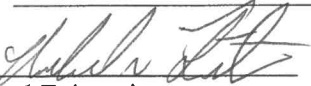
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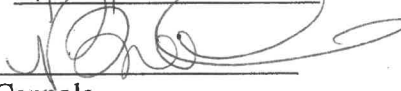
Date: 2/27/20

By: 
Joseph Sclafani
Plaintiff

Date: 02/27/2020

By: 
Michael Feinstein
Plaintiff

Date: 2/27/20

By: 
Bret Cappola
Plaintiff