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Subject: Activity in Case 1:74-cv-00285-TFH DIXON v. FENTY, et al Order on Motion for Order

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U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 10/9/2008 at 5:47 PM and filed on 10/9/2008

Case Name: DIXON v. FENTY, et al

Case Number: [1:74-cv-285](#)

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WARNING: CASE CLOSED on 09/08/2003

Document Number: No document attached

Docket Text:

MINUTE ORDER granting [324] Consent Motion for Approval of Court Monitor's Court Monitoring Plan and Monitoring Budget for FY 2009. Signed by Judge Thomas F. Hogan on October 9, 2008. (lctfh2)

1:74-cv-285 Notice has been electronically mailed to:

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1:74-cv-285 Notice will be delivered by other means to::

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

WILLIAM DIXON, et al.,

Plaintiffs,

v.

Civil Action No. 74-285 (TFH)

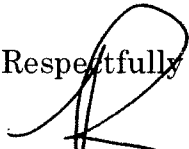
ANTHONY WILLIAMS, et al.,

Defendants.

**CONSENT MOTION FOR APPROVAL OF COURT MONITOR'S
COURT MONITORING PLAN AND MONITORING BUDGET FOR
FY 2009**

Court Monitor, Dennis R. Jones, respectfully files this motion requesting approval of the Court Monitoring Plan and the Monitoring Budget, for the fiscal year beginning October 1, 2008 and ending September 30, 2009. Copies of the Court Monitoring Plan and the Monitoring Budget, both of which are submitted pursuant to provisions of the May 23, 2002 Consent Order, are attached hereto. Mr. Jones has been authorized by the parties to inform the Court that they have no opposition to the approval sought.

Respectfully submitted,



Robert B. Duncan (Bar No. 416283)
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Counsel for Dennis R. Jones, Court
Monitor

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing MOTION FOR APPROVAL OF COURT MONITOR'S COURT MONITORING PLAN AND MONITORING BUDGET FOR FY 2009 was served by first class mail, postage prepaid, this 2nd day of October 2008:

Anthony Herman
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Robert B. Duncan

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

William Dixon, et al
Plaintiffs,

Civil Action
No. 74-285 (TFH)

v.

Adrian Fenty, et al
Defendants

**Office of the Dixon Court Monitor
for the
District of Columbia Department of Mental Health**

**Schedule of Projected Expenditures
October 1, 2008 – September 30, 2009**

<u>Item</u>	<u>Budget</u>
Consultation Fees and Expenses	\$739,770.00 ¹
Rent	\$ 3,000.00 ²
Office Expenses	\$ 16,825.00 ³
General Liability Insurance	\$ 575.00 ⁴
Independent Financial Review	\$ 12,000.00 ⁵
Legal Expenses	\$ <u>2400.00⁶</u>
Total	\$774,570.00

¹ Consultation Fees and Expenses include the following:

- Court Monitor (October 1, 2008 – September 30, 2009, estimated at \$15,500.00 per month and \$186,000.00 annually).
- Human Systems and Outcomes, Inc. (October 1, 2008 – September 30, 2009, estimated at \$484,470.00). The Court Monitor intends to continue engagement via contract with HSO for Dr. Groves and Dr. Foster to conduct five distinct tasks to include: the training of reviewers and assessment of inter-rater reliability for both the adult review and the children/youth review; consultation to DMH staff (and designated providers) on the CSR model; and the completion of the seventh year Measures of Performance for both adults and children/youth, including a

written report of results and findings. The details of this proposed contract will be shared with the Parties for review and comment.

- Contract for coordination/logistical support for CSR Reviews (October 1, 2008 – September 30, 2009). The Court Monitor intends to contract with Consumer Action Network (CAN) to perform the necessary tasks of coordination (obtaining consent, scheduling interviews, etc.) for the CSR reviews. This expense is estimated at \$59,300.00. The Court Monitor will submit any proposed contract to the parties for review and comment.
- Contract for independent data review (October 1, 2008 – September 30, 2009). The Court Monitor intends to contract with Dr. Joan Durman to perform an external review of the DMH process steps and underlying data sources used in determining the reported measures for the Court-approved Exit Criteria Performance Measures. This expense is estimated at \$10,000.00. The Court Monitor will submit any proposed contract to the parties for review and comment.

² Office Space Sublease (October 1, 2008 – September 30, 2009). The Court Monitor will continue the existing sublease with Bisceglie & Walsh through February 2009 at a rate of \$500 per month and then will be provided an office (without cost) at DMH. The \$3000.00 total includes moving costs of \$500.00.

³ Office Expenses (October 1, 2008 – September 30, 2009). The Court Monitor will share the cost of a secretary (25% FTE) and necessary office expenses (including copying, telephone and postage). These expenses are estimated at \$1,475.00 per month through February 2009 and \$1350.00 per month for the remaining seven months.

⁴ General Liability Insurance (October 1, 2008 – September 30, 2009). As a part of the sublease agreement, the Monitor is required to carry general liability insurance.

⁵ Independent Financial Review. The Court Monitor will engage an accounting firm to conduct an independent financial review of the Monitor's revenue and expenses for the previous year. This proposed contract will be reviewed by the Parties prior to engagement. This cost is estimated at \$12,000.00.

⁶ Legal Fees (October 1, 2008 – September 30, 2009). These legal costs are for the identified office expenses incurred by the pro bono law firm of Hogan and Hartson. These costs are estimated at \$200.00 per month.

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

William Dixon, et al
Plaintiffs,

Civil Action
No. 74-285 (TFH)

v.

Adrian Fenty, et al
Defendants

Court Monitor's Monitoring Plan for FY 2009

I. Purpose of Annual Court Monitoring Plan

Prior to each fiscal year, the Court Monitor will present to the Court a Court Monitoring Plan consistent with the Court-ordered Plan approved by the Court on April 2, 2001 and the Consent Order entered by the Court on May 22, 2002. Each annual Court Monitoring Plan will provide a description of the matters the Court Monitor anticipates will be addressed and/or considered by the Court Monitor and any consultants engaged thereby during the course of the following fiscal year. The Court Monitoring Plan will, for the upcoming fiscal year, describe specific tasks, specify methodologies selected for information-gathering purposes, and set forth general timeframes for accomplishing these tasks. The Court Monitoring Plan, as a whole, should provide a foundation upon which the annual Court Monitoring budget will be developed for presentation to the parties and the Court.

II. Scope of FY 2009 Court Monitoring Plan

FY 2009 should continue the increased focus on the quantitative performance ("outcomes") of the system. These quantitative measures are contained in the Exit Criteria, Measurement Methodology and Performance levels as approved by the Court in December 2003. Fiscal Year 2009 will continue to ensure that all of the seventeen (17) measurable Exit Criteria have data methods that are verifiable and replicable – and meet the conditions of the December, 2003 Consent Order. It should be noted that all of seventeen (17) measures have had initial validation. The FY'09 focus will be on those metrics that may change to add data sources. (e.g. penetrations rates, supported housing, and supported employment. The intent, then, will be to use the results of these data reports as a focus for more in-depth monitoring of specific policies, practices, and/or services. Beyond the Performance Measures, the Court Monitor will continue to monitor the full implementation of critical elements from the Court-ordered Plan.

With the above as context, the work of the Court Monitor during FY 2009 will be focused as follows:

1. Monitoring the implementation and performance for each of the sixteen (16) Exit Criteria that require active monitoring.
2. Monitoring the continued implementation of critical administrative and services functions as outlined in the Court-ordered Plan – and identified in specific tasks.
3. Monitoring the occurrence of events which may significantly impact the implementation of the Court-ordered Plan and/or the achievement of the required performance levels for the Exit Criteria.

III. Anticipated Monitoring Tasks, Methods and Timelines for FY 2009

Tasks	Methods	Timeframe
<p>1. Exit Criteria</p> <p>Implementation of Performance Levels for each of the Exit Criteria.</p> <p>a. Review of DMH utilization of Consumer Satisfaction Methods(s) and Consumer Functioning Review Method(s).</p> <p>b. Implementation of Year Seven Consumer Services Reviews for Adults and Children/Youth</p>	<p>a. The Court Monitor will review the utilization of the results of the DMH method(s) for consumer satisfaction and consumer functioning.</p> <p>b. Year 7 reviews will utilize the same methodology as utilized in previous years. However, the sample sizes will increase to approximately 85 for children/youth and approximately 88 for adults – so as to provide appropriate confidence levels. In addition, issues of sample selection and inter-rater reliability will be</p>	<p>a. The Court Monitor will formally report on progress in both areas in the January 2009 and July 2009 Reports to the Court.</p> <p>b. Year 7 reviews will be completed before the end of June 2009. Final written reports on the Child/Youth review and the Adult review will be presented to the Court Monitor by July 1, 2009. The results of the Child/Youth review and the results of the Adult review for summary of Year 7 results will be included in the July 2009 Report to the</p>

<p>c. Implementation of Measurement of Court-approved Exit</p>	<p>addressed by the Court Monitor in collaboration with DMH and HSO. The Court Monitor will again contract with Human Systems & Outcomes, Inc. (HSO) to conduct these reviews. The Court Monitor will contract independently to provide logistical support for the reviews. The DMH will continue to provide selected (and trained) staff in order to conduct reviews for approximately 33% of the final sample size for each review. The HSO will provide necessary training for all reviewers (DMH & HSO) and will conduct necessary analysis on inter-rater reliability for the selected reviewers. HSO will provide a written analysis of findings and recommendations for the Court Monitor, which findings will then be shared with the parties.</p> <p>In addition to the above, the Court Monitor (through contract with HSO) will provide requested technical assistance/consultation to the DMH Authority and DMH-certified providers in order to help build the necessary capacity for DMH (and its providers) to internalize the CSR review methodology.</p> <p>c. The Court Monitor will work closely with DMH staff to meet the</p>	<p>Court.</p> <p>c. In the January 2009 and July 2009 Reports to the Court, the Court</p>
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<p>Criteria for Effective and Sufficient Consumer Services</p>	<p>requisite requirements for consistency and reliability for each of the sixteen performance measures that require active monitoring. The Court Monitor and DMH will work collaboratively to ensure that necessary policies and practice requirements are solidly in place. The Court Monitor will contract with an independent consultant to review any proposed revision to DMH data collection metrics or data systems. Particular focus for FY 2009 will be given to the additional data for supported employment, revision of the supported housing criteria and supplemental metrics for the penetration measures. The Court Monitor will formally report to the Court on the actual performance of each criterion. The Court Monitor will also formally review and report to the Court on any criterion for which the Defendants believe they have met the required performance levels in order to achieve inactive monitoring status.</p>	<p>Monitor will provide a detailed review of progress on each of 16 exit criteria that are still actively monitored. The Court Monitor will report the data submitted by DMH regarding the exit criteria that have been deemed “inactive.”</p>
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Tasks	Methods	Timeframe
<p>2. Monitoring the Continued Development and Implementation of Critical Functions of the Court-ordered Plan.</p>		

<p>a. Review of the Functioning of CSA's in Key Areas.</p>	<p>a. The Court Monitor will focus on those key areas that have been identified as recommendations in previous Reports to the Court (e.g. billing and payment systems and related issues). The other primary focus will be on the continued development of essential provider capacity to deliver the quality and quantity of services that are needed. The development of more comprehensive service agencies for children and adults will be of particular interest. The intent is to assess those issues that might constitute barriers to the achievement of the approved performance levels.</p>	<p>a. The Court Monitor will conduct a review in the January-June 2009 period – with results to be included in the July 2009 Report to the Court.</p>
<p>b. Review of Progress in Critical Service Areas:</p> <ul style="list-style-type: none"> • Overall systems of care development for C/Y and Adults • Supported Housing • Supported Employment • Assertive Community Treatment (ACT) • Services to Children/Youth in Schools and Other Natural Settings • Capacity for Children/Youth to Live in Own Home or Surrogate Home 	<p>b. The Court Monitor will review all documentation that describes progress/ barriers in these identified service areas. The review will be targeted and tied directly to the performance data as reflected in the July 2008 Report to the Court. The intent is to identify any practice or service issues that might serve as impediments to the successful performance of these Exit Criteria.</p>	<p>b. The Court Monitor will conduct these reviews in the January – June 2009 period – to be included in the July 2009 Report to the Court.</p>

<p>c. Review of Crisis Response by DMH:</p> <ul style="list-style-type: none"> • Overall DMH plan for crisis/emergency services • Capacity and Utilization of Mobile Teams for Children/ Youth and Adults • Development and Utilization of Site-based Psychiatric Emergency Services • Development and Utilization of Crisis Residential/Respite Beds <p>d. Monitoring the Implementation of Key Authority Functions:</p> <ul style="list-style-type: none"> • Utilization of Independent Authority for Personnel and Procurement • Quality Improvement and Provider Oversight • Enforcement of Consumer Rights • Overall Functioning of Office of Accountability <p>e. Review of DMH Role as a Provider:</p> <ul style="list-style-type: none"> • Role of St. Elizabeths • Planning for New/Consolidated Hospital • Quality of Care at St. Elizabeths • Development and Utilization of Acute Care Contracts with Local Hospitals (Children/Youth and Adults) • Role and Performance of DMH-operated CSA 	<p>c. The Court Monitor will review the continued progress in overall crisis/emergency services planning and in specific crisis services – targeting those areas that have been identified as concerns in previous Reports to the Court.</p> <p>The Court Monitor will review progress plans, reports and data toward implementation of the DMH Comprehensive Crisis/Emergency Services Plan.</p> <p>d. The Court Monitor will review written reports, policies and rules as relates to these key authority functions. The Monitor will interview key DMH staff (and others outside of DMH) who are knowledgeable about these areas.</p> <p>e. The Court Monitor will continue to review the overall role and functioning of DMH-run services. As relates to St. Elizabeths the Court Monitor will continue to monitor those items that relate to the role, capacity and functioning of St. Elizabeths. These would include the timely construction of a new Hospital and the full development of community-based</p>	<p>c. The Court Monitor will review crisis services in the October – December 2008 period and include findings in the January 2009 Report to the Court.</p> <p>d. The review will occur in the January-June 2009 timeframe and will be reported in the July 2009 Report to the Court.</p> <p>e. The Court Monitor will report on issues relating to St. Elizabeths in both the January 2009 Report to the Court and the July 2009 Report to the Court.</p> <p>Progress on the DC CSA plan will be included in both the January 2009 and July 2009 Reports to the Court.</p> <p>A full review of the DC CSA will occur in the</p>
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<p>f. Review of FY 2009 Budget and Development and Approval of 2010 Budget</p>	<p>capacity for acute inpatient care. In addition the Court Monitor will develop and oversee a number of quality of care measures for St. Elizabeths as agreed to in the DOJ settlement agreement. These will include measures such as staffing needs, staff competency, patient safety, budgeting and recruitment, and DMH measures for oversight and review.</p> <p>The Court Monitor will asses and review the compliance plans and Reports as presented to the Department of Justice (DOJ).</p> <p>The Court Monitor will also assess the overall plan for the DC CSA and measure steps toward implementation of the plan.</p> <p>f. The Court Monitor will review the implementation of the FY 2009 Budget as approved. Key issues will center on the funding of Dixon-related services and the adequacy of budgeting support at St. Elizabeths.</p> <p>The Court Monitor will also review the DMH FY 2010 Budget submission to the Mayor, the District Council and the U.S. Congress – with the specific assessment of the budget’s adequacy to</p>	<p>January – June 2009 period and be included in the July 2009 Report to the Court.</p> <p>f. The review of the FY 2009 Budget will occur in the both the January 2009 and July 2009 Reports to the Court.</p> <p>The FY 2010 budget development and approval will be reviewed in the July 2009 Report to the Court.</p>
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	carry out the mandates of the Court-ordered Plan and meet the Dixon Exit Criteria.	
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IV. Communication Efforts

The Court Monitor will meet with the DMH Director on a regular basis to exchange information and discuss significant issues and strategies. The DMH will ensure that relevant reports are provided to the Court Monitor on a timely basis. The Court Monitor will communicate on substantive issues to the parties (jointly) on a regular basis. The Court Monitor will also communicate with providers, community and legislative leaders, interested stakeholders and others to assess progress and/or concerns.

Pursuant to the requirement that formal reports be submitted to the Court twice per year, the Court Monitor intends to submit such a report in January 2009 and again in July 2009.

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

WILLIAM DIXON, et al.,

Plaintiffs,

v.

Civil Action No. 74-285 (NHJ)

ANTHONY WILLIAMS, et al.,

Defendants.

ORDER

Upon motion of Dennis R. Jones, the Court Monitor in the above-captioned case, for approval of the attached Court Monitoring Plan and Monitoring Budget, for the fiscal year beginning October 1, 2008 and ending September 30, 2009, both of which have been submitted for approval pursuant to the May 23, 2002 Consent Order herein, and upon consideration of the lack of opposition of the parties, it is by the Court this ____ day of October 2008,

ORDERED, that the attached Court Monitoring Plan be, and it hereby is, approved for the fiscal year beginning October 1, 2008 and ending September 30, 2009 and it is further

ORDERED, that the attached Monitoring Budget be, and it hereby is, approved for the fiscal year beginning October 1, 2008 and ending September 30, 2009.

SO ORDERED.

JUDGE THOMAS HOGAN

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