

2007 WL 162279

Only the Westlaw citation is currently available.
United States District Court,
W.D. Michigan,
Southern Division.

Everett HADIX, et al., Plaintiffs,
v.
Patricia L. CARUSO, et al., Defendants.

No. 4:92-CV-110. | Jan. 16, 2007.

Attorneys and Law Firms

Elizabeth Alexander, Washington, DC, Michael Barnhart,
Patricia A. Streeter, Ann Arbor, MI, for Plaintiffs.

Opinion

ORDER AMENDING OPINION AND PERMANENT INJUNCTION

RICHARD ALAN ENSLEN, Senior United States
District Judge.

*1 Defendants, through counsel, have moved for a technical amendment to the Court's Opinion and Permanent Injunction of December 7, 2006. Sentence Two of Paragraph 130 of the Court's Opinion contains the requirement that "... Defendant shall employ for the Associate Monitor a full-staff of medically qualified applicants." Defendants' Amended Motion for Relief from Judgment and Reconsideration requests that the words "shall employ" be amended to instead require that Defendants "shall fund" such positions. (Am.Mot.¶ 9.)

This amendment would have the effect of making these new employees the employees of the Associate Monitor rather than those of state government. The advantage of this amendment is that it avoids complications of state law which prevent hiring outside the civil service system and likewise avoids possible violations of state collective bargaining agreements with state employees.

Plaintiffs, in response to the Motion, concur with the request. In particular, the request is appropriate because it is consistent with the requirement of the Prison Litigation Reform Act, 18 U.S.C. § 3626(a)(1)(B), respecting state law to the extent that it does not prevent federal remedy of unconstitutional conditions. The Court reads Plaintiffs' concurrence as dependent upon an implied condition. That is, that the disbursements be sufficient to provide not only the employment of the required staff, but also the provision of sufficient support services (e.g., personnel, payroll and recruiting services) to ensure the prompt and continued employment of the required staff of the Associate Monitor. So understood, the Court concurs with said amendment.

THEREFORE, IT IS HEREBY ORDERED that Defendants' Amended Motion for Relief from Judgment and Reconsideration (Dkt. No. 2249) is **GRANTED** and sentence two of Paragraph 130 of the Court's December 7, 2006 Opinion is **AMENDED nunc pro tunc** to read: "Therefore, Defendants shall disburse funds to the Associate Monitor for the Associate Monitor to employ a full staff of medically qualified applicants."

IT IS FURTHER ORDERED that the Permanent Injunction of December 7, 2006 shall be **deemed** to relate to the amended Opinion language.