

THE STATE OF NEW HAMPSHIRE  
SUPREME COURT

No. 2019-0051

Clifford E. Avery

v.

Helen Hanks, Commissioner,  
New Hampshire Department of Corrections

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APPEAL PURSUANT TO RULE 7 FROM A JUDGMENT OF THE  
MERRIMACK COUNTY SUPERIOR COURT

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**SUPPLEMENTAL BRIEF FOR HELEN HANKS, COMMISSIONER,  
NEW HAMPSHIRE DEPARTMENT OF CORRECTIONS**

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### **SUPPLEMENTAL QUESTIONS**

- I. Do the terms of the “Laaman Settlement Agreement” that is the subject of the plaintiff’s “Petition for Enforcement,” in whole or in part, provide the remedy for the Eighth Amendment violation found in *Laaman v. Helgemon*, 437 F. Supp. 269 (D.N.H. 1977) – specifically that the New Hampshire Department of Corrections violated inmates’ right to be free from cruel and unusual punishment?
- II. What evidence may be considered in interpreting that agreement?
- III. Does the doctrine of state sovereign immunity apply to breach of contract actions against the State in the following circumstances:
  - a. The contract at issue is a court-approved settlement agreement between class-action plaintiffs and the State, entered in federal court;
  - b. The settlement agreement was executed as a result of a 42 U.S.C. § 1983 action in which the federal court found that the State violated the *Laaman* plaintiffs’ constitutional rights;
  - c. The terms of the settlement agreement comprise court-approved consent decrees previously issued in the same section 1983 action in federal court specifying the corrective steps the State must take to remedy its violation of the *Laaman* plaintiffs’ constitutional rights; and
  - d. The State agreed that the settlement agreement would be “enforceable by the courts of the State of New Hampshire”?

IV. If the doctrine of state sovereign immunity does not apply to the circumstances specific in Questions (3), but the parties subsequently modified the settlement agreement after the federal court had approved the parties' stipulation of dismissal and in fact dismissed the case, does the doctrine of sovereign immunity apply to a breach of contract action alleging a breach of terms resulting from these subsequent modifications?

### **PRELIMINARY STATEMENT**

This appeal arises out of a decision of the Merrimack County Superior Court dismissing the plaintiff's claim as barred by sovereign immunity. The plaintiff sued to specifically enforce the Laaman Settlement Agreement, and the Superior Court held that the Legislature has not consented for the State to be sued for equitable remedies in connection with breach of contract claims. On December 23, 2019, after the completion of briefing, this Court issued an order seeking supplemental briefing on several questions concerning the history, effect and interpretation of the Laaman Settlement Agreement. The following comprises the appellee's response to this Court's December 23 order.



### **SUMMARY OF THE RESPONSES**

The Laaman Settlement Agreement was not intended to provide a remedy for the violation found in *Laaman v. Helgemon*, 437 F. Supp. 269 (D.N.H. 1977). Instead, the Laaman Consent Decrees served that purpose. In 1999, however, the Laaman Consent Decrees were on the verge of termination due to the terms of the then-newly enacted Prison Litigation Reform Act (“PLRA”). Prior to their termination, the United States District Court gave the plaintiffs an opportunity to try to prove new, ongoing constitutional violations. Rather than undergo trial on any new violations, the parties, without admitting to actual violations of law, entered into the Laaman Settlement Agreement. The Laaman Consent Decrees were terminated, and federal jurisdiction over them ended in 2001.

The Laaman Settlement Agreement is a contract. Any evidence that could be relied upon to interpret a contract may be relied upon to interpret the Laaman Settlement Agreement. The fact that the agreement settled a civil class action case in federal court does not change that result. *See, e.g., Marshall v. Nat’l Football League*, 787 F.3d 502, 509 (8th Cir. 2015); *Sullivan v. DB Investments, Inc.*, 667 F.3d 273, 312-13 (3d Cir. 2011); 5 Moore’s Federal Practice § 23.82[1] (3d ed. 2000). Instead, the normal rules for interpreting and enforcing contracts apply to the Laaman Settlement Agreement. Thus, if the contract is ambiguous, standard principles of contract construction might make extrinsic evidence appropriate to help ascertain the parties’ intent. But even if the Laaman Settlement Agreement is ambiguous, this Court need not review extrinsic evidence because sovereign immunity bars equitable contract remedies

against the State, and, therefore, precludes these claims. *Lorenz v. N.H. Admin. Office of the Courts*, 152 N.H. 632, 634 (2005); *Wiseman v. State*, 98 N.H. 393 (1953).

Sovereign immunity is the established law of the State. RSA 99-D. As sovereign immunity is a jurisdictional bar to suit, the terms of the contract cannot create jurisdiction where none exists. In New Hampshire, only the legislature has the power to waive the State's sovereign immunity through its legislative acts. Individual executive branch agents cannot wield that significant power on their own and, as a result, an executive branch agent's conduct or actions cannot waive the State's sovereign immunity. In RSA 491:8, the legislature has created a limited waiver of sovereign immunity for contract actions that extends solely to actions seeking monetary damages. This Court therefore lacks subject matter jurisdiction over a contract action, like this one, where the sole remedy requested is specific performance.

The Laaman Settlement Agreement is a unique document. It contains provisions that are between nineteen and forty-two years old. Much of the agreement is obsolete or no longer in accordance with best practices for correctional facilities. For example, part of the agreement that dates back to 1978, states that “[a]ll areas of the prison shall be inspected at least once every six months by appropriate subdivisions of the New Hampshire Department of Public Health.” App<sup>1</sup>. 112. The New Hampshire

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<sup>1</sup> References to the records are as follows:

“AB\_\_” refers to the appellant’s brief and page number.

“App.\_\_” refers to the appendix to the State’s brief, filed on behalf of Helen Hanks, Commissioner, New Hampshire Department of Corrections, and page number.

“SA \_\_” refers to the addendum to this supplemental brief and page number.

Department of Public Health no longer exists. As another example, Paragraph 32 of the agreement specifies that litigation arising from the agreement may only be pursued with class counsel, New Hampshire Legal Assistance (“NHLA”), after informal consultation with the New Hampshire Department of Corrections and the Office of the Attorney General. App. 219, ¶ 32. But that did not and can no longer occur, as the defendant pointed out below, App. 86-88, because NHLA unilaterally withdrew as class counsel, has disclaimed any obligations under the Laaman Settlement Agreement, and no longer represents inmates in connection with that agreement, AB 17.

Against this backdrop, the plaintiff seeks specific performance of the Laaman Settlement Agreement, not because he has suffered a particular injury to himself, but because he perceives that doing so is in the best interest of the other inmates. He is attempting to function as a class representative, who lacks a sufficient personal injury to himself to have standing and which he cannot do *pro se*. See, e.g., *N.H. Super. Ct. R.* 16(a)(6) (requiring an “attorney or non-attorney representative *for the representative parties*” to “adequately represent the interests of the class”) (emphasis added); *Fymbo v. State Farm Fire & Cas. Co.*, 213 F.3d 1320, 1321 (10th Cir.2000) (holding that class representatives cannot appear *pro se*); *Avery v. Powell*, 695 F. Supp. 632, 643 (D.N.H. 1988) (denying Mr. Avery’s class certification request because he was proceeding *pro se*).

In short, this appeal presents a claim for specific enforcement of a forty-year old, outmoded agreement by a party who claims no personal injury and has no counsel. These circumstances and deficiencies amply justify the assertion of sovereign immunity and standing as defenses to the

plaintiff's claims in this action. "The Government as representative of the community as a whole, cannot be stopped in its tracks by any plaintiff who presents a disputed question of property or contract right," *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 704 (1949), particularly by a plaintiff who is acting without standing and who is not proceeding in accordance with the terms of the contract. The trial court's order dismissing the plaintiff's case on sovereign immunity and standing grounds should therefore be affirmed.

## ARGUMENT

### **I. THE LAAMAN SETTLEMENT AGREEMENT WAS NOT INTENDED TO PROVIDE A REMEDY FOR THE VIOLATION FOUND IN *LAAMAN V. HELGEMON*, 437 F. SUPP. 269 (D.N.H. 1977) (SUPPLEMENTAL QUESTION ONE).**

On April 20, 1999, Judge Barbadoro issued an order in the federal *Laaman* action stating that “[i]t does not appear from a review of the record that the Laaman Consent Decree can survive in light of the enactment of the PLRA” and invited briefing on the issue from the parties. *Laaman v. Powell*, 1999 WL 33486690 (D.N.H. April 20, 1999).

On June 16, 1999, Judge Barbadoro terminated the Laaman Consent Decree, consistent with the defendants’ briefing, explaining:

The findings called for in [18 U.S.C.] § 3626(b)(2) were never made prior to the entry of the Consent Decree. Moreover, plaintiffs have failed to demonstrate that a basis currently exists for finding that the decree ‘extends no further than necessary to correct the violation of the Federal right’ *or* that the decree is ‘narrowly drawn and the least intrusive means to correct’ any alleged violations of the plaintiffs’ federal rights. Accordingly, the Consent Decree must be terminated.

Add. 51. Later, on June 30, 1999, Judge Barbadoro also denied the plaintiffs’ motion to alter or amend the judgment. Add. 51

The plaintiffs appealed to the First Circuit. The First Circuit held that, in certain circumstances, the PLRA requires a district court to permit plaintiffs a limited opportunity to supplement the existing record prior to terminating a consent decree, with new, ongoing allegations of harm. *Laaman v. Warden, N.H. State Prison*, 238 F.3d 14, 17 (1st Cir. 2001). The First Circuit also found that the plaintiffs did not understand the district

court's further briefing request as an opportunity for them to "enhance the record or introduce new allegations of harm." *Id.* at 18. The First Circuit therefore vacated and remanded to allow the plaintiffs to supplement the existing record with "any 'current and ongoing' violations that might not appear in the record due to its age, while considering the PLRA's bias toward the termination of consent decrees." *Id.* at 19.

The First Circuit noted that the district court's assumption "that no matter what the plaintiffs showed in an evidentiary hearing, nothing in that showing could in light of the new statutory requirements justify a continuation of this consent decree" "may well be right, given the stringent conditions . . . in § 3626(b)(3)." *Id.* The First Circuit observed that if few or limited current and ongoing violations were found on remand, a potential remedy may be to "terminat[e] the present case and allow[] an individual to press a new suit in which a fresh decree could be addressed directly to these issues." *Id.* at 20.

On remand, Judge Barbadoro entered an order further structuring the case. In the order, Judge Barbadoro stated:

Plaintiffs' counsel candidly concede that they are aware of no evidence that defendants are in fact engaged in any ongoing constitutional violations that are covered by the consent decree. Further, they concur with my assessment that the decree cannot stand in its current form. Nevertheless, they seek a brief period of discovery to determine whether the defendants are engaging in any current and ongoing constitutional violations that would justify the continuation of some sections of the decree.

Add. 54-55.

In other words, on remand, the case no longer concerned violations of law dating back decades. Instead, the case shifted to whether any current and ongoing violations would justify any portion of some sections of the decree continuing forward. The court structured the case for discovery and a bench trial on this basis, Add. 55-56, with a focus on whether the plaintiffs were receiving minimally adequate mental health treatment as required by the Eighth Amendment to the United States Constitution, Add. 57-60.

Prior to trial, the parties arrived at a settlement. The plaintiffs tendered the signed settlement agreement to the court as an attachment to their Assented-To Motion For Approval Of Notice To Plaintiff Class Of Proposed Settlement, invoking Federal Rule of Civil Procedure 23(e). Add. 78; App. 212-219. The court approved the class notice on April 25, 2001. Add. 78. The class notice makes clear that no established or admitted “current and ongoing” violations of federal law were being settled:

The parties have now determined that it is in the best interests of both plaintiffs and defendants for the parties to reach a settlement of the issue of providing minimally adequate mental health treatment to inmates at NHSP. The parties believe that a settlement is preferable to the risk and uncertainty of having this issue decided in a trial.

Add. 78. The class notice also stated that the settlement agreement would be enforceable in the courts of the State of New Hampshire. Add. 78.

Following the class notice process, the parties filed an Assented-To Motion For Approval Of Settlement Agreement Regarding Mental Health. Add. 79-71. The plaintiffs represented to the court that: (a) “This Settlement Agreement is the result of good faith, arm’s length negotiations

between the parties”; (b) “Counsel for the plaintiffs believe that the proposed settlement agreement is fair, reasonable and adequate with respect to the plaintiff class”; and (c) “The terms of the Settlement Agreement are reasonable when compared with the probable outcome of the litigation and/or the remedies that could be secured as a result of trial.” Add. 80.

On July 6, 2001, the court held a motion hearing on the assented-to motion for approval of the settlement agreement, after which the court made the following orders:

On the Settlement Agreement (document no. 523):

**“For the reasons discussed during the hearing on the proposed settlement, I determine that the settlement is fair, adequate and reasonable and is in the best interests of the class. Accordingly, I approve the proposed settlement.”**

On the Motion for Approval of Settlement Re: Mental Health (document 530):

**“Motion granted”**

On the Stipulation for Dismissal (document no. 531):

**“Motion granted.”**

Add. 82.<sup>2</sup>

The chain of events leading up to and including the execution and approval of the Laaman Settlement Agreement reveals that: (1) the parties did not make the agreement in whole or in part to remedy the violation

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<sup>2</sup> Counsel for the defendants has recently determined that the July 6, 2001 hearing was not transcribed, and the federal district court does not have an audio recording associated with it.



found in *Laaman v. Helgemon*, 437 F. Supp. 269 (D.N.H. 1977); (2) the parties did not make the agreement in whole or in part to remedy established or admitted ongoing violations of federal law; but, instead, (3) the parties made the agreement principally to avoid the risk and uncertainty associated with the impending bench trial. Indeed, the settlement agreement itself preserves every inmate's ability to file and maintain new lawsuits for violations of legal rights. App. 218, ¶ 31 ("No inmate shall be deemed to have waived any claim or action which he may have on his own behalf against the defendants, their agents, or their employees to remedy violations of his legal rights, based on execution of this agreement."). And, to defense counsel's knowledge, the defendants have never attempted to use the Laaman Settlement Agreement to bar an inmate from prospectively enforcing his legal rights, including in conditions of confinement cases asserting violations of the Eighth Amendment via 42 U.S.C. § 1983.

Consequently, the terms of the "Laaman Settlement Agreement," entered into in 2001, do not, in whole or in part, provide the remedy for the Eighth Amendment violation found in *Laaman v. Helgemon*, 437 F. Supp. 269 (D.N.H. 1977).

**II. ANY EVIDENCE THAT COULD BE RELIED UPON TO INTERPRET A CONTRACT MAY BE USED TO INTERPRET THE LAAMAN SETTLEMENT AGREEMENT (SUPPLEMENTAL QUESTION TWO).**

The Laaman Settlement Agreement is a contract. Where contract language is unambiguous, the plain meaning of the words used controls its interpretation. *Glick v. Chocorua Forestlands Ltd. Partnership*, 157 N.H. 240, 248 (2008); *Ryan James Realty, LLC v. Villages at Chester Condo. Ass'n*, 153 N.H. 194, 197 (2006). Where contract language is ambiguous, a court may consider extrinsic or parol evidence to determine the intent of the parties. *Behrens v. S.P. Const. Co., Inc.*, 153 N.H. 498, 501 (2006); see *Richey v. Leighton*, 137 N.H. 661, 663 (1993) (“Extrinsic evidence is admissible when it serves to aid in interpretation, or to clarify an ambiguity rather than to contradict unambiguous terms of a written agreement.”). For the reasons stated in section III below, however, reviewing extrinsic evidence is ultimately unnecessary.

### III. SOVEREIGN IMMUNITY BARS SPECIFIC PERFORMANCE OF THE LAAMAN SETTLEMENT AGREEMENT (SUPPLEMENTAL QUESTIONS 3(A)-(D)).

The Laaman Settlement Agreement, executed in 2001, unambiguously claims to be “enforceable by the courts of the State of New Hampshire.” To the extent that phrase extends to equitable remedies, it stands in contradiction to this Court’s holding in *Wiseman v. State*, 98 N.H. 393 (1953). As explained in more detail below, sovereign immunity is jurisdictional, and individual executive branch agents cannot waive sovereign immunity through their conduct or actions. *See, e.g., XTL-NH, Inc. v. N.H. State Liquor Commission*, 170 N.H. 653, 656 (2018); *LaRoche v. Doe*, 134 N.H. 562, 566 (1991). And parties cannot create subject matter jurisdiction by contract where it does not already exist. *See, e.g., Thomas v. Miller*, 489 F.3d 293, 298 (6th Cir. 2007); *Stock West, Inc. v. Confederated Tribes of the Colville Reservation*, 873 F.2d 1221, 1228 (9th Cir. 1989). Consequently, the plaintiff’s action, which seeks to enforce the Laaman Settlement Agreement solely through the equitable remedy of specific performance, is barred by sovereign immunity.

It is axiomatic that “[t]he State is immune from suit in its courts without its consent.” *XTL-NH, Inc. v. N.H. State Liquor Commission*, 170 N.H. 653, 656 (2018). “Sovereign immunity rested upon a common law basis until the enactment in 1978 of RSA chapter 99–D, which adopted sovereign immunity ‘as the law of the state,’ except as otherwise provided by statute.” *Id.* (quoting *Lorenz v. N.H. Admin. Office of the Courts*, 152 N.H. 632, 634 (2005)). “As a State agency,” the New Hampshire Department of Corrections “is cloaked with the State’s sovereign

immunity.” *See Chase Home for Children v. N.H. Div. for Children, Youth & Families*, 162 N.H. 720, 730 (2011). “This means that New Hampshire courts do not have subject matter jurisdiction to hear cases against [the NHDOC] unless there is an applicable statute waiving immunity.” *Id.*

While sovereign immunity can be waived, this Court’s “decisions have found express or implied consent to suit only in the acts of our legislature.” *LaRoche v. Doe*, 134 N.H. 562, 566 (1991). Thus, in New Hampshire, “the waiver of sovereign immunity is the exclusive province of our legislature, subject to certain constitutional constraints.” *Id.* at 567. An executive branch agent, therefore, cannot waive sovereign immunity.

This case does not claim unconstitutional conditions of confinement under the state or federal constitutions. The Laaman Settlement Agreement expressly preserves the right to pursue such claims and statutes such as 42 U.S.C. § 1983 provide the vehicle. *See* App. 218, ¶ 31 (“No inmate shall be deemed to have waived any claim or action which he may have on his own behalf against the defendants, their agents, or their employees to remedy violations of his legal rights, based on the execution of this agreement.”).

Rather, this case presents an action by an uninjured plaintiff seeking to police the terms of an antiquated contract through specific performance, without following that contract’s terms for initiating suit. The specific performance claim is only cognizable if an applicable waiver of sovereign immunity for contract actions against the State exists. RSA 491:8 provides the only sovereign immunity waiver for contract claims, and limits the waiver to claims for money damages, excluding claims for equitable relief. Since 1953, this Court has held that RSA 491:8 does not waive sovereign

immunity for equitable remedies on contract claims. *See, e.g., Lorenz v. N.H. Admin. Office of the Courts*, 152 N.H. 632, 634 (2005); *Wiseman v. State*, 98 N.H. 393, 396-97 (1953). Consequently, the plaintiff's breach of contract action, which seeks only specific performance as a remedy, is barred by sovereign immunity.

The subsidiary questions the Court poses do not change this result. Nor does this result deprive the plaintiff or any other inmate from pursuing claims under the state or federal constitutions or other state or federal laws for violations of their legal rights.

**A. The Laaman Settlement Agreement Is A Private Contract.**

A class action settlement agreement, like any other settlement agreement, is a private contract that is enforceable as a private contract, even though approved pursuant to Federal Rule of Civil Procedure 23(e). *See, e.g., Marshall v. Nat'l Football League*, 787 F.3d 502, 509 (8th Cir. 2015) ("We begin with the guiding principle that 'a class action settlement is a private contract negotiated between the parties.'") (Quoting *In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 934 (8th Cir. 2005)); *Sullivan v. DB Investments, Inc.*, 667 F.3d 273, 312-13 (3d Cir. 2011) (explaining that class-action settlements are creatures of private contract law and do not abridge, enlarge, or modify any substantive right even though approved by the district court); 5 Moore's Federal Practice § 23.82[1] (3d ed. 2000) (explaining that "[a] class action settlement, like an agreement resolving any other legal claim, is a private contract negotiated

between the parties,” even though approved under Federal Rule of Civil Procedure 23(e)).

The incorporation into the contract of the terms of old consent decrees does not transform the Laaman Settlement Agreement into something other than a private contract. The Laaman Settlement Agreement is and remains a private contract, and federal jurisdiction over previous consent decrees terminated in 2001.

**B. The Laaman Settlement Agreement Was Not Executed “As A Result Of A 42 U.S.C. § 1983 Action In Which The Federal Court Found That The State Violated The *Laaman* Plaintiffs’ Constitutional Rights.”**

The publicly available history confirms that the Laaman Settlement Agreement was not executed “as a result of a 42 U.S.C. § 1983 action *in which the federal court found* that the State violated the *Laaman* plaintiffs’ constitutional rights.” Order dated December 23, 2019 at ¶ 3(b). No such findings were made when the Laaman Settlement Agreement was executed in 2001. To the contrary, that agreement was executed to avoid the risk and uncertainty of the plaintiffs having to prove current and ongoing violations of federal law, in the absence of which the Laaman Consent Decree would have been terminated pursuant to the PLRA.

But even if the private contract was the product of a 42 U.S.C. § 1983 action in which a federal court found that the state violated certain persons’ constitutional rights, this Court would still lack subject matter jurisdiction to specifically enforce that private contract because the State, through its elected representatives, has not consented to a breach of contract suit seeking specific performance.

**C. An Executive Branch State Agent Has No Ability To Waive Sovereign Immunity.**

This Court has long held that “[s]overeign immunity is a jurisdictional question not to be waived by conduct or undermined by estoppel.” *XTL-NH, Inc.*, 170 N.H. at 656 (quoting *LaRoche*, 134 N.H. at 566). “Any statutory waiver [of sovereign immunity] is limited to that which is articulated by the legislature; thus, New Hampshire courts lack subject matter jurisdiction over an action against the State ‘unless the legislature has prescribed the terms and conditions on which it consents to be sued, and the manner in which the suit shall be conducted.’” *Id.* (quoting *Lorenz*, 152 N.H. at 634).

An executive branch state agent therefore has no power to waive the state’s sovereign immunity through his or her conduct or actions, *see United States v. Murdock Mach. & Eng’r Co. of Utah*, 81 F.3d 922, 931 (10th Cir. 1996) (“Because waiver [of sovereign immunity] must be ‘unequivocally expressed’ by Congress, ‘[o]fficers of the United States possess no power through their actions to waive an immunity of the United States or to confer jurisdiction on a court.’”) (quoting *United States v. N.Y. Rayon Importing Co.*, 329 U.S. 654, 660 (1947)); nor can he or she create subject matter jurisdiction in state court by contract where subject matter jurisdiction does not already exist. *See, e.g., Thomas v. Miller*, 489 F.3d 293, 298 (6th Cir. 2007) (recognizing “the maxim that parties can neither consent to federal jurisdiction nor waive court’s lack of jurisdiction”); *Stock West, Inc. v. Confederated Tribes of the Colville Reservation*, 873 F.2d 1221, 1228 (9th Cir. 1989) (“a party cannot waive by consent or contract a court’s lack of *subject matter* jurisdiction.”); *Doe by and through Doe v.*

*Costa Cruise Lines N.V.*, 2006 WL 8432474, at \*5 (S.D. Fla. May 26, 2006) (“Although Plaintiffs allege that Defendants’ contract of carriage consents to jurisdiction and venue in this District, parties to a contract cannot create subject matter jurisdiction if it does not otherwise exist.”).

Even though the Laaman Settlement Agreement broadly states that it “shall constitute a settlement agreement enforceable by the courts of the State of New Hampshire,” App. 212, ¶ 1 that language could not overcome jurisdictional bars that would otherwise preclude an action in New Hampshire state courts. The plaintiff could not, for example, enforce a breach of the Laaman Settlement Agreement by bringing an action in the 6<sup>th</sup> Circuit Court – Family Division – Concord or by filing it as an original proceeding with this Court for adjudication and without complying with New Hampshire Supreme Court Rule 11. The 6<sup>th</sup> Circuit Court – Family Division – Concord would plainly lack jurisdiction to enforce this type of breach of contract claim. RSA 490-D:2. Similarly, this Court would likely decline to exercise original jurisdiction over a regular breach of contract claim, directing the case to be brought, in the first instance, in the Superior Court. *See N.H. Sup. Ct. R. 11(1)* (limiting petitions for original jurisdiction only to circumstances where “there are special and important reasons” for exercising it). Thus, despite the agreement’s broad language, the parties to the Laaman Settlement Agreement could not contract around the jurisdictional restrictions of particular state court forums.

Persons entering into agreements with government officials are charged with notice of the extent and limits of their authority and their ignorance of the bounds of that authority cannot be argued as an excuse. *See, e.g., Sunapee Difference, LLC v. State*, 164 N.H. 778, 795-96 (2013)



(“We have long recognized that all private parties dealing with government officials are charged with notice of the extent and limits of their authority.”); *State v. Cote*, 95 N.H. 428, 430 (1949) (“ignorance of the public officer’s lack of authority cannot be argued in excuse. And those dealing with the officer must take notice of the extent of authority conferred on him by law.”). Persons are also charged generally with knowledge of the law and the limits it imposes, including on a state court’s subject matter jurisdiction. *See, e.g., Lennartz v. Oak Point Assocs., P.A.*, 167 N.H. 459, 464 (2015) (rejecting argument that plaintiff had insufficient notice regarding the application of the statute of repose to her claims “because every person is presumed to know the law [both statutory and case law] and, therefore, to organize his or her conduct and affairs accordingly”); *Eldridge v. Eldridge*, 136 N.H. 611, 613 (1993) (observing the principle that “every person is presumed to know the law and, therefore, to organize his or her conduct and affairs accordingly”).

*Wiseman* had been established law for forty-eight years before the parties signed the Laaman Settlement Agreement. Both parties had legal representation when negotiating the Laaman Settlement Agreement, and the plaintiffs and their counsel were charged with knowledge that they could not circumvent *Wiseman* and create subject matter jurisdiction in the State court system where subject matter jurisdiction does not already exist.

For all of these reasons, the fact that an executive branch agent agreed to specific contractual language does not waive the State’s sovereign immunity from suit on that contract for equitable remedies. To hold otherwise would effectively overrule: (1) *Wiseman* and *Lorenz*; (2) those cases that hold it is exclusively the province of the legislature to waive the

State's sovereign immunity; and (3) those cases that hold that the State's sovereign immunity cannot be waived by conduct or undermined by estoppel.

There is no justifiable basis for overruling that voluminous, well-established precedent in this case, nor is there any reason to. If the plaintiffs in an action desire a remedy that is specifically enforceable, they can ask the legislature to enact the terms of the particular agreement into law and, if one does not already exist, provide them with a mechanism to enforce the law.

**IV. IT DOES NOT APPEAR THAT THE 2001 LAAMAN SETTLEMENT AGREEMENT HAS BEEN AMENDED SINCE IT WAS SIGNED (SUPPLEMENTAL QUESTION 4).**

Though not a model of clarity, it appears that two separate agreements related to the federal Laaman case exist. The 2001 Laaman Settlement Agreement incorporates by reference the provisions of the 1990 Laaman Consent Decree, which incorporates by reference the provisions of the 1978 Laaman Consent Decree. App. 211; App.145; App. 94.

The 2003 Amended Settlement Agreement Concerning the New Hampshire State Prison Special Housing Unit “replaces in its entirety the Settlement Agreement Concerning the New Hampshire State Prison Special Housing Unit Signed by the parties in December 1995 and approved by the United States District Court for the District of New Hampshire in June 1998.” App. 221. The 1995 settlement agreement resolved all claims and issues detailed in a Motion for Contempt that had been filed in the federal case. App. 221; *see* Add. 44 (Docket Entry 497).

The 2003 Amended Settlement Agreement indicates in certain areas that the 2001 Laaman Settlement Agreement is related to it, but does not otherwise purport to amend the 2001 Laaman Settlement Agreement. *See, e.g.*, App. 221-22, ¶2; App. 230, ¶17. Accordingly, it does not appear that the 2003 Amended Settlement Agreement constitutes an amendment to the 2001 Laaman Settlement Agreement and, to the extent defense counsel represented that in one or more trial court filings, that appears to have been a mistake. A close reading of the documents reveals that the 2003 Amended Settlement Agreement does not amend the 2001 Laaman Settlement Agreement. This Court therefore does not need to reach

Question (4) for this reason, as well as because sovereign immunity bars enforcement of the 2001 Laaman Settlement Agreement.

**CONCLUSION**

For the foregoing reasons, the defendant respectfully requests that this Honorable Court affirm the judgment below.

Respectfully submitted,

HELEN HANKS,  
COMMISSIONER,  
N.H. DEPARTMENT OF CORRECTIONS

By her attorneys,

GORDON J. MACDONALD  
ATTORNEY GENERAL

April 6, 2020

/s/ Daniel E. Will  
Daniel E. Will  
NH Bar No. 12176  
Solicitor General

/s/ Anthony J. Galdieri  
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**CERTIFICATE OF COMPLIANCE**

I, Daniel E. Will, hereby certify that pursuant to this Court's December 23, 2019 Order regarding supplemental briefs, this supplemental brief contains approximately 5,030 words, which is fewer than the words permitted by said Order. Counsel relied upon the word count of the computer program used to prepare this brief.

April 6, 2020

/s/ Daniel E. Will  
Daniel E. Will

**CERTIFICATE OF SERVICE**

I, Daniel E. Will, hereby certify that a copy of this supplemental brief was mailed to Clifford E. Avery, *pro se*, and Paul Blackmer, *pro se*, postage prepaid, at the following address:

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April 6, 2020

/s/ Daniel E. Will  
Daniel E. Will

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CLOSED

**U.S. District Court  
District of New Hampshire (Concord)  
CIVIL DOCKET FOR CASE #: 1:75-cv-00258-PB**

Laaman, et al v. Prison Warden, et al  
Assigned to: Judge Paul J. Barbadoro  
Demand: \$0  
Case in other court: 00-01052  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 08/29/1975  
Date Terminated: 07/06/2001  
Jury Demand: Plaintiff  
Nature of Suit: 550 Prisoner: Civil  
Rights  
Jurisdiction: Federal Question

**Plaintiff****Jaan K. Laaman**

*Individually and on Behalf of all others  
similarly situated*

**Plaintiff****Seth Bader**

V.

**all plaintiffs****All Plaintiffs**represented by **Alan Linder**

NH Legal Assistance (Portsmouth)  
154 High St  
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431-7411  
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*ATTORNEY TO BE NOTICED*

**Mark J. Lopez**

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*TERMINATED: 03/21/1997*  
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*ATTORNEY TO BE NOTICED*

**Stuart H. Adams, Jr.**

ACLU National Prison Project

1875 Connecticut Ave NW  
Washington, DC 20009  
202 234-4830  
*TERMINATED: 06/30/1995*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Intervenor Plaintiff**

**John Yancey**

**Intervenor Plaintiff**

**Ron Gelinas**

**Intervenor Plaintiff**

**Ronald Fleury**

**Intervenor Plaintiff**

**Philip Jacques**

**Intervenor Plaintiff**

**Paul Lemire**

**Intervenor Plaintiff**

**Winfield Snow**

**Intervenor Plaintiff**

**Richard J. Dunn**

**Intervenor Plaintiff**

**Edward F. McMillan**

**Intervenor Plaintiff**

**Bruce J. Belton**

**Intervenor Plaintiff**

**Leo Joseph Goudreau**

**Intervenor Plaintiff**

**Richard Giberson**

**Intervenor Plaintiff**

**Rene Luz**

**Intervenor Plaintiff**

**Bernard Page**

V.

**Defendant**

**NH State Prison, Warden**

*and Individually*

*other*

Raymond A. Helgemoe

**Defendant**

**NH State Prison, Deputy Warden**

*and Individually*

*other*

Ronald Fuller

**Defendant**

**Henry C. Waldo**

*Individually & In his capacity as*

*member of the Board of trustees of the*

*New Hampshire State Prison*

**Defendant**

**George W. Schnyer**

*Individually & In his capacity as*

*member of the Board of trustees of the*

*New Hampshire State Prison*

**Defendant**

**Lyle Hersom**

*Individually & In his capacity as*

*member of the Board of trustees of the*

*New Hampshire State Prison*

**Defendant**

**Martin Gross**

*Individually & In his capacity as*

*member of the Board of trustees of the*

*New Hampshire State Prison*

**Defendant**

**Morris Silver**

*Individually & In his capacity as*

*member of the Board of trustees of the*

*New Hampshire State Prison*

**Defendant**

**Marjorie M. Field**

*Individually & In his capacity as*

*member of the Board of trustees of the  
New Hampshire State Prison*

**Defendant****Francis W. Gray**

*Individually & In his capacity as  
member of the Board of trustees of the  
New Hampshire State Prison*

**Defendant**

**NH Department of Corrections,  
Commissioner**

V.

**all defendants****All Defendants**represented by **Daniel J. Mullen**

Ransmeier &amp; Spellman

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603 228-0477

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Email: dmullen@ranspell.com

**LEAD ATTORNEY****ATTORNEY TO BE NOTICED**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
08/29/1975	3	COMPLAINT; jury demand Modified on 04/02/1991 (Entered: 04/02/1991)
10/03/1990	404	JUDGMENT ( signed by Clerk James R. Starr ) (Entered: 04/02/1991)
10/03/1990		Case closed (Entered: 04/02/1991)
11/12/1991	405	NOTICE of receipt of exhibits for Laaman Class by Karen L. Roy on 11/12/91 (cmd) (Entered: 11/13/1991)
11/18/1991	406	NOTICE of receipt of exhibits by Atty Mullen re 9/28/79 hrg (cmd) (Entered: 11/18/1991)
06/15/1993	407	NOTICE of attorney appearance for All Plaintiffs by Alan Linder (cm) (Entered: 06/16/1993)
06/15/1993	408	MOTION by All Plaintiffs for Contempt Objection to Motion Deadline 7/5/93 (cm) (Entered: 06/18/1993)
06/15/1993	409	MOTION by All Plaintiffs to Extend Court Jurisdiction over Consent Decree Objection to Motion Deadline 7/5/93 (cm) (Entered: 06/18/1993)
06/23/1993	410	

		MOTION by All Plaintiffs to Compel Defendants to Permit Entry into NH State Prison and Inspection and Copying of Documents ; Objection to Motion Deadline 7/13/93 (jar) (Entered: 06/25/1993)
07/06/1993	411	OBJECTION by Corrections Commr, Prison Deputy Warden, Prison Warden to [408-1] motion for Contempt w/attachments (cm) (Entered: 07/07/1993)
07/06/1993	412	OBJECTION by Corrections Commr, Prison Deputy Warden, Prison Warden to [409-1] motion to Extend Court Jurisdiction over Consent Decree (cm) (Entered: 07/07/1993)
07/07/1993	413	OBJECTION by Corrections Commr, Prison Deputy Warden, Prison Warden to [410-1] motion to Compel Defendants to Permit Entry into NH State Prison and Inspection and Copying of Documents (cm) (Entered: 07/08/1993)
07/14/1993	414	REPLY by All Plaintiffs to objection to [410-1] motion to Compel Defendants to Permit Entry into NH State Prison and Inspection and Copying of Documents (cm) (Entered: 07/16/1993)
08/11/1993	415	MOTION by Prison Deputy Warden, Waldo, Ind to Stay Discovery until motion for definite statement is ruled on Objection to Motion Deadline 8/31/93 (prk) (Entered: 08/12/1993)
08/11/1993	416	MOTION by Prison Deputy Warden, Waldo, Ind for More Definite Statement re: motion for contempt Objection to Motion Deadline 8/31/93 (prk) (Entered: 08/12/1993)
08/13/1993	417	MOTION by Jaan K. Laaman to Compel Defts to Answer Pltfs Requests for Production of Documents and Interrogatories Objection to Motion Deadline 9/2/93 (cm) (Entered: 08/13/1993)
08/13/1993	418	OBJECTION by Jaan K. Laaman to [415-1] motion to Stay Discovery until motion for definite statement is ruled on (cm) (Entered: 08/13/1993)
08/17/1993	419	ORDER, all further discovery is stayed, the Court will retain jurisdiction in this matter, and a hearing on pending motions is set for 9/1/93 at 9:00 a.m. Motion Hearing set for 9:00 9/1/93 for [417-1] motion to Compel Defts to Answer Pltfs Requests for Production of Documents and Interrogatories, set for 9:00 9/1/93 for [416-1] motion for More Definite Statement re: motion for contempt, set for 9:00 9/1/93 for [415-1] motion to Stay Discovery until motion for definite statement is ruled on, set for 9:00 9/1/93 for [410-1] motion to Compel Defendants to Permit Entry into NH State Prison and Inspection and Copying of Documents, set for 9:00 9/1/93 for [409-1] motion to Extend Court Jurisdiction over Consent Decree, set for 9:00 9/1/93 for [408-1] motion for Contempt ( signed by Senior Judge Shane Devine ) (cm) (Entered: 08/18/1993)
08/20/1993	420	OBJECTION by All Plaintiffs to [416-1] motion for More Definite Statement re: motion for contempt (cm) (Entered: 08/23/1993)
08/25/1993	421	RESPONSE by All Plaintiffs in opposition to [416-1] motion for More Definite Statement re: motion for contempt (cm) (Entered: 08/26/1993)
08/27/1993	422	

		OBJECTION by All Defendants to [417-1] motion to Compel Defts to Answer Pltfs Requests for Production of Documents and Interrogatories (cm) (Entered: 08/30/1993)
09/01/1993		Motion hearing held re: all pending motions. Counsel given 30 days to resolve issues. Hearing held before Senior Judge Shane Devine in Courtroom #1 (Ct Rptr - SL) (cm) (Entered: 09/01/1993)
09/01/1993	423	ORDER, summarizing hearing held 9/1/93 // denying [416-1] motion for More Definite Statement re: motion for contempt // granting [415-1] motion to Stay Discovery until such time as court is advised of and necessarily rules upon any motions seeking further discovery // granting [409-1] motion to Extend Court Jurisdiction over Consent Decree (signed by Senior Judge Shane Devine) (cm) (Entered: 09/01/1993)
09/01/1993	424	PROTECTIVE ORDER re: identities (signed by Senior Judge Shane Devine) (cm) (Entered: 09/01/1993)
09/29/1993	425	MOTION by All Defendants to Extend Time to complete discussions pursuant to the 9/1/93 order with assent (cm) (Entered: 09/30/1993)
10/04/1993		ENDORSED ORDER granting [425-1] motion to Extend Time to complete discussions pursuant to the 9/1/93 order, reset Notice of Compliance deadline to 10/15/93 re: complete discussions re: mot for contempt (signed by Senior Judge Shane Devine) (cm) (Entered: 10/05/1993)
10/19/1993	426	JOINT STATUS REPORT by Pltfs and Dfts (prk) (Entered: 10/21/1993)
11/09/1993	427	(STATUS REPORT) JOINT STATEMENT OF ISSUES (prk) (Entered: 11/10/1993)
11/24/1993	428	Renewed MOTION by All Plaintiffs to Compel with memorandum; Objection to Motion Deadline 12/14/93 (cm) (Entered: 11/26/1993)
12/06/1993	429	MOTION by pltf Erico Davias for Contempt Enjoiner Objection to Motion Deadline 12/27/93 <<Document refiled as a complaint (C.95-71-SD) per Order [444-1]>> (prk) Modified on 02/10/1995 (Entered: 12/08/1993)
12/14/1993	430	Renewed OBJECTION by dfts to [428-1] renewed motion to Compel with cites (prk) (Entered: 12/15/1993)
01/10/1994	431	ORDER granting [428-1] motion to Compel to the extent that pltfs experts may make site visits (not to exceed 3), to NHSP and defts counsel shall be give 10 days' advance notice; mootng [417-1] motion to Compel Defts to Answer Pltfs Requests for Production of Documents and Interrogatories; mootng motion to Compel Defendants to Permit Entry into NH State Prison and Inspection and Copying of Documents ( signed by Senior Judge Shane Devine ) (cm) (Entered: 01/11/1994)
01/28/1994	432	ORDER re Disposition of Sealed Document--Tab J #328 to Defts' Report, Plan & Motion for Protective Order set Notice of Compliance deadline to 2/17/94 ( signed by Magistrate Judge William H. Barry Jr. ) (dcap) (Entered: 01/28/1994)
03/07/1994	433	

		Second Joint STATUS REPORT by All Plaintiffs, All Defendants (cm) (Entered: 03/08/1994)
03/07/1994	434	///Stipulation of Settlement of Vocational Training Issues by All Plaintiffs, All Defendants (cm) (Entered: 03/08/1994)
03/07/1994	435	Stipulation for Protective Order for Review of Class Member Records and Files by All Plaintiffs, All Defendants (cm) (Entered: 03/08/1994)
03/09/1994		ENDORSED ORDER in accordance with [432-1] order Tab J to document 328 was returned to Daniel Mullen, Esq. ( signed by Clerk James R. Starr ) (cm) (Entered: 03/09/1994)
03/09/1994	436	MOTION by Vicent Giordano for Preliminary and Permanent Injunction Objection to Motion Deadline 3/29/94 <<Motion refiled as a complaint (C.95-70-L) pursuant to Order [444-1]>> (cm) Modified on 02/10/1995 (Entered: 03/09/1994)
06/15/1994	437	STATUS REPORT by All Plaintiffs, All Defendants. New status report deadline set for 10/3/94 (cm) (Entered: 06/16/1994)
11/03/1994	438	Fourth Joint STATUS REPORT by All Plaintiffs, All Defendants (cm) (Entered: 11/04/1994)
12/15/1994	439	Order Pleading Refused: motion to compel testimony and production of documents; multiple reliefs ( signed by Senior Judge Shane Devine ) (cm) (Entered: 12/15/1994)
12/21/1994	440	MOTION by All Plaintiffs to Compel Testimony and to Production of quality assurance documents & reports with cites. Objection to Motion Deadline 1/10/95 (cm) (Entered: 12/22/1994)
12/21/1994	441	JOINT MOTION by All Plaintiffs, All Defendants to Extend Time; plaintiffs' brief to 12/30/94 and defendants' objection to 1/31/95 with no memo (cm) (Entered: 12/22/1994)
12/27/1994		ENDORSED ORDER granting [441-1] joint motion to Extend Time; plaintiffs' brief to 12/30/94 and defendants' objection to 1/31/95, set Brief deadline to 12/30/94 , Objection to Motion reset to 1/31/95 for [440-1] motion to Compel Testimony, reset to 1/31/95 for [440-2] motion to Production of quality assurance documents & reports (signed by Senior Judge Shane Devine) (cm) (Entered: 12/27/1994)
12/30/1994	442	BRIEF (in support) filed by All Plaintiffs regarding [440-1] motion to Compel Testimony (cm) (Entered: 01/03/1995)
01/31/1995	443	OBJECTION by All Defendants to [440-1] motion to Compel Testimony, [440-2] motion to Production of quality assurance documents & reports (cm) (Entered: 02/01/1995)
02/08/1995		ENDORSED ORDER approving [435-1] stipulation for protective order for review of class member records and files (signed by Senior Judge Shane Devine) (cm) (Entered: 02/10/1995)
02/09/1995	444	

		ORDER granting [440-1] motion to Compel Testimony, granting [440-2] motion to Production of quality assurance documents & reports // denying [436-1] motion for Preliminary and Permanent Injunction; motion should be docketed as a complaint and referred to the magistrate judge // denying [429-1] motion for Contempt Enjoiner; motion should be docketed as a complaint and referred to the magistrate judge (signed by Senior Judge Shane Devine) (cm) (Entered: 02/10/1995)
03/21/1995	446	MOTION by All Plaintiffs To Enforce Order Requiring Defendants to Produce Quality Assurance Documents and Reports with memorandum. Objection to Motion Deadline 4/10/95 (jab) (Entered: 03/23/1995)
03/22/1995	445	ASSENTED-TO MOTION by All Defendants For Request for Discovery Conference no memorandum. (jab) (Entered: 03/22/1995)
03/29/1995		Motion hearing/Discovery conference re: [446-1] motion To Enforce Order Requiring Defendants to Produce Quality Assurance Documents and Reports at 9:00 4/12/95 before Senior Judge Shane Devine in Courtroom #3 (cm) (Entered: 03/29/1995)
04/04/1995	447	MOTION by All Plaintiffs for Stuart H. Adams Jr. to Appear Pro Hac Vice with assent. (cm) (Entered: 04/07/1995)
04/05/1995	448	OBJECTION by All Defendants to [446-1] motion To Enforce Order Requiring Defendants to Produce Quality Assurance Documents and Reports (cm) (Entered: 04/07/1995)
04/07/1995		ENDORSED ORDER granting [447-1] motion for Stuart H. Adams Jr. to Appear Pro Hac Vice (signed by Clerk James R. Starr) (cm) (Entered: 04/07/1995)
04/10/1995	449	RESPONSE by All Plaintiffs to objection to [446-1] motion To Enforce Order Requiring Defendants to Produce Quality Assurance Documents and Reports (cm) (Entered: 04/10/1995)
04/12/1995		Motion hearing re: [446-1] motion To Enforce Order Requiring Defendants to Produce Quality Assurance Documents and Reports Motion hearing held before Senior Judge Shane Devine (Ct Rptr - S. Lamoureux): Arguments by counsel. Defendant enters a letter as an exhibit. Order to issue. (cm) (Entered: 04/12/1995)
04/12/1995	450	Exhibit list by All Defendants for 4/12/95 Hearing (cm) (Entered: 04/12/1995)
04/17/1995	451	ORDER granting in part, denying in part [446-1] motion To Enforce Order Requiring Defendants to Produce Quality Assurance Documents and Reports (signed by Senior Judge Shane Devine) (cm) (Entered: 04/18/1995)
04/18/1995		RETURN OF EXHIBIT(S) to Daniel J. Mullen. (cm) (Entered: 04/18/1995)
04/26/1995	452	RECEIPT by All Defendants for: [450-1] exhibit list (cm) (Entered: 04/26/1995)
05/31/1995	453	Stipulation (Stipulated Protective Order) re: quality assurance documents and reports by All Plaintiffs, All Defendants (cm) (Entered: 06/01/1995)



06/05/1995		ENDORSED ORDER approving/granting [453-1] stipulation for protective order pertaining to quality assurance documents and reports. (signed by Senior Judge Shane Devine) (cm) (Entered: 06/05/1995)
06/29/1995	454	MOTION by All Plaintiffs for Mark J. Lopez to Appear Pro Hac Vice with assent (cm) (Entered: 06/30/1995)
06/30/1995		ENDORSED ORDER granting [454-1] motion for Mark J. Lopez to Appear Pro Hac Vice; only Mark Lopez shall be entered as this firm's lead counsel. (signed by Clerk James R. Starr) (cm) Modified on 07/05/1995 (Entered: 06/30/1995)
07/07/1995	455	JOINT MOTION by All Plaintiffs, All Defendants for Special Hearing/Scheduling Conference (cm) (Entered: 07/07/1995)
07/14/1995		RULE 11 ORDER granting [455-1] joint motion for Special Hearing/Scheduling Conference, set Pretrial/Scheduling Conference for 9:30 8/15/95 (cm) (Entered: 07/14/1995)
08/15/1995	456	ORDER, a scheduling conference was held. set Brief deadline to 10/2/95 for parties to brief the issue of compliance and protective order ; set Notice of Compliance deadline to 10/2/95 for parties to advise court re: inclusion of Laconia inmates ; set Pretrial material deadline for 11/14/95 , set Bench Trial deadline to 9:30 12/11/95 ; set Final Pretrial Conference for 9:30 11/20/95 (signed by Senior Judge Shane Devine) (cm) (Entered: 08/15/1995)
08/15/1995		PRETRIAL CONFERENCE held before: Senior Judge Shane Devine (cm) (Entered: 08/15/1995)
08/15/1995		Case reopened; further trial to be held in December (cm) (Entered: 08/17/1995)
09/01/1995	457	Stipulation by All Plaintiffs, All Defendants For Protective Order for Inmate Class Members w/proposed Order (jab) (Entered: 09/05/1995)
09/05/1995		ENDORSED ORDER approving [457-1] stipulation for Protective Order for Inmate Class Members. ( signed by Senior Judge Shane Devine ) (mm) (Entered: 09/06/1995)
10/01/1995	458	BRIEF filed by All Defendants pursuant to [456-1] order re: the issue of compliance and protective order (cm) (Entered: 10/03/1995)
10/02/1995		Effective this date, as part of database cleanup, any party sued "individually and as" and previously entered as 2 parties has been consolidated and will hereafter show as 1 party. (dcap) (Entered: 10/02/1995)
10/02/1995	459	BRIEF filed by All Plaintiffs pursuant to [456-1] order re: the issue of compliance and protective order (cm) (Entered: 10/03/1995)
10/03/1995		FINAL PRETRIAL CONFERENCE reset to 9:00 11/20/95 (cm) (Entered: 10/03/1995)
10/03/1995		Deadline updated; reset Notice of Compliance deadline to 10/6/95 Call to Attorney Linder, he will notify the court re: inclusion of Laconia defendants by 10/6/95 (cm) (Entered: 10/03/1995)

10/06/1995	460	MOTION by All Plaintiffs to Amend [408-1] motion for Contempt by deletion of paragraphs and withdrawal of claims; with assent (cm) (Entered: 10/10/1995)
11/02/1995	461	Addendum by all plaintiffs and all Defendants to [427-1] Joint Statement of Issues (cm) (Entered: 11/03/1995)
11/14/1995	462	PRETRIAL MATERIAL filed by All Defendants. (cm) (Entered: 11/15/1995)
11/14/1995	463	PRETRIAL MATERIAL filed by All Plaintiffs. (cm) (Entered: 11/15/1995)
11/17/1995	464	Addendum by all defendants All Defendants to [462-1] pre-trial material (cm) (Entered: 11/20/1995)
11/20/1995	465	ORDER, final pretrial held. Parties have agreed that the medical claims will no longer be pursued. State will produce witnesses. Requests for findings and rulings to be filed 30 days after close of evidence. set Motion Filing deadline to 4:30 12/4/95 for All Defendants, for All Plaintiffs (signed by Senior Judge Shane Devine) (cm) (Entered: 11/21/1995)
11/20/1995	466	ORDER granting [460-1] motion to Amend [408-1] motion for Contempt; plaintiffs will no longer pursue their claims with respect to inmates at Lake Region facility and certain medical claims. (signed by Senior Judge Shane Devine) (cm) (Entered: 11/21/1995)
11/20/1995		FINAL PRETRIAL CONFERENCE held before Senior Judge Shane Devine (cm) (Entered: 11/21/1995)
11/20/1995	467	Addendum by all plaintiffs All Plaintiffs to [463-1] pre-trial material (cm) (Entered: 11/21/1995)
12/05/1995	468	ORDER, the court finds that the stardand of compliance to be applied during the contempt proceedings is whether the defendants are in substantial compliance with the terms of the consent decrees as a whole. (signed by Senior Judge Shane Devine) (cm) (Entered: 12/06/1995)
12/11/1995		Bench trial - day 1 held before Senior Judge Shane Devine (Ct Rptr - S. Kulacz): Evidence begins. (cm) (Entered: 12/11/1995)
12/11/1995	469	Exhibit list by All Plaintiffs (cm) (Entered: 12/11/1995)
12/11/1995	470	Exhibit list by All Defendants (cm) (Entered: 12/11/1995)
12/12/1995		Bench trial - day 2 held before Senior Judge Shane Devine (Ct Rptr - S. Kulacz): plaintiffs' case continues. (cm) (Entered: 12/13/1995)
12/13/1995		Bench trial - day 3 held before Senior Judge Shane Devine (Ct Rptr - S. Kulacz): Plaintiffs' case continues. Plaintiffs rest. Defendants move for judgment as a matter of law - denied by court. Defendants' case begins. (cm) (Entered: 12/14/1995)
12/14/1995		Bench trial - day 4 held before Senior Judge Shane Devine (Ct Rptr - S. Kulacz): defendants case continues. (cm) (Entered: 12/18/1995)
12/18/1995	471	Transcript (Partial) of Trial dated 12/14/95 (cm) (Entered: 12/18/1995)

12/18/1995		Bench trial - day 5 held before Senior Judge Shane Devine (Ct Rptr - S. Kulacz): Defendants case continues. Evidence closes. Defendants move for judgment as a matter of law - denied by court. Parties to file memorandums within 30 days. (cm) (Entered: 12/22/1995)
12/22/1995		Deadline updated; Memorandum deadline set for 1/18/96 re: contempt issues. (cm) (Entered: 12/22/1995)
12/28/1995	472	JOINT MOTION by All Plaintiffs, All Defendants for Approval of Proposed Settlement Agreement and Notice to Plaintiff Class (cm) (Entered: 12/29/1995)
01/09/1996	473	Transcript of Bench Trial - day 1, December 11, 1995 (cm) (Entered: 01/09/1996)
01/09/1996	474	Transcript of Bench Trial - day 2, December 12, 1995 (cm) (Entered: 01/09/1996)
01/09/1996	475	Transcript of Bench Trial - day 3, December 13, 1995 (cm) (Entered: 01/09/1996)
01/09/1996	476	Transcript of Bench Trial - day 4, December 14, 1995 (cm) (Entered: 01/09/1996)
01/09/1996	477	Transcript of Bench Trial - day 5, December 18, 1995 (cm) (Entered: 01/09/1996)
01/11/1996	478	Addendum by all plaintiffs All Plaintiffs, all defendants All Defendants to [472-1] joint motion for Approval of Proposed Settlement Agreement and Notice to Plaintiff Class (cm) (Entered: 01/11/1996)
01/16/1996	479	MOTION by All Plaintiffs to Extend Time to file post trial briefs to 1/26/96 with assent (cm) (Entered: 01/17/1996)
01/17/1996		ENDORSED ORDER granting [479-1] motion to Extend Time to file post trial briefs to 1/26/96, Memorandum deadline reset for 1/26/96 (signed by Senior Judge Shane Devine) (cm) (Entered: 01/17/1996)
01/25/1996	480	MOTION by All Plaintiffs to Extend Time to file requests for findings of fact/briefs with assent (cm) (Entered: 01/29/1996)
01/30/1996		ENDORSED ORDER granting [480-1] motion to Extend Time to file requests for findings of fact/briefs, reset Brief deadline to 2/5/96 (signed by Senior Judge Shane Devine) (cm) (Entered: 01/31/1996)
02/02/1996	482	Request for Findings of Fact and Rulings of Law by all defendants All Defendants (cm) (Entered: 02/05/1996)
02/02/1996	483	Request for Findings of Fact and Rulings of Law by all plaintiffs All Plaintiffs (cm) (Entered: 02/05/1996)
02/02/1996	484	TRIAL BRIEF filed by All Plaintiffs (cm) (Entered: 02/05/1996)
02/05/1996	481	TRIAL BRIEF filed by All Defendants (cm) (Entered: 02/05/1996)
03/13/1996	485	

		ORDER granting [472-1] joint motion for Approval of Proposed Settlement Agreement and Notice to Plaintiff Class (signed by Senior Judge Shane Devine) (cm) (Entered: 03/13/1996)
04/29/1996	486	OBJECTION by Robert Fiorentino to [485-1] Order/Proposed Settlement. (cm) Modified on 04/30/1996 (Entered: 04/29/1996)
04/30/1996	487	OBJECTION by Robert Reid to [485-1] Order/Proposed Settlement. (cm) (Entered: 04/30/1996)
05/30/1996	488	OBJECTION by Larry Simmons to [485-1] order/proposed settlement. (cm) (Entered: 06/03/1996)
06/03/1996	489	AFFIDAVIT of Attorney Alan Linder for All Plaintiffs Re: [485-1] order/proposed settlement agreements (cm) (Entered: 06/03/1996)
06/04/1996	490	OBJECTION by Robert Reid to [485-1] order/proposed settlement. (cm) (Entered: 06/04/1996)
06/19/1996	491	JOINT MOTION by All Plaintiffs, All Defendants for Final Approval of Settlement Agreements (cm) (Entered: 06/19/1996)
07/01/1996	492	MOTION by All Plaintiffs for Mark J. Lopez to Withdraw as Attorney . Objection to Motion Deadline 7/22/96 (cm) (Entered: 07/01/1996)
09/06/1996	493	MOTION by Daniel Fletcher of Misconduct Against Plaintiff's Appointed Counsel with no memo. Objection to Motion Deadline 9/26/96 (cm) (Entered: 09/09/1996)
09/20/1996	494	OBJECTION by NH Legal Assistance to [493-1] motion (by Daniel Fletcher) of Misconduct Against Plaintiff's Appointed Counsel (cm) (Entered: 09/23/1996)
03/21/1997		ENDORSED ORDER granting [492-1] motion for Mark J. Lopez to Withdraw as Attorney (Terminated attorney Mark J. Lopez for All Plaintiffs (signed by Clerk James R. Starr) (cm) (Entered: 03/24/1997)
03/31/1998	495	MOTION by All Plaintiffs for Ruling with assent (cm) (Entered: 03/31/1998)
06/24/1998		ENDORSED ORDER granting [491-1] joint motion for Final Approval of Settlement Agreements (signed by Senior Judge Shane Devine) (cm) (Entered: 06/24/1998)
06/24/1998	496	FINAL ORDER Approving Settlement Agreements (signed by Senior Judge Shane Devine) (cm) (Entered: 06/24/1998)
06/24/1998	497	Settlement Agreement Concerning the NH State Prison Special Housing Unit signed by Plaintiff and Defendant and approved by the Court (See #496) (cm) (Entered: 04/08/1999)
03/11/1999		Reassignment of pending caseload, Devine, SrJ. Case will be in unassigned caseload pending reassignment to a district judge. CASE reassigned to Judge Unassigned (dcap) Modified on 03/11/1999 (Entered: 03/11/1999)
04/05/1999		Reassignment of SrJ Devine cases. CASE reassigned to Chief Judge Paul J. Barbadoro (cm) (Entered: 04/05/1999)

04/14/1999		ENDORSED ORDER denying as moot [495-1] motion for Ruling in light of my ruling on the motion for contempt, denying [493-1] motion of Misconduct Against Plaintiff's Appointed Counsel, granting [460-1] motion to Amend [408-1] motion Contempt ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 04/20/1999)
04/20/1999	<u>498</u>	ORDER, plaintiffs shall a memo limited to 25 pages explaining why the Consent Decree should not be terminated and the pending motion for contempt be deemed moot; set Brief (pltfs) deadline to 5/17/99 , set Notice of Compliance (defts' responsive briefs) deadline to 6/15/99 ( signed by Chief Judge Paul J. Barbadoro ) (jar) (gla). (Entered: 04/20/1999)
05/15/1999	<u>499</u>	BRIEF filed by the plaintiffs regarding the effect of the prison litigation reform act on this case, and Order thereon. (mm) Modified on 3/14/2012 to add "and Order thereon": (gla). (Additional attachment(s) added on 3/14/2012: # <u>1</u> Notice to Counsel) (gla). (Entered: 05/17/1999)
06/15/1999	<u>500</u>	MEMORANDUM by All Defendants in response to plaintiffs' brief regarding the effects of the Prison Litigation Reform Act in this case (jar) (Additional attachment(s) added on 3/14/2012: # <u>1</u> Exhibit A - Affidavit of R. Fellows) (gla). (Entered: 06/15/1999)
06/16/1999		ENDORSED ORDER mooting [408-1] motion for Contempt ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 06/16/1999)
06/16/1999	501	JUDGMENT is entered in accordance with the endorsed order dated June 15, 1999 by Chief Judge Barbadoro. (Signed by Clerk James R. Starr) (jar) (Entered: 06/16/1999)
06/16/1999		Case closed (jar) (Entered: 06/16/1999)
06/19/1999	<u>502</u>	MOTION by All Plaintiffs to Amend or Alter [501-1] judgment order with no memorandum, and Order thereon. Objection to Motion Deadline 7/9/99 (jar) Modified on 3/14/2012 to add "and Order thereon": (gla). (Additional attachment(s) added on 3/14/2012: # <u>1</u> Notice to Counsel) (gla). (Entered: 06/21/1999)
06/30/1999		ENDORSED ORDER denying [502-1] motion to Amend or Alter [501-1] judgment order ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 07/01/1999)
07/01/1999	503	POST-JUDGMENT JUDGMENT is entered in accordance with the Judgment dated June 16, 1999 and the endorsed order dated June 29, 1999 by Chief Judge Barbadoro. (Signed by Clerk James R. Starr) (jar) (Entered: 07/01/1999)
07/01/1999	<u>504</u>	OBJECTION with no memorandum by All Defendants to [502-1] motion to Amend or Alter [501-1] judgment order (jar) (gla). (Entered: 07/01/1999)
07/15/1999	505	Preliminary MOTION by All Plaintiffs for Attorney Fees with no memo. Objection to Motion Deadline 8/4/99 (jar) Modified on 07/20/1999 (Entered: 07/19/1999)
07/15/1999	506	

		MOTION by All Plaintiffs to Extend Time to 8/30/99 to file Supplemental Motion for Attorney's Fees with assent, no memorandum. (jar) (Entered: 07/19/1999)
07/16/1999		ENDORSED ORDER granting [505-1] preliminary motion for Attorney Fees ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 07/20/1999)
07/19/1999		ENDORSED ORDER granting [506-1] motion to Extend Time to 8/30/99 to file Supplemental Motion for Attorney's Fees, set Motion Filing deadline to 8/30/99 for All Plaintiffs ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 07/20/1999)
07/20/1999	507	ORDER extending time for appeal pending a decision on the motion for attorney's fees pursuant to FRCP 58. ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 07/20/1999)
08/17/1999	508	RECEIPT by All Plaintiffs for: trial exhibits (jar) (Entered: 08/18/1999)
08/30/1999	509	SUPPLEMENTAL MOTION by All Plaintiffs for Attorney Fees and Expenses (jar) (Entered: 08/31/1999)
08/31/1999		ENDORSED ORDER granting in part, denying in part [509-1] motion for Attorney Fees and Expenses. The parties shall have until 9/30/99 to resolve the attorney's fees issue by agreement. If the issue cannot be resolved, it shall be submitted to the Magistrate Judge for resolution. set Miscellaneous deadline for 9/30/99 ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 09/02/1999)
09/30/1999	510	MOTION by All Defendants to Extend Time to 11/1/99 to Negotiate a Settlement as to Attorney's Fees with assent, no memorandum. (jar) (Entered: 10/01/1999)
10/04/1999		ENDORSED ORDER granting [510-1] motion to Extend Time to 11/1/99 to Negotiate a Settlement as to Attorney's Fees, reset Notice of Compliance deadline to 11/1/99 ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 10/05/1999)
11/01/1999	511	NOTICE of Agreement by the parties RE attorneys' fees (jar) (Entered: 11/02/1999)
12/01/1999	512	MOTION by All Defendants for Approval of Attorney Fees with assent, no memorandum. (jar) (Entered: 12/02/1999)
12/03/1999		ENDORSED ORDER granting [512-1] motion for Approval of Attorney Fees ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 12/06/1999)
12/30/1999	513	NOTICE OF APPEAL by All Plaintiffs . Fee Status: fee paid Appeal Record Transmittal Due 1/5/00 ; File-stamped copy to parties/CCA with Appeal Information Sheet; copy of docket sheet to CCA. (jar) (Entered: 12/30/1999)
01/03/2000		Appeal record sent to CCA with Clerk's certificate on [513-1] appeal by All Plaintiffs -- transmitting documents: 408, 460, 493, 495, 498-513 (jar) (Entered: 01/03/2000)
01/05/2000		ADDED PARTY Seth Bader (jar) (Entered: 01/05/2000)

01/05/2000	514	MOTION by Seth Bader to Reopen, Grant Temporary Restraining Order and Permanent Injunction, and Cite for Contempt with memorandum. (jar) (Entered: 01/05/2000)
01/05/2000		ENDORSED ORDER denying [514-1] motion to Rreopen, Grant Temporary Restraining Order and Permanent Injunction, and Cite for Contempt ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 01/05/2000)
01/05/2000		Supplemental clerk's certificate to CCA on [513-1] appeal by All Plaintiffs -- transmitting documents: #514 (jar) (Entered: 01/05/2000)
01/15/2000	515	NOTICE by All Plaintiffs as to Certificate RE Transcript (jar) (Entered: 01/18/2000)
01/15/2000	516	Statement of the Issues for Appeal by All Plaintiffs (jar) (Entered: 01/18/2000)
01/18/2000		Supplemental clerk's certificate to CCA on [513-1] appeal by All Plaintiffs -- transmitting documents: #515, #516 (jar) (Entered: 01/18/2000)
01/18/2000		NOTICE of Docketing ROA from USCA Re: [513-1] appeal by All Plaintiffs USCA NUMBER: 00-1052 (jar) (Entered: 01/18/2000)
01/20/2000		Supplemental clerk's certificate to CCA on [513-1] appeal by All Plaintiffs -- transmitting documents: #383 (Consent Decree) (jar) (Entered: 01/20/2000)
02/11/2000		Supplemental clerk's certificate to CCA on [513-1] appeal by All Plaintiffs -- transmitting documents: #335 (original Consent Decree) (jar) (Entered: 02/11/2000)
03/03/2000		Supplemental clerk's certificate to CCA on [513-1] appeal by All Plaintiffs -- transmitting documents: #468 (jar) (Entered: 03/03/2000)
06/26/2000		Supplemental clerk's certificate to CCA on [513-1] appeal by All Plaintiffs -- transmitting documents: #469-491, 496, 497 (jar) (Entered: 06/26/2000)
01/22/2001	<u>517</u>	OPINION of CCA Re: [0-0] notice appeal; vacated and remanded for further action (jar) (gla). (Entered: 01/22/2001)
01/25/2001		Status conference set at 2:00 1/26/01 before: Chief Judge Barbadoro (jar) (Entered: 01/25/2001)
01/26/2001		Status conference held before: Chief Judge Barbadoro (jar) (Entered: 01/29/2001)
01/31/2001	518	MOTION by Jaan K. Laaman for Proposed Pretrial Plan and Discovery Schedule no memo, with assent (jar) (Entered: 01/31/2001)
02/01/2001	<u>519</u>	ORDER, set discovery plan deadline to 3/1/01 ( signed by Chief Judge Paul J. Barbadoro ) (jar) (gla). (Entered: 02/05/2001)
02/05/2001		ENDORSED ORDER granting [518-1] motion for Proposed Pretrial Plan and Discovery Schedule, set Final Pretrial Conference for 4:00 4/26/01 , set Bench Trial deadline to 9:00 5/8/01 ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 02/07/2001)
03/22/2001	<u>520</u>	

		All Plaintiffs' Specifications of Current and Ongoing Federal Violations (jar) (gla). (Entered: 03/22/2001)
03/22/2001	<u>521</u>	All Plaintiffs' Proposal for Modification of Consent Decree, with Order thereon (jar) (Additional attachment(s) added on 3/14/2012: # <u>1</u> Notice to Counsel) (gla). Modified on 3/14/2012 to add "with Order thereon": (gla). (Entered: 03/22/2001)
04/05/2001		Case reopened (jar) (Entered: 04/09/2001)
04/05/2001	522	MANDATE OF CCA Re: [513-0] Notice of Appeal; judgment of the district court is vacated and remanded for further action consistent with this opinion (jar) (Entered: 07/30/2001)
04/13/2001		Elliot Barry advised case settled. Agreement for entry of judgment or a stipulation of dismissal to be filed within 30 days or the court will dismiss the case with prejudice. Case settlement deadline 5/14/01 (mm) (Entered: 04/13/2001)
04/24/2001	<u>523</u>	NOTICE of Settlement Agreement by All Plaintiffs, All Defendants, with Order thereon (jar) (Additional attachment(s) added on 3/14/2012: # <u>1</u> Notice to Counsel) (gla). Modified on 3/14/2012 to add "with Order thereon": (gla). (Entered: 04/24/2001)
04/24/2001	524	MOTION by All Plaintiffs for Approval of Notice to Plaintiff Class of Proposed Settlement with assent, no memo (jar) (Entered: 04/24/2001)
04/25/2001		ENDORSED ORDER granting [524-1] motion for Approval of Notice to Plaintiff Class of Proposed Settlement ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 04/26/2001)
04/30/2001	525	MOTION by All Plaintiffs, All Defendants to Extend Time to 6/15/01 to File Stipulation of Dismissal with assent, no memorandum. (jar) (Entered: 04/30/2001)
05/07/2001		ENDORSED ORDER granting [525-1] motion to Extend Time to 6/15/01 to File Stipulation of Dismissal, reset Case settlement deadline to 6/15/01 ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 05/07/2001)
05/30/2001	526	OBJECTION by Inmate Warren E. Peterson to [523-1] notice of settlement agreement . (jar) (Entered: 05/30/2001)
05/31/2001	527	OBJECTION to [523-1] notice of settlement agreement by Robert Edward Haines (jar) (Entered: 06/01/2001)
06/04/2001	528	OBJECTION to [523-1] notice of settlement by Robert Haines (jar) (Entered: 06/04/2001)
06/06/2001	529	OBJECTION to [523-1] notice of settlement agreement by Vincent Giordano. (jar) (Entered: 06/07/2001)
06/15/2001	<u>530</u>	MOTION by All Plaintiffs for Approval of Settlement Agreement RE Mental Health no memorandum, with Order thereon. (jar) (Additional attachment(s) added on 3/14/2012: # <u>1</u> Notice to Counsel) (gla). Modified on 3/14/2012 to add "with Order thereon": (gla). (Entered: 06/15/2001)



06/15/2001	<u>531</u>	Parties' STIPULATION of dismissal with prejudice, with Order thereon (jar) (Additional attachment(s) added on 3/14/2012: # <u>1</u> Notice to Counsel) (gla). Modified on 3/14/2012 to add "with Order thereon": (gla). (Entered: 06/15/2001)
06/15/2001	532	Certification of NOTICE to Plaintiff Class of Proposed Settlement (jar) (Entered: 06/15/2001)
06/26/2001		Motion hearing re: [530-1] motion for Approval of Settlement Agreement RE Mental Health at 10:00 7/6/01 before Chief Judge Paul J. Barbadoro (jar) (Entered: 06/26/2001)
07/05/2001	<u>533</u>	RESPONSE by All Plaintiffs to [529-1], [528-1], [527-1], [526-1] objections to settlement agreement (jar) (gla). (Entered: 07/05/2001)
07/06/2001		Motion hearing re: [530-1] motion for Approval of Settlement Agreement RE Mental Health Motion hearing held before Chief Judge Paul J. Barbadoro. Court Reporter/Tape #: D. Churas (jar) (Entered: 07/06/2001)
07/06/2001		ENDORSED ORDER granting [531-1] stipulation of dismissal, granting [530-1] motion for Approval of Settlement Agreement RE Mental Health, granting [523-1] Settlement Agreement, granting [521-1] Proposed Modification of Consent Decree ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 07/06/2001)
07/06/2001		Case closed (jar) (Entered: 07/06/2001)
07/17/2001	<u>534</u>	JOINT MOTION by All Plaintiffs, All Defendants to Deem Moot Document #521 (Plaintiffs' Proposal for Modication of Consent Decree , and to Vacate [0-0] endorsed order dated 7/6/01 Relative to Document #521 with assent, no memo, with Order thereon (jar) (gla). Modified on 3/14/2012 to add "with Order thereon": (gla). (Entered: 07/17/2001)
07/17/2001		ENDORSED ORDER granting [534-1] joint motion to Deem Moot Document #521 (Plaintiffs' Proposal for Modication of Consent Decree, granting [534-2] joint motion to Vacate [0-0] endorsed order dated 7/6/01 Relative to Document #521; vacating [0-0] endorsed order dated 7/6/01 relative to document #521 ONLY; mootng [521-1] Plaintiffs' Proposal for Modification of Consent Decree ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 07/18/2001)
02/26/2003		FILE located at National Archives and Records Administration (NARA) Waltham, MA. : Accession No:021- 03-0028, Location No: D75419, Box No: 1 (Docs. 1 to 150); Location No. D75420, Box No. 2 (Docs. 151 to 300); Location No. D75421, Box 3 (Docs. 301 to 420 & correspondence); Location No. D75422, Box 4 (Docs. 421 to end & transcript nos. 192 to 222); Location No. D75423, Box 5 (Transcript nos. 319 to 477) (jeb) (Entered: 02/26/2003)
03/09/2009		File located at National Archives and Records Administration (NARA), Waltham, MA. Transfer No. 021-03-0028, Location No. A0157340, Box No. 1, Docs. 1 to 150; Location No. A0157341, Box No. 2, Docs. 151 to 300; Location No. A0157342, Box No. 3, Docs. 301 to 420 & correspondence; Location No. A0157343, Box No. 4, Docs. 421 to end & transcript nos. 192 to

		222; Location No. A0157344, Box No. 5, Transcript nos. 319 to 477.(jeb) (Entered: 03/09/2009)
03/09/2012		National Archives and Records Administration (NARA) Paper File Disposition Information: The paper case file for this case is no longer in the court's possession and is either permanently retained at the National Archives or has been destroyed. If you would like to determine whether this case file still exists for public review, you must contact the National Archives directly. For National Archive contact information, please consult the court's website.(ADI) (Entered: 03/09/2012)
08/09/2018		The paper case file for this case is no longer in the court's possession and custody has been transferred to the National Archives. If you would like to obtain information regarding this case, you must contact the National Archives directly. For National Archive contact information, please consult the court's website (NARA).(lml) (Entered: 08/15/2018)

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<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	1:75-cv-00258-PB
<b>Billable Pages:</b>	11	<b>Cost:</b>	1.10

## UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE  
WARREN B. RUDMAN COURTHOUSE  
55 PLEASANT STREET  
CONCORD, NEW HAMPSHIRE 03301-3941

Office of the Clerk  
Federal Building  
Room 110

Telephone  
603-225-1423

Date: June 16, 1999

In Re: Jaen Laaman et al. v. Ronald Powell, et al.  
Civil No. 75-258-B

The following order was made on June 15, 1999 by Chief Judge Paul Barbadoro:

On the Motion for Miscellaneous Relief (document no. 408):

"18 U.S.C.A. § 3626(b)(2) provides that 'a defendant or intervenor shall be entitled to immediate termination of any prospective relief if the relief was approved or granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.' Defendants in this action argue that the Laaman Consent Decree must be terminated based upon this provision. I agree. The findings called for in § 3626(b)(2) were never made prior to the entry of the Consent Decree. Moreover, plaintiffs have failed to demonstrate that a basis currently exists for finding that the decree 'extends no further than necessary to correct the violation of the Federal right' or that the decree is 'narrowly drawn and the least intrusive means to correct' any alleged violations of the plaintiffs' federal rights. Accordingly, the Consent Decree must be terminated. As the only relief plaintiffs seek in their motion for contempt is to order the enforcement of a consent decree that has now been terminated, the motion for contempt

is moot. The clerk is instructed to enter judgment for the defendants. This order is entered without prejudice to plaintiffs' right to seek relief from any further alleged Eighth Amendment violations in separate actions."

cc: Alan Linder, Esq.  
Daniel Mullen, Esq.

STATE OF NH  
DEPT OF JUSTICE  
99 JUN 17 AM 11:18

JAN 32 9 43 AM '01

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

Jaan Laaman, et al.

v.

Civil No. 75-258-B

Ronald Powell, et al.

O R D E R

The Prison Litigation Reform Act provides that a defendant in a prison conditions lawsuit:

shall be entitled to the immediate termination of any prospective relief if the relief was approved or granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

18 U.S.C. § 3626(b)(2). Relying on this provision, I issued an order on April 20, 1999 directing the plaintiffs to show cause as to why the Laaman consent decree should not be terminated.

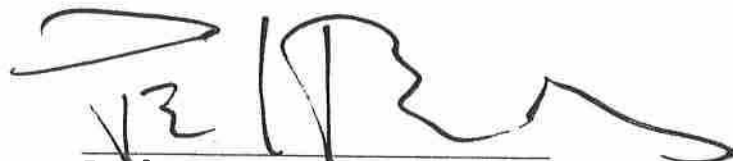
Plaintiffs responded to my order with a memorandum arguing that the decree should not be terminated because of conduct that the defendants had engaged in prior to 1995. They did not,

however, identify any evidence to support their claim that the consent decree should not be terminated because the defendants were engaging in ongoing constitutional violations. Further, they did not seek an opportunity to conduct additional discovery or request an evidentiary hearing so that they could prove a pattern of ongoing violations. Nor did they contend that any deficiencies in the decree could be corrected through modification. Nevertheless, the court of appeals agreed with plaintiff's request on appeal that they should be given a hearing to prove a pattern of ongoing violations and that any deficiencies in the decree could be corrected through modification. Accordingly, the court vacated my order terminating the decree and remanded the case for further action by this court.

Plaintiffs' counsel candidly concede that they are aware of no evidence that defendants are in fact engaged in any ongoing constitutional violations that are covered by the decree. Further, they concur with my assessment that the decree cannot stand in its current form. Nevertheless, they seek a brief period of discovery to determine whether the defendants are engaging in any current and ongoing constitutional violations that would justify the continuation of some sections of the

decree. Defendants do not object to plaintiffs' request for a brief period of discovery. Accordingly, I direct the parties to prepare a discovery and trial plan that will result in an evidentiary hearing within 90 days. The plan shall require plaintiffs to file a specification of any alleged violations that will be covered during the hearing. It shall also require plaintiffs to propose how the decree should be modified to address any ongoing violations while still complying with 18 U.S.C. § 3626.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'P. Barbadoro', written over a horizontal line.

Paul Barbadoro  
Chief Judge

February 1, 2001

cc: Alan Linder, Esq.  
Daniel Mullen, Esq.

JAN 31 8 52 AM '01

United States District Court  
District of New Hampshire\_\_\_\_\_  
Jaan Laaman, et al

v

\_\_\_\_\_  
Warden, New Hampshire State Prison  
\_\_\_\_\_

Civil No. 75-258-B

Assented To Motion For Proposed Pre-Trial Plan  
and Discovery Schedule

The plaintiffs move for approval of the attached proposed pre-trial plan and discovery schedule, and set forth the following in support thereof:

1. A court conference was held on January 26, 2001 with respect to remand of this matter from the United States Court of Appeals for the First Circuit by Judgment dated January 17, 2001.
2. This case has been placed on an expedited trial track.
3. The parties met on January 29, 2001 to discuss this matter.
4. The parties have reached agreement on the attached proposed pre-trial plan and discovery schedule, subject to the approval of the court.
5. Counsel for the defendants assent to this motion.

"Motion granted"

cc: counsel

  
2/5/01



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

---

JAAN LAAMAN, et al.

v.

WARDEN, NEW HAMPSHIRE  
STATE PRISON, et al.

---

DOCKET #C-75-258-B

**PLAINTIFFS' SPECIFICATION OF CURRENT  
AND ONGOING FEDERAL VIOLATIONS**

NOW COME the plaintiffs in the above-entitled matter and by their attorneys, New Hampshire Legal Assistance, hereby provide the following specification of current and ongoing violations of the plaintiffs' rights conferred upon them by the Consent Decree and the Eighth Amendment of the United States Constitution:

1. Defendants have knowingly failed to provide minimally adequate mental health treatment for inmates who reside in the Special Housing Unit (SHU) and who suffer from significant mental illness;

a) Inmates in SHU who have a serious mental illness and who require treatment other than (or in addition to) medication, do not have access to necessary mental health treatment in SHU due primarily to security restrictions and lockdown of most inmates for 21-23 hours per day.

b) Defendants have knowingly failed to implement necessary suicide prevention measures in SHU, thereby increasing the risk of suicides and suicide attempts by inmates. Indeed, from 1996 to the present, a disproportionate number

of inmates who have committed suicide or who have attempted suicide at NHSP were housed in SHU at the time of their attempted suicide or death.

c) Defendants knowingly refuse to provide inmates in SHU who suffer from significant mental illness an opportunity to have confidential discussions with mental health workers outside the presence of correctional officers, thereby deterring inmates from seeking necessary mental health treatment.

2. Defendants knowingly fail to provide inmates who suffer from certain significant mental illnesses, including post-traumatic stress disorder (PTSD), with minimally adequate mental health treatment, thereby causing unnecessary suffering.

3. Defendants fail to provide minimally adequate mental health treatment to inmates whose serious mental illness is combined with severe functional impairments, which significantly interfere with their ability to function in a general prison population setting, who are not in need of acute in-patient hospitalization, but are in need of a therapeutic setting where necessary treatment can be provided:

a) Certain inmates with serious mental illnesses, including inmates with illnesses characterized as personality disorders associated with affective instability, impulse control problems and borderline features, experience multiple transfers between the Closed Custody Units (CCU), SHU, and the Secure Psychiatric Unit (SPU), thereby resulting in needless suffering due to the system's lack of capacity to provide treatment in a necessary treatment setting. Indeed, a disproportionate number of inmates who have been transferred either to SPU or to

the isolation ward at the NHSP Infirmary were housed in SHU at the time of their transfer.

b) Defendants refuse to provide a necessary residential treatment setting or an extended outpatient treatment setting for inmates who require such treatment.

c) Inmates who suffer from mental conditions which primarily manifest as behavior problems including, but not limited to, attention deficit disorder (ADD) and/or attention deficit hyperactivity disorder (ADHD), are not treated for such disorders and, instead, are routinely subjected to discipline and punishment for behavior that is primarily the result of their untreated mental illness.

4. Defendants fail and refuse to provide necessary medication to certain inmates who have a significant mental illness, thereby resulting in needless suffering:

a) Inmates who arrive at the New Hampshire State Prison with a current prescription for their mental illness are frequently not permitted by defendants to continue receiving such medications;

b) Defendants refuse to provide necessary medications to inmates who have significant mental illnesses, which are associated with behavior disorders.

5. Defendants fail to provide necessary treatment and/or follow-up treatment to certain inmates on a timely basis due to ongoing staffing limitations, including defendants' intentional reduction in the number of mental health staff positions, thereby

resulting in unreasonable delay and needless suffering for inmates who have significant mental illnesses.

6. Seriously mentally ill inmates transferred to SPU languish in lockdown status on the unit's most restrictive ward (E ward) due to a chronic shortage of staff necessary to transition them to wards where they can receive appropriate treatment.

7. Defendants fail to monitor and follow-up the treatment needs of certain inmates with significant mental illnesses due to systemic problems which defendants fail or refuse to address, including the following:

a) Defendants have not had a functioning quality assurance (QA) or quality improvement (QI) program since at least 1999, thereby depriving inmates with significant mental illness of the opportunity to have systemic problems with respect to provision of necessary mental health treatment identified and corrected by defendants on a timely basis;

b) Except for participants in the defendants' Healthy Pathways Program, established for inmates with certain chronic mental illnesses, defendants do not have an effective tracking system for other inmates known to have significant mental illnesses.

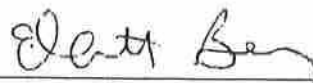
Respectfully submitted,

JAAN LAAMAN, et al., Plaintiffs

By their attorneys,  
NEW HAMPSHIRE LEGAL ASSISTANCE  
1361 Elm Street, Suite 307  
Manchester, NH 03101  
(603) 668-2900

3/22/01  
Date

Alan Linder  
Alan Linder, Esquire (Bar #1487)



Elliott Berry, Esquire (Bar #546)

CERTIFICATION

I certify that a copy of the within PLAINTIFFS' SPECIFICATION OF CURRENT AND ONGOING FEDERAL VIOLATIONS has been delivered to Daniel J. Mullen, Esquire, this 22<sup>d</sup> day of March, 2001.



Alan Linder, Esquire

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

\_\_\_\_\_  
JAAN LAAMAN, et al.

v.

WARDEN, NEW HAMPSHIRE  
STATE PRISON, et al.  
\_\_\_\_\_

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) DOCKET #C-75-258-B  
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PLAINTIFFS' PROPOSAL FOR  
MODIFICATION OF CONSENT DECREE

Pursuant to the order of this Court dated February 1, 2001, the plaintiffs propose the following modification of the Consent Decree entered on May 22, 1990, to comply with the Prison Litigation Reform Act, and to remedy current and ongoing violations of plaintiffs' federal rights:

A. Amend paragraph 40 of the Consent Decree by striking it in its entirety and replacing it with the following:

40. Whenever an inmate arrives at the NHSP with a current prescription(s) for mental health needs, said prescription(s) shall be continued unless a physician assesses the need for continuing the prescription(s) or an appropriate alternative.

B. Amend paragraph 41 of the Consent Decree by deleting the words "medical or" from lines 2 and 3, so that the paragraph reads as follows:

41. No NHSP corrections staff member shall in any way inhibit an inmate's ability to request access to a member of the NHSP mental health staff or to mental health services.

C. Amend paragraph 44 by striking the paragraph in its entirety and replacing it with the following:

44. The defendants shall implement and maintain a quality assurance program with respect to the mental health department and the Secure Psychiatric Unit (SPU).

D. Amend paragraph 51 of the Consent Decree by striking the paragraph in its entirety and replacing it with the following:

**51. Defendants shall ensure that a physician shall oversee prescription and administration of all medications which are necessary for the treatment of inmates with significant mental illness.<sup>1</sup>**

The physician shall conduct medication reviews in accordance with accepted medical practice for each inmate who receives psychotropic medications. All inmates who receive psychotropic drugs will be assessed by a physician after the discontinuance of such drugs.

E. Amend paragraph 53 of the Consent Decree by deleting it in its entirety and replacing it with the following:

**53. Defendants shall provide all inmates with significant mental illness with access to all mental health services available at the NHSP as deemed clinically necessary by qualified NHSP mental health**

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<sup>1</sup> All language set forth in this proposal that is substantially different from that in the existing Consent Decree is printed in boldface.

staff and/or consultants. Defendants shall examine, diagnose, and refer for treatment all inmates who have significant mental illness.

F. Amend paragraph 54 of the Consent Decree by striking it in its entirety and replacing it with the following:

54. Where clinically indicated treatment to inmates **with significant mental illness** cannot be provided by NHSP staff, defendants shall refer such inmates to outside specialists or facilities which can provide the **necessary** services.

G. Amend paragraph 55 of the Consent Decree by amending sub-paragraph (b) by deleting the last two lines so that the paragraph reads as follows:

55(b). Upon referral from a correctional officer or other staff person, a mental health worker shall interview the inmate to assess the need for referral to the psychiatrist, psychologist, or such other mental health resources as is clinically indicated. This assessment shall be conducted within a time period as appears clinically appropriate from the nature of the referral.

H. Amend paragraph 55(d) of the Consent Decree by adding the phrase "is necessary for an inmate with significant mental illness" after the phrase "group therapy" in line 2 so that the paragraph reads as follows:

55(d). When a member of the NHSP staff has determined that an individual and/or group therapy is **necessary for an inmate with a significant mental illness**, such inmate will be provided such therapy



within a timeframe that is deemed clinically appropriate by the Chief of Mental Health Services for the Department of Corrections.

I. Amend paragraph 56 of the Consent Decree by deleting it in its entirety.

J. Amend paragraph 57 of the Consent Decree by deleting it in its entirety.

K. Amend paragraph 58 of the Consent Decree by deleting it in its entirety

and replacing it with the following:

58. Defendants shall develop **and implement** a plan to conduct tracking and follow-up of inmate treatment and progress.

L. Amend paragraph 59 of the Consent Decree by deleting it in its entirety

and replacing it with the following:

59. Defendants shall assure that all mental health staff and consultants receive clinical supervision.

M. Amend paragraph 60 of the Consent Decree by deleting it in its entirety.

N. Amend paragraph 61 of the Consent Decree by deleting it in its entirety

and replacing it with the following:

61. Defendants shall implement a suicide prevention and intervention policy which includes, at minimum, the following provisions:

a. In every case where it is the opinion of any staff member that an inmate is in danger of suicide or self-inflicted serious bodily injury, the officer in charge of the unit shall immediately inform either the unit counselor/case manager or a mental health clinician (or, in the absence of both, the on-duty nurse);

b. Defendants shall implement a policy of conducting follow-up evaluations of inmates identified pursuant to sub-paragraph (a) above where deemed clinically appropriate by the Chief of Mental Health Services.

c. Defendants shall monitor all inmates in the Special Housing Unit (SHU) known to have significant mental illnesses or a history thereof, at least every 30 minutes on all three shifts.

O. Amend paragraph 62 of the Consent Decree by deleting the entire second sentence so that the paragraph reads as follows:

62. Those inmates who are returned to the NHSP from SPU after having been transferred pursuant to RSA 623 shall be monitored and treated as deemed clinically necessary.

P. Amend paragraph 63 of the Consent Decree by deleting the paragraph in its entirety.

Respectfully submitted,

JAAN LAAMAN, et al., Plaintiffs

By their attorneys,  
NEW HAMPSHIRE LEGAL ASSISTANCE  
1361 Elm Street, Suite 307  
Manchester, NH 03101  
(603) 668-2900

3/22/01  
Date

Alan Linder  
Alan Linder, Esquire (Bar #1487)



Elliott Berry, Esquire (Bar #546)

**CERTIFICATION**

I certify that a copy of the within PLAINTIFFS' PROPOSAL FOR  
MODIFICATION OF CONSENT DECREE has been delivered to Daniel J.  
Mullen, Esquire, Assistant Attorney General, this 22nd day of March, 2001.



Alan Linder, Esquire

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

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Jaan Laaman, et al.,

Plaintiffs

v.

Warden, New Hampshire  
State Prison, et al.,

Defendants

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Civil No. 75-258 B

**Assented To Motion For Approval Of Notice To  
Plaintiff Class Of Proposed Settlement**

Plaintiffs move that this Court approve the attached proposed notice to the class of the proposed settlement of this action, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, and state the following in support of this Motion:

1. The parties have settled all issues concerning the provision of mental health treatment and services to members of the plaintiff class. The proposed Settlement Agreement Regarding Mental Health has been signed by the parties and is attached hereto.

2. Rule 23(e) of the Federal Rules of Civil Procedure provides that a class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.

3. A proposed Notice to the plaintiff class of the settlement of this action is attached hereto pursuant to Rule 23(e), Federal Rules of Civil Procedure. The Notice provides class members with an opportunity to file objections to the proposed settlement agreement.

4. The parties propose to post the attached notice at the following locations at the New Hampshire State Prison: all housing units, dayrooms and common areas, main law library, Special Housing Unit (SHU) law library, Mental Health Unit, Education Center and Health Services Center. The notice shall also be posted in living areas in the Secure Psychiatric Unit (SPU) where NHSP inmates reside. Plaintiffs' counsel also propose to send notices directly to certain class members.

5. Copies of the Settlement Agreement Regarding Mental Health will be placed in the main law library, SHU law library, and SPU library.

6. Plaintiffs' counsel proposes to file with the Court a certification that notice has been provided to the class as set forth above.

7. At the conclusion of the objection period set forth in the attached notice, counsel will file a motion for approval of the settlement agreement pursuant to Rule 23(e), Federal Rules of Civil Procedure, together with a stipulation for dismissal of this action.

8. Attached hereto is a proposed Order for approval of the proposed notice to the class.

9. Defendants' counsel assents to this motion.

10. A brief is not being filed as all information necessary for disposition of this motion is believed to be contained herein.

WHEREFORE, plaintiffs request that this Court grant the following relief:

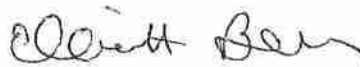
- A. Approve the attached proposed Notice to the class of the settlement of this action.
- B. Authorize the method of providing notice to the class as set forth herein.
- C. Direct counsel for plaintiffs to file with the Court a certification of notice to the class.
- D. Grant such other relief as is equitable and just.

Respectfully submitted,

FOR PLAINTIFFS



Alan Linder, Bar No. 1487  
New Hampshire Legal Assistance



Elliott Berry, Bar No. 546  
New Hampshire Legal Assistance

April 23, 2001  
Date

Certification of Service

I certify that on this date a copy of the within motion and attachments is being provided to Daniel Mullen, counsel for defendants.

New Hampshire Legal Assistance



Alan Linder, Bar No. 1487

April 23, 2001  
Date

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

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Jaan Laaman, et al.,

Plaintiffs

v.

Warden, New Hampshire  
State Prison, et al.,

Defendants

---

Civil No. 75-258 B

**NOTICE OF SETTLEMENT**  
**REGARDING MENTAL HEALTH**

**\* \* \* PLEASE POST \* \* \***

**DO NOT REMOVE THIS NOTICE**  
**BEFORE MAY 31, 2001**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

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Jaan Laaman, et al.,

Plaintiffs

v.

Warden, New Hampshire  
State Prison, et al.,

Defendants

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Civil No. 75-258 B

**Notice Of Settlement Regarding Mental Health**

TO ALL INMATES AT NEW HAMPSHIRE STATE PRISON FOR MEN.

Take Notice that the parties propose to settle this lawsuit as follows:

**1. Background.**

This lawsuit was filed in 1975 in the United States District Court for the District of New Hampshire. The federal judge certified this case as a class action lawsuit on behalf of all inmates at the New Hampshire State Prison for Men in Concord, New Hampshire. The plaintiffs claimed in their lawsuit that numerous conditions at the NHSP violated their constitutional rights.

A trial took place in federal court in 1977. Following the trial the judge ruled that certain conditions at the NHSP violated the inmates' constitutional rights, including the defendants' failure to provide the inmates with minimally adequate mental health treatment.

The State entered into Consent Decrees with the plaintiffs in 1978 and in 1990. The



Consent Decrees were approved by the federal court. The Consent Decrees included the requirement that defendants provide plaintiffs with necessary mental health treatment.

In 1993 plaintiffs filed a Motion For Contempt against the defendants for violating certain portions of the Consent Decrees, including failure to provide inmates with minimally adequate mental health treatment. A trial took place in 1995 to determine whether defendants were in violation of the mental health requirements of the 1990 Consent Decree. However, the federal judge never made a ruling and he died in 1999.

Another federal judge took over the case in 1999. The judge then terminated the Consent Decree and dismissed the case. He ruled that the language of the 1990 Consent Decree did not comply with the 1996 federal Prison Litigation Reform Act, 18 USC §3626, which sets strict requirements for federal court consent decrees. The plaintiffs appealed.

In January 2001 the First Circuit Court of Appeals ruled in favor of the plaintiffs. The Court of Appeals said that the plaintiffs are entitled to a hearing to try to prove that defendants are violating plaintiffs' rights to receive minimally adequate mental health treatment as required by the Eighth Amendment to the United States Constitution.

New Hampshire Legal Assistance, as counsel for the plaintiffs, has been investigating whether the members of the Laaman class are receiving minimally adequate mental health treatment.

The parties have now determined that it is in the best interests of both plaintiffs and defendants for the parties to reach a settlement of the issue of providing minimally adequate mental health treatment to inmates at NHSP. The parties believe that a settlement is preferable to the risk and uncertainty of having this issue decided in a trial.

## 2. The Settlement Agreement.

Plaintiffs and defendants have entered into a proposed settlement agreement that has been filed with the federal court. The proposed Settlement Agreement includes the following:

- a. Establishment of a Residential Treatment Unit for certain mentally ill inmates, on a pilot basis, beginning no later than July 1, 2003.
- b. Mental health clinician to meet with seriously mentally ill inmates in SHU at least every 14 days; opportunity for mental health treatment to take place outside the presence of SHU correctional staff.
- c. Increased suicide prevention and follow up measures.
- d. Reduction, on a pilot basis, of amount of time spent in SHU dayroom on precautionary watch.
- e. Medication policies concerning both new inmates and current inmates who require psychiatric medications.
- f. Establishment of treatment plans for inmates who receive psychiatric medications.
- g. Increase in staff for the Mental Health Unit contingent on increased funding.
- h. Additional mental health training for correctional officers.
- i. Monitoring of inmates who are discharged from the Healthy Pathways program.
- j. Reduction in amount of time that inmates on E Ward in the Secure Psychiatric Unit (SPU) are confined to their cells.
- k. Measures to reduce the amount of time that newly arrived inmates spend in the Reception and Diagnostic Unit.
- l. Quality Improvement program to monitor mental health treatment.
- m. Establishment of a data management information system for the Mental Health Unit.
- n. Timeframe and conditions for implementation of various provisions of this Settlement Agreement.
- o. Termination of federal court jurisdiction over this case.
- p. This Settlement Agreement to be enforceable in state court.

**3. The Right to Object to this Settlement Agreement.**

The Court has not yet approved this proposed Settlement Agreement. Any class member who does not agree with the proposed Settlement Agreement may file an objection with the Court. The judge will consider any objections before deciding whether the Settlement Agreement is fair, reasonable and adequate to the members of the plaintiff class.

Any class member who wishes to object may do so by writing to:

Clerk of Court  
United States District Court  
55 Pleasant Street  
Concord, NH 03301

The objection should have on it the name of this case and the docket number as follows:

Laaman, et al. v. Warden, NHSP  
Civil No. 75-258-B

Objections should be filed within 30 days of the date on the bottom of this notice.

If you agree with the terms of this Settlement Agreement you do not have to notify the Court or take any action with respect to this notice.

**4. How to obtain a copy of the Settlement Agreement.**

Copies of the proposed Settlement Agreement have been placed in the NHSP main law library, SHU law library, and in the library in SPU. You may also write to plaintiffs' counsel to obtain a copy of the Settlement Agreement or if you have any questions concerning this settlement.

Alan Linder  
New Hampshire Legal Assistance  
P.O. Box 778  
Portsmouth, NH 03802-0778

Elliott Berry  
New Hampshire Legal Assistance  
1361 Elm Street, Suite 307  
Manchester, NH 03101-1323

COUNSEL FOR PLAINTIFF CLASS

---

Dated

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

\_\_\_\_\_  
Jaan Laaman, et al.,

Plaintiffs

v.

Warden, New Hampshire  
State Prison, et al.,

Defendants  
\_\_\_\_\_

Civil No. 75-258 B

**Order Of Approval Of Notice To Plaintiff Class**

The Court, having reviewed the proposed Notice to the plaintiff class of the proposed settlement of this action, hereby approves said Notice and the method of provision of notice to the class as set forth in the plaintiffs' assented to motion.

Counsel for plaintiffs are directed to file with the Court a certification that notice has been provided to the class.

**SO ORDERED.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
United States District Judge

Copy to counsel with order thereon.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

U.S. DISTRICT COURT  
DISTRICT OF N.H.  
FILED

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Jaan Laaman, et al.,

Plaintiffs

v.

Warden, New Hampshire  
State Prison, et al.,

Defendants

Civil No. 75-258 B

Assented To Motion For Approval Of Notice To  
Plaintiff Class Of Proposed Settlement

Plaintiffs move that this Court approve the attached proposed notice to the class of the proposed settlement of this action, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, and state the following in support of this Motion:

1. The parties have settled all issues concerning the provision of mental health treatment and services to members of the plaintiff class. The proposed Settlement Agreement Regarding Mental Health has been signed by the parties and is attached hereto.
2. Rule 23(e) of the Federal Rules of Civil Procedure provides that a class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.

"Motion granted"

cc: counsel

Motion granted.

*[Signature]*

4/12/01

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

---

Jaan Laaman, et al.,

Plaintiffs

v.

Warden, New Hampshire  
State Prison, et al.,

Defendants

---

Civil No. 75-258 B

**Assented To Motion For Approval Of  
Settlement Agreement Regarding Mental Health**

Plaintiffs, by their counsel, move that this Court approve the proposed Settlement Agreement regarding mental health, and state the following in support of this motion:

1. On April 24, 2001, the parties filed a proposed Settlement Agreement regarding mental health.
2. Notice of the proposed settlement was provided to the class as set forth in plaintiffs' Certification Of Notice To Plaintiff Class Of Proposed Settlement
3. Counsel for plaintiffs discussed the proposed Settlement Agreement with a number of inmates at New Hampshire State Prison (NHSP) and the Secure Psychiatric Unit (SPU).
4. Plaintiffs' counsel also met and corresponded with inmates who expressed concerns with respect to any aspect of the proposed Settlement Agreement.

5. To date, three class members have filed Objections to the proposed Settlement Agreement. The class members have requested that the court schedule a hearing in this matter.

6. Rule 23 of the Federal Rules of Civil Procedure provides that a class action shall not be dismissed or compromised without the approval of the court.

7. Prior to entering into settlement negotiations with defendants, plaintiffs' counsel engaged in significant discovery and investigation regarding issues concerning mental health at NHSP and SPU. Plaintiffs' counsel also retained the services of two psychiatrists and expert witnesses, who conducted site visits and met with inmates and staff at NHSP and SPU, and submitted written reports concerning their site visits.

8. This Settlement Agreement is the result of good faith, arm's length negotiations between the parties.

9. Counsel for plaintiffs believe that the proposed Settlement Agreement is fair, reasonable and adequate with respect to the plaintiff class.

10. The Settlement Agreement properly safeguards the interests of the absent class members.

11. The terms of the Settlement Agreement are reasonable when compared with the probable outcome of the litigation and/or the remedies that could be secured as a result of trial.

12. Counsel for defendants has reviewed and assents to this motion.

13. A memorandum of law is not being filed with this motion as all information necessary for disposition of this motion is believed by counsel to be contained herein.

WHEREFORE, this Court is requested to grant the following relief:

- A. Schedule a hearing if deemed appropriate by the Court.
- B. Approve the proposed Settlement Agreement.
- C. Grant such other relief as is equitable and just.



Submitted by  
Jaan Laaman, et al  
Plaintiffs

By Their Attorneys  
New Hampshire Legal Assistance  
P.O. Box 778  
Portsmouth, NH 03802-0778

6/12/01  
Date

Alan Linder  
Alan Linder, Bar No. 1487  
Attorney For Plaintiffs

6/12/01  
Date

Elliott Berry  
Elliott Berry, Bar No. 546

**Certification of Service**

I certify that on this date a copy of this assented to motion was provided to Daniel Mullen, counsel for defendants.

New Hampshire Legal Assistance

6/15/01  
Date

Alan Linder  
Alan Linder, Bar No. 1487  
Attorney For Plaintiffs

**UNITED STATES DISTRICT COURT**

DISTRICT OF NEW HAMPSHIRE  
WARREN B. RUDMAN COURTHOUSE  
55 PLEASANT STREET  
CONCORD, NEW HAMPSHIRE 03301-3941

Office of the Clerk  
Federal Building  
Room 110

Telephone  
603-225-1423

Date: July 6, 2001

In Re: Jaan Laaman v. NH State Prison, et al.  
Civil No. 75-258-B

The following orders were made on July 6, 2001 by Chief Judge  
Paul Barbadoro:

On the Proposed Modification of Consent Decree (document no. 21):

**"Motion granted."**

On the Settlement Agreement (document no. 523):

**"For the reasons discussed during the hearing on the proposed settlement, I determine that the settlement is fair, adequate and reasonable and is in the best interests of the class. Accordingly, I approve the proposed settlement."**

On the Motion for Approval of Settlement Re: Mental Health (document 530):

**"Motion granted."**

On the Stipulation for Dismissal (document no. 531):

**"Motion granted."**

cc: Alan Linder, Esq.  
Daniel Mullen, Esq.