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Jan. 11, 1991

Bill Porter, AAG
Government Bureau
1 Ashburton Pl.
Boston, Ma. 02108

Re: MCH v. Secretary of Human Services, et al.

Dear Bill:

Alice Daniel informed me yesterday that you will be taking over this case representing all of the defendants. While I requested a meeting with her prior to her departure to resolve the outstanding discovery issues (see below), she stated that she had no time to meet. She suggested that I write to you concerning the pending discovery and other issues in this case.

In the last several weeks, defendants have served responses to the outstanding discovery requests (two sets of requests for admission to all the defendants, a set of interrogatories to defendant Canino-Siegrist, a set of interrogatories to defendant Anthony, and a request for production to defendant Canino-Siegrist). Plaintiffs have serious and substantial objections to the sufficiency of many of the responses (or lack thereof) to each request. As Superior Court Rule 9C requires, we are requesting that you meet with us, with agency counsel and/or the defendants present if necessary to enable disputes to be efficiently resolved, no later than Monday, Jan. 28.

If our disputes cannot be satisfactorily resolved by that date, it is our intention to take the depositions of Commissioner Canino and former Secretary Anthony concerning their responses during the week of Feb. 4, and then to seek an enforcement order, sanctions, and attorneys fees from Judge Grabau.

With regard to Request for Production #6, I will arrange with Diane Tsoulas of DPW, prior to Jan. 28, to inspect the documents. I am also willing to inspect, prior to any copying, documents required by the other requests which have been objected to, if that will resolve the defendant's objections. You should be aware that throughout the latest discovery phase of this litigation we have offered to discuss narrowing or withdrawing document production requests if defendant Canino-Siegrist would adequately respond to the requests for admission and the interrogatories. As she has not done so, and has made no attempt to discuss in advance of response any objection to the discovery matters with us, we must insist upon enforcing the document request.

You should also be aware that your clients have admitted that they have taken virtually no steps to ensure compliance with the court's injunction of last February regarding shelter terminations, despite the fact that we have, on a number of occasions, brought instances of non-compliance to the attention of the department. The regulations, as well as the forms given to shelter recipients continue to say that emergency shelter is limited to 90 days. DPW has issued no written documents informing clients or caseworkers of the suspension of the 90 day rule. Consequently, it is no surprise that we and other advocates and shelter providers continue to hear of many families who have believed that they had to leave shelter within 90 days, regardless of the lack of any feasible alternative housing.

Unless the department provides adequate written notice to all families in and entering shelter, and to DPW staff and their homeless contractors, of the suspension of the 90 day rule, we will take enforcement action. It may avoid further problems to discuss a draft of any such notice the department will distribute at the upcoming meeting on discovery.

It is our intent to conclude discovery as speedily as possible in order to have Judge Grabau determine final relief this spring. (If your clients continue to be recalcitrant on discovery, a trial rather than submission on an agreed statement of facts or cross-motions for summary judgment will be necessary.) In pressing the case forward,

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we are not unmindful of the possible opportunity presented by a new Administration for settlement. We are available to discuss a settlement of requested relief at any time, as I have repeatedly made clear to Alice. I certainly hope that you will pass on this willingness to the new defendant state officials. If you are interested in understanding in more detail than Alice may have communicated to you what we are interested in with regard to settlement, please contact me. However, we will not suspend discovery without a serious commitment on behalf of the defendants to discuss settlement.

Please let me hear from you immediately about an agreeable date, no later than Jan. 28, to meet concerning the discovery, and which dates the week of Feb. 4 are convenient for the depositions. To reach me most effectively (we hopefully will get a new phone system shortly), use my direct extension, 3324.

Sincerely,



Barbara Sard
Managing Attorney
Homelessness Unit

cc: ✓ Sue Marsh/Leslie Lawrence, MCH
Dick Bauer, GBLS
Judith Liben, MLRI
Chris McClave, EOCD
Diane Tsoulas, DPW

