

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
GAINESVILLE DIVISION**

FILED IN CLERK'S OFFICE  
U.S.D.C. - Gainesville

AUG 14 2017

JAMES N. HATTEN, Clerk  
By:  Deputy Clerk

\_\_\_\_\_  
RITA SANDERS LUSE, *et al.*,

Plaintiffs,

v.

SENTINEL OFFENDER  
SERVICES, LLC, *et al.*,

Defendants.  
\_\_\_\_\_

CIVIL ACTION

NO. 2:16-CV-30-RWS

**CONSENT ORDER**

This Consent Order is submitted and entered into as a resolution of Plaintiffs' claims for injunctive relief on behalf of themselves and a class of similarly situated persons. Having considered the agreement of Plaintiffs Rita Sanders Luse and Marianne Ligocki, and Defendants Sentinel Offender Services, LLC, and Stacy McDowell-Black, the Court enters the following Order.

**I. BACKGROUND**

The Plaintiffs bring this action to challenge alleged policies and practices of Sentinel Offender Services, LLC ("Sentinel"), and its employee Stacy McDowell-Black. Plaintiffs allege that Defendants violate the rights of Plaintiffs and others

similarly situated by requiring them to submit to drug testing that has not been authorized by court order. (Doc. 17 ¶¶ 29-32.) Plaintiffs further allege that Defendants use unlawful threats of jail to coerce payment from probationers unable to pay. (Doc. 17 ¶¶ 44-47.) In their amended complaint, Plaintiffs seek injunctive and declaratory relief with respect to Defendants' alleged policies. (Doc. 17 ¶¶ 106-16.) Defendants deny the Plaintiffs' allegations and specifically deny that probationers in the Probate Court of White County, Georgia, have been required to submit to drug testing that has not been authorized by the Probate Court. (Doc. 21; Doc. 22.)

On joint motion of the parties, the Court previously entered preliminary injunctive relief with respect to Defendants' alleged drug-testing policies. (Doc. 16.) The parties subsequently participated in mediation and reached a settlement agreement in this case ("the Agreement"), which requires entry of this Consent Order.

## **II. GENERAL PROVISIONS**

### **A. Parties Bound**

1. This Order represents the mutual agreement of the parties and shall not be deemed to be an admission by either Plaintiffs or Defendants concerning the

merits of the case. Defendants Sentinel Offender Services, LLC (“Sentinel”), and Stacy McDowell-Black, hereby agree to abide by the terms set out herein.

2. This Order shall bind each of the Defendants and the officers, agents, servants, employees, and attorneys for each Defendant.

3. As used in this Order, “Defendants” refers to Sentinel, Stacy McDowell-Black, and the officers, agents, servants, employees, and attorneys for Sentinel and/or McDowell-Black.

**B. Effective Date**

4. This Order shall become effective upon the Court’s final approval of the Agreement and dismissal of all claims for damages.

5. The preliminary injunction entered by the Court on March 31, 2016 (Doc. 16), shall remain in effect until this Order becomes effective.

6. Provided that the Court finally approves the Agreement of the parties and grants final class certification, and this Order becomes effective, the preliminary injunction shall be deemed withdrawn and replaced by this Order.

**III. SUBSTANTIVE PROVISIONS**

**A. Drug Testing of Probationers**

7. Defendants shall not require probationers to submit to drug screening unless the screening is specifically authorized by a written order of the court.

8. For purposes of this Order, “drug screening” refers to the administration or use of any device, instrument, or test designed or employed to indicate whether a person’s urine, blood, saliva, hair, or other bodily specimen contains components consistent with the person’s use of alcohol or controlled substances.

9. For purposes of this Order, “specifically authorized by a written order” means that a valid written order expressly authorizes drug screening of a particular probationer.

**B. Failure of Probationers to Pay Fines, Supervision Fees, and Other Amounts**

10. Defendants shall not threaten probationers with jail solely for failure to pay fines, supervision fees, or other monetary obligations.

11. Defendants may truthfully inform probationers that willful failure to pay fines and fees can result in revocation of probation. However, Defendants must also inform probationers that they have the right to seek modification of their probation conditions, including reduction or waiver of any fines and probation supervision fees owed, at any time.

12. Defendants shall not direct probationers to borrow money to pay fines and fees. Defendants may remind probationers that probationers have a duty to

make reasonable efforts to lawfully obtain funds to comply with their probation conditions. Defendants may also remind probationers that probationers should notify the probation officer if a personal hardship prevents the probationer from complying with his or her probation conditions so that the probation officer may request a court hearing.

13. If Defendants learn that a probationer has or appears to have a financial hardship that prevents the probationer from making payments, Defendants shall advise the probationer of his or her right to request a probation modification hearing. If the probationer requests a hearing, Defendants will promptly take steps to notify the court and schedule a hearing.

14. Defendants shall establish written guidelines and procedures for probation officers to follow in requesting probation modification hearings.

**C. Modification of Probation**

15. Defendants shall inform each probationer, verbally and in writing, that (a) the sentencing court has authority to modify probation at any time to accommodate hardships; and (b) in certain circumstances, the sentencing court is required to modify fines and fees by waiving them, reducing them, or converting them to community service.

16. Defendants shall not impede probationers in requesting modification of probation to accommodate hardships—including medical, financial, transportation, or family-related difficulties—that prevent good-faith compliance with probation conditions. Defendants will promptly schedule a probation modification hearing if the probationer requests one.

17. If a probationer's only probation violation is failure to pay fines and fees, Defendants shall not seek revocation of probation, but shall, unless the probationer knowingly and voluntarily waives his or her right to a hearing, request a hearing date and allow the probationer to voluntarily appear in court at a future date. *See* O.C.G.A. § 42-8-102(f)(2)(A).

18. If a probationer has failed to report to the probation officer, Defendants shall not seek an arrest warrant unless the probation officer has sent a letter to the probationer's last-known address and made reasonable efforts to contact the probationer by telephone or other means. Defendants may seek an arrest warrant only if the probationer fails to respond in person or by telephone within ten days of the date of the warning letter required by this paragraph.

19. If modification or revocation of probation is sought by a probation officer, Defendants shall provide written notice to the probationer of the hearing

date. Unless the Probate Court of White County specifically requires different language, the notice shall contain language substantially identical to the following:

Your probation officer has asked the court to hold a hearing on whether to revoke or modify the terms of your probation sentence. If you have an explanation for your failure to comply with your probation conditions, the hearing will be your opportunity to inform the judge about your circumstances. In addition, the judge has discretion to modify your probation conditions if you show that you are unable to comply with your current probation conditions. To help the court understand your circumstances, you should bring any helpful witnesses and documents with you to the hearing. In particular, if you are claiming a financial, medical, or other hardship, you should bring any evidence you have about the hardship with you to the hearing. In certain circumstances, the law may require the judge to waive or reduce the fine and fees you owe, or convert the fines and fees to community service hours.

20. If modification or revocation of probation is sought by a probation officer, the probation officer shall not obtain or attempt to obtain from the probationer a waiver of the probationer's right to a judicial hearing without first specifically informing the probationer of the right to a hearing before an impartial judge and that the hearing will be the probationer's only opportunity to contest the facts, raise a defense (e.g., inability to pay), or explain the probationer's circumstances to the sentencing judge.

**D. Training of Probation Officers**

21. Defendants shall ensure that each probation officer receives training before supervising probationers, and on a regular basis thereafter, in the statutory provisions and constitutional requirements governing probation and probation revocation. Defendants shall further ensure that each probation officer supervising probationers sentenced by the White County Probate Court receives training in the terms of this Order and in any policies or procedures established or required by this Order.

**IV. PROCEDURAL PROVISIONS**

**A. Notice**

22. Defendants shall provide a copy of the Notice attached hereto as Appendix A to each probationer during Defendants' standard intake process.

23. Defendants shall allow any probationer under the supervision of the White County Probate Court to review a copy of this Order upon request.

24. Defendants agree to provide a copy of this Order to Sentinel's officers, agents, servants, employees, and attorneys who participate in the supervision of probationers sentenced by the White County Probate Court. A copy of this Order shall be presented to each such person within seven days of entry of



this Consent Order, or within seven days of establishing an employment, contractual, agency, or other relationship with any person or entity.

**B. Modification and Enforcement**

25. The Court shall retain jurisdiction to enforce the terms of this Order.

26. Plaintiffs' counsel shall have reasonable access to documents maintained by Defendants concerning their compliance with this Order. Upon request for documents or information by Plaintiffs' counsel, Defendants shall respond within five business days by either providing the requested records or information, or providing a timeline for the production of the requested records or information.

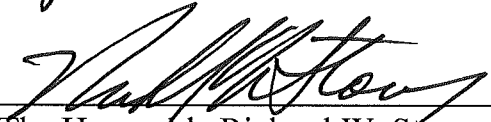
27. Any party may seek to enforce or modify this Order for good cause. A party seeking to compel compliance or to seek modification must make a written request to all parties to this Order. If no party responds within ten days, the party seeking enforcement or modification may file a motion with the Court.

28. If any party objects to enforcement or modification of the Order, the objecting party shall make a written request for a dispute resolution conference. The parties shall hold the conference within ten days of the request. All parties shall seek in good faith to resolve the dispute. In the event that the parties are

unable to resolve the dispute, any party may seek a determination from the Court resolving the dispute.

29. Counsel shall be entitled to seek reasonable attorney's fees in the event that contempt proceedings are required to enforce this Order.

SO ORDERED, this 14<sup>th</sup> day of August, 2017.

  
The Honorable Richard W. Story  
United States District Court Judge

**APPROVED AND CONSENTED TO BY:**

/s/ Sarah Geraghty

Sarah Geraghty

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December 20, 2016