

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

GEORGE N. ALLEN, et al.,

Plaintiff,

v.

STEPHEN MAYBERG, et al.,

Defendants.

(lead)

Including the following member cases:

- 1:-07-CV-00427-BLW (Gonzales)
- 1:07-CV-00834-BLW (Amadeo)
- 1:07-CV-00849-BLW (Brown)
- 1:07-CV-00850-BLW (DeBerry)
- 1:07-CV-00851-BLW (McNeal)
- 1:07-CV-00897-BLW (Scott)
- 1:07-CV-00913-BLW (Smith)
- 1:07-CV-00985-BLW (Scott)
- 1:07-CV-01558-BLW (Carmony)
- 1:08-CV-01196-BLW (Chaney)
- 1:08-CV-01339-BLW (Robinson)
- 1:09-CV-01890-BLW (Rhoden)
- 1:09-CV-02153-BLW (Frazier)
- 1:10-CV-01973-BLW (Vasquez)

Case No. 1:06-CV-01801-BLW-LMB
(consolidated cases)

ORDER

Pending before the Court are various matters, which the Court now addresses.

1. Appointment of Local Counsel

This case is currently on a triage track with United States District Judge David O. Carter. The Court has been given notice by the Court Pro Bono Coordinators in the Eastern District of California and Idaho that California Attorney Joe Ramsey is willing to accept an appointment as pro bono local co-counsel for Plaintiffs in this case to assist the University of Idaho Legal Clinic attorneys and student-attorneys, and, therefore, the Court will so appoint him.

Questions regarding appointment may be directed to Sujean Park in the Eastern District of California (916-930-4278) or Susie Boring-Headlee in the District of Idaho (208-334-9067).

Mr. Ramsey's contact information is as follows:

Joe Ramsey
601 University Ave. Suite 250
Sacramento, CA 95825
Telephone: (916) 646-6344
Facsimile: (916) 646-6345
joe@joeramseylaw.com.

Plaintiffs shall not contact Mr. Ramsey, but shall wait for Mr. Ramsey to contact them.

2. Notice of Plaintiff Harold Carmony's Death and Timothy J. Seeboth's Motion for Permissive Joinder

Timothy J. Seeboth, a Coalinga State Hospital patient, has notified the Court that Plaintiff Harold Carmony passed away in June 2011, and that Carmony executed a limited will before his death to dispose of his Coalinga Hospital property. It appears that

the limited will leaves the Coalinga Hospital property of Mr. Carmony to Mr. Seeboth as beneficiary. Whether the will is valid and the meaning of the will is yet to be determined, is a matter of state law, and is not an appropriate matter to be addressed in this case.

Mr. Seeboth has provided nothing showing that Mr. Carmony intended to leave the right to pursue and obtain remedy via this civil rights lawsuit, if any rights remain, to Mr. Seeboth, either as a beneficiary or an executor. Accordingly, the Court will not permit Mr. Seeboth to be added to this lawsuit.

By this Order, the Court gives notice to the heirs of Mr. Carmony, that they must file a motion for substitution of party in this case within 90 days of this Order if they wish to continue to pursue the lawsuit. In that notice they shall provide notice of which claims they intend to pursue, and provide a legal basis for their pursuit as heirs or executors of Mr. Carmony's estate, including a legal basis showing the claims have not abated. Defendants need not file further notice of Mr. Carmony's death.

The Court also notifies Mr. Seeboth that one of the outcomes of the case may be to create a general rule or policy governing use of personal computers that will apply to all similarly-situated patients at the Coalinga State Hospital. Thus, if Mr. Seeboth becomes the successive owner of Mr. Carmony's computer, then Mr. Seeboth will be able to take advantage of the rule or policy created either by settlement or judgment in this lawsuit without the need for individual participation. Because of the age of this case, the Court is not inclined to join new plaintiffs at this time, but Mr. Seeboth is free to send a letter of inquiry to Plaintiff's counsel when there has been a final determination of ownership of

Mr. Carmony's computer.

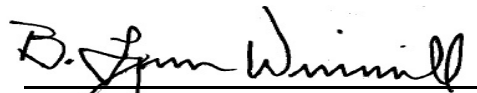
ORDER

IT IS ORDERED:

1. Attorney Joe Ramsey is appointed to as pro bono local co-counsel for Plaintiffs in this case to assist the University of Idaho Legal Clinic attorneys and student-attorneys.
2. Plaintiffs shall not contact Mr. Ramsey, but shall wait for Mr. Ramsey to contact them.
3. The executor or heirs of Harold Carmony must file a motion for substitution of party in this case within 90 days of this Order if they wish to continue to pursue the lawsuit. In that notice they shall provide notice of which claims they intend to pursue, and provide a legal basis for their pursuit as heirs or executors of Mr. Carmony's estate, including a legal basis showing the claims have not abated. Failure to file such a notice will result in dismissal without prejudice of Mr. Carmony's claims.
4. Timothy J. Seeboth's Motion for Permissive Joinder (Dkt. 81) is DENIED.
5. Timothy J. Seeboth's Motion to Proceed in Forma Pauperis (Dkt. 82) is DENIED as MOOT.
6. The Clerk of Court shall send a copy of this Order to Judge David O. Carter, Joe Ramsey, and Timothy J. Seeboth.



DATED: **September 1, 2011**

A handwritten signature in black ink, reading "B. Lynn Winmill". The signature is written in a cursive style with a horizontal line underneath the name.

Honorable B. Lynn Winmill
Chief U. S. District Judge