

FILED
U.S. DISTRICT COURT E.D.N.Y.

★ MAR 10 2014 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LONG ISLAND OFFICE

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NEIL FISHMAN, by his legal guardian, SELMA
FISHMAN, and SURUJ SIRIKESHUN, individually :
and on behalf of all others similarly :
situated, :

Plaintiffs, : **STIPULATION**

- against -

: Index No:
09-CV-5248

RICHARD F. DAINES, M.D., as Commissioner of :
the New York State Department of Health, :
and JOHN PAOLUCCI, as Deputy Commissioner :
of the Office of Temporary and Disability :
Assistance of the New York State Department :
of Family Assistance, :

Bianco, J.
Lindsay, M.J.

Defendants. :

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WHEREAS, this action was commenced on behalf of a certain
class of Medicaid applicants and recipients in New York State; and

WHEREAS, plaintiffs have moved for the certification of a
plaintiff class of such Medicaid applicants and recipients; and

WHEREAS, the parties desire to settle this motion on terms and
conditions just and fair to all parties, and

WHEREAS, counsel for plaintiffs and the proposed plaintiff
class and defendants have prepared this stipulation to settle the
aforementioned motion, it is

ORDERED:

1. There shall be certified a plaintiff class defined as

All past, present and future applicants and
recipients of Medical Assistance ("Medicaid appellants")
in New York State who:

(a) requested or will request an administrative fair
hearing from defendants to contest the adequacy, denial,
reduction, restriction or termination of Medicaid
benefits, and

(b) failed or will fail to appear in-person or by representative at any fair hearing scheduled on or after December 1, 2006 in response to such request, and

(c) suffered or will suffer dismissal of their administrative appeal without defendants' prior written inquiry, to ascertain whether the administrative appeal has been abandoned.

2. The parties hereby consent to the appointment of Peter Vollmer, Esq. as class counsel, pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

3. The individuals executing this stipulation represent that they are authorized to sign for and bind the party or parties for whom they execute this stipulation. The individual signing on behalf of Defendants represents and warrants that execution and delivery of this stipulation has been duly authorized and approved.

4. This stipulation contains all the terms and conditions agreed upon by the parties hereto.

5. This stipulation may not be modified except as ordered by the Court, and with good cause shown. A party may seek a modification of this stipulation only upon thirty days' written notice to counsel for the other party.

6. This stipulation is final and binding upon defendants, their successors and assigns.

Dated: Sea Cliff, New York Law Office of Peter Vollmer, P.C.
February 17, 2014 By:



Peter Vollmer, Esq. (PV-2749)
19 Hawthorne Road
Sea Cliff, New York 11579
(516) 277-1156
Attorney for Plaintiffs and Proposed
Plaintiff Class

Dated: Hauppauge, New York
February 17, 2014

Eric T. Schneiderman
New York State Attorney General
By:



Susan Connolly, Of Counsel
300 Motor Parkway, Suite 205
Hauppauge, New York 11788-5127
(631) 231-2424
Attorney for Defendants Daines and
Paolucci

SO ORDERED: 3/16/14

Dated: Central Islip, New York
February , 2014

~~Hon. Joseph F. Bianco~~