

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN PROTECTION &
ADVOCACY SERVICE, INC.,

Plaintiff,

v.

PATRICIA L. CARUSO, et al.,

Defendants.

Hon. Paul L. Maloney

Case No. 5:05-cv-00128

REPORT AND RECOMMENDATION

This matter is before the Court following several settlement conferences and ongoing settlement discussions. The Court held settlement conferences on the following dates: September 15, 2006 (Dkt. 99), March 2, 2007 (Dkt. 163), and August 21-22, 2007 (Dkt. 194 and 195). The Court has also conducted telephone status conferences regarding the progress of settlement discussions on: August 29, 2006 (Dkt. 90), April 3, 2007 (Dkt. 177), December 13, 2007 (Dkt. 202), January 16, 2008 (Dkt. 203), and May 14, 2008 (Dkt. 219). The parties last appeared before the Court on July 24, 2008. They have developed an action plan for implementation of agreements reached in this case. The Court reviewed the plan and discussed it with the parties at the hearing. The plan will not be filed in the case as it is subject to Fed. R. Evid. 408; however, it is available for the Court's review.

The undersigned recommends that this matter be **stayed for a period of twelve months**, during which time the negotiated plan will be implemented and, if all goes well, papers stipulating to dismissal of the case with prejudice will be filed soon thereafter.

The expert witnesses for the parties, specifically Dr. Joel A. Dvoskin, Ph.D. and Dr. Lee H. Rome, M.D., have been working to resolve the disputes in this matter with extraordinary cooperation and collegiality. If any disputes remain after the twelve month implementation period for the plan, the undersigned expects that they will be much narrower than those currently included in this case. The undersigned is optimistic given the expert witnesses' cooperation and the thoroughness of the plan that there will be no remaining disputes. However, the parties have been unable to agree to the entry of a consent judgment at this time.

Also, it should be noted that the issue of attorneys' fees has been specifically reserved. Further, the pending motion for partial summary judgment is specifically excepted from the parties' negotiations.

Date: July 29, 2008

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).