

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

JOSEPH SCLAFANI, MICHAEL FEINSTEIN,
and BRET CAPPOLA,

Plaintiffs,

v.

CAROL A. MICI, in her official capacity as
Commissioner of the Massachusetts Department
of Correction, DOUGLAS DEMOURA, in his
official capacity as Superintendent of MCI-Cedar
Junction, and STEVE SILVA, in his official
capacity as Superintendent of MCI-Norfolk,

Defendants.

C.A. No. 19-12550-LTS

**STIPULATION AND JOINT REQUEST TO STAY PRELIMINARY INJUNCTION
PROCEEDINGS**

This stipulation is made by and between Plaintiffs Joseph Sclafani, Michael Feinstein, and Bret Cappola (“Plaintiffs”) and Defendants Carol A. Mici, Douglas DeMoura, and Steve Silva (each in their official capacity, and collectively “Defendants”) (together, the “Parties”).

WHEREAS, Plaintiffs filed an Emergency Motion for a Temporary Restraining Order and Preliminary Injunction on December 19, 2019 seeking emergency injunctive relief, and Defendants filed an opposition on December 23, 2019;

WHEREAS, on December 23, 2019, the Parties appeared at an emergency hearing before the Court, where Defendants’ counsel reiterated the Defendants’ position, as set forth in the Affidavit of Dr. Steven Descoteaux, that Plaintiffs may continue to receive medication assisted treatment (“MAT”) in doses determined by a qualified addiction specialist and in one case have

the option to restart MAT unless clinically contraindicated until a hearing on Plaintiffs' motion for a Preliminary Injunction (*see also* D.I. 43);

WHEREAS, any supplemental briefing regarding the Preliminary Injunction from Plaintiffs was due to be filed by January 9, 2020, any further responsive filing from the Defendants is due to be filed by January 13, 2020, and a hearing on Plaintiffs' motion for Preliminary Injunction is currently scheduled for January 16, 2020 (D.I. 46);

WHEREAS, counsel informed the Court that the parties were reaching an agreement that would obviate the need for further preliminary injunction proceedings at this time and therefore would not be filing additional papers on January 9, 2020;

WHEREAS, the Parties require additional time to determine whether further action before the Court is necessary including any need for further Preliminary Injunction proceedings;

IT IS HEREBY STIPULATED AND AGREED, by the Parties, through their undersigned counsel, that:

(1) Defendants will, for the duration of Plaintiffs' incarceration in the custody of any Defendants, continue to provide Plaintiffs with MAT unless clinically contraindicated;

(2) Defendants agree to provide immediate notice to Plaintiffs' counsel of any change in Plaintiffs' MAT;

(3) Plaintiffs' pending requests to be seen by a medical provider shall result in an evaluation and consideration of dosing within five business days of this filing. Defendants will ensure that the dosing of buprenorphine for each Plaintiff will be adjusted as needed based upon Plaintiffs' individual medical needs and will not be subject to set dosing guidelines; and

(4) Defendants will ensure that, if any Plaintiff is prescribed a dose lower than the dose he was prescribed immediately before entering DOC custody, he will receive, at the time of the

dosing decision, a copy of the medical recordkeeping documentation describing the medical reason for the prescribed dose;

Wherefore, the parties jointly respectfully request that the Preliminary Injunction proceedings be postponed until further notice; and that on or before February 14, 2020, the Parties will provide a joint status update to the Court regarding further proceedings in this matter.

SO STIPULATED:

Dated: January 10, 2020

By: /s/ Philip W. Silva

By: /s/ Alexandra D. Valenti

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*Attorneys for Plaintiffs Joseph Sclafani,
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CERTIFICATE OF SERVICE

I, Alexandra D. Valenti, hereby certify that on this 10th day of January 2020, the Stipulation and Joint Request to Stay Preliminary Injunction Proceedings will be served onto counsel for Defendants Carol A. Mici, Douglas eMoura, and Steve Silva by electronic mail to the following email addresses: Philip.silva@massmail.state.ma.us (Philip Silva); Stephen.Dietrick@doc.state.ma.us (Stephen Dietrick); Nancy.White@doc.state.ma.us (Nancy White); John.Melander@state.ma.us (John Melander); and Susan.Terry4@state.ma.us (Susan Terry).

Dated: January 10, 2020

Respectfully submitted,

/s/ Alexandra D. Valenti

Alexandra D. Valenti (*Pro hac vice*)

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