

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LINDA ROSE, JENNIFER CRADIT,
SYLVIA DENISE BRADDOCK, LISA
RENEE BRANDIMORE, DWAYNE
BUTTERFIELD, BOBBIE WAYNE
CARTER, DANIEL WRAY CLAYTON,
JOSHUA FULLER, NICHOLAS ANTHONY
GILES, WILLIE LOUIS HENDRICKS,
TANISHA RAMON JOHNSON, ROBERT
ALLEN KELSEY, SUE ANN LETTERMAN,
LIZZA QUARLES, personal representative
of the estate of Donna Lynn Quarles, GREGORY
LOUIS SCHULTZ, AMANDA RAE SHINAVER,
DWAYNE ALANN SIMMONS, ROBIN RENEE
THOMAS, JOSHUA ALLEN WEIGANT,
JUSTIN ANDERSON, CRAIG MASON, and
MATTHEW STARKWEATHER,

Case Number 01-10337
Honorable David M. Lawson

Plaintiffs,

v.

SAGINAW COUNTY and SAGINAW COUNTY
SHERIFF'S DEPARTMENT,

Defendants.

_____ /

**ORDER REGARDING SPECIAL CASE EVALUATION,
DISCOVERY AND ATTORNEY'S FEES**

The parties, by and through their respective counsel, agree that the claim of the plaintiffs in *Abner v Saginaw County* (case no. 05-10323), *Brabant v Saginaw County* (case no. 05-10030), and *Rose v Saginaw County* (case no. 01-10337), shall be submitted to special case evaluation process.

The terms and conditions of the facilitation are set forth in this Order.

1. **Panel.** The panel shall consist of three attorneys, a plaintiff specialist chosen by plaintiffs' counsel, a defense specialist chosen by defense counsel and the chairman, retired Wayne

County Circuit Court Judge Pamela Harwood. The fees of the case evaluators will be shared equally between the parties.

2. **Submission of Documents.** Case evaluation summaries shall be submitted to the evaluators at least fourteen (14) days before the hearing.

3. **Conduct of Hearing.** The plaintiffs need not be present for the case evaluation hearing. In addition to summaries, the parties may submit documents including, but not limited to, photographs, medical records, jail records, or other documents to support their position. The Rules of Evidence do not apply before the panel.

IT IS FURTHER ORDERED that:

A. The claims of each plaintiff shall be evaluated individually with a separate award established for each plaintiff.

B. The oral presentation shall be limited to fifteen (15) minutes per party, unless otherwise agreed to counsel for plaintiffs and defendants and the evaluators.

C. Statements by attorneys and summaries submitted shall not be admissible in any court or evidentiary proceeding to reflect the position taken by the parties.

D. The Panel shall not consider or award equitable relief.

E. The conduct of the hearings shall otherwise comply with Michigan Court Rule 2.403.

4. **Date of Evaluation.** The Case Evaluation for all the plaintiffs shall occur on or before February 15, 2008.

5. **Acceptance or Rejection of Evaluation.** Each party shall file a written acceptance or rejection within fourteen (14) days after service of the panel's evaluation.

6. **Acceptance or Rejection of Evaluation.** If a plaintiff and the defendants accept an

evaluation, it shall resolve the claims between the accepting parties and an Order of Dismissal shall be entered and a Release Agreement signed by the plaintiff at or before the time a settlement in the amount is paid. The amount of the settlement shall not be disclosed. The acceptance by both parties (a plaintiff and the defendants) shall conclusively resolve the claims between the accepting parties, including cost and interest. A party must accept an award in its entirety and a partial acceptance of an award shall not be permitted.

8. **Procedures after Rejection.** If either party rejects the evaluation, the action shall proceed to trial in accordance with the Scheduling Order previously issued by the Court.

9. **Liability for Costs.** The provisions of Michigan Court Rule 2.403(O) regarding a rejecting party's liability for costs shall not apply to this special Case Evaluation.

10. **Effect of Settlement on Statutory Jail Housing Claim** If both a plaintiff and the defendants accept the evaluation and a settlement results, the settlement will not be offset by any statutory jail housing claim.

11. **Attorney's Fees.** The parties dispute whether the plaintiffs are entitled to attorney's fees and costs pursuant to 42 U.S.C. §1988. The plaintiffs and their counsel agree to waive a claim for court awarded attorney's fees and costs in exchange for the defendants agreeing to pay the plaintiffs' counsel a fee equal to thirty-percent (30%) of the amount of each case settled or tried to a conclusion subject to a cap in the amount of \$400,000 on the total amount of attorney's fees and costs claimed by the plaintiffs. Under no circumstances shall the recovery of attorney's fees exceed \$400,000 regardless of the total amount of settlements or judgments entered against the defendants. The case evaluators will be informed that they are not to consider attorney's fees as part of their deliberation. The case evaluators shall not be advised of the agreement of the parties regarding

attorney's fees.

11. **Equitable Relief.** This order shall not prevent the Court from ruling on any claim for equitable relief raised at trial or by motion.

12. This Agreement is binding on the parties, their heirs and assigns.

IT IS SO ORDERED.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: January 11, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 11, 2008.

s/Felicia M. Moses
FELICIA M. MOSES