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 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

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 13 **EMILY Q., et al.,**
 14
 Plaintiffs,
 15
 v.
 16
 17 **DIANA BONTA, et al.,**
 18 Defendant.

Case No.: CV 98-4181 AHM (AJWx)

**NOTICE OF LODGING OF
 SPECIAL MASTER'S SIXTH
 REPORT**

Courtroom: 14
 Judge: The Honorable A. Howard
 Matz

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

EMILY Q. et al.,)	CASE NO. CV 98-4181 AHM (AJWx)
)	
Plaintiffs,)	SIXTH REPORT IN RESPONSE
)	TO COURT'S ORDER APPOINTING
v.)	SPECIAL MASTER, FEBRUARY 21, 2008
)	
)	
)	
DIANA BONTA,)	
)	
Defendant.)	Honorable A. Howard Matz
)	Courtroom 14
)	

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June 2010 – Emily Q Special Master’s Report

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1 As special master for the Emily Q matter, I am pleased to provide the Court with the following
2 information that summarizes activities and accomplishments of the Emily Q Settlement Team
3 and the California Department of Mental Health (CDMH) in implementing the Emily Q Nine
4 Point Settlement Plan.

5
6 **Summary of Accomplishments – December 2009 to June 2010**

7 The Emily Q Settlement Team and CDMH have helped promote implementation of the Emily Q
8 Nine Point Plan. In addition, the Special Master has conducted several key activities regarding
9 MHP certification. Key accomplishments are summarized below.

10
11 Settlement Team Activities

12 The Emily Q Settlement Team has continued to meet monthly to provide oversight, guidance,
13 refinement, and support to CDMH during the Emily Q Nine Point Plan implementation phase.

14
15 Specific key activities of the Settlement Team include:

- 16 • *Monthly daylong meetings in Sacramento* to review plan progress and provide support to
17 CDMH staff in implementing the plan.
- 18 • *Reviewing and approving the work products of the Super TACT (TBS Accountability*
19 *Communications and Training) work group and CDMH.* Settlement Team members
20 have been actively involved in overseeing completion of the TBS Documentation Manual
21 version 2.0, which was released in October 2009, and the Coordination of Care / Best
22 Practice Manual which is scheduled for release in June, 2010.
- 23 • *TBS Equivalent Services.* The Settlement Team helped CDMH and the Special Master
24 complete guidelines that the Special Master is now using to determine whether or not
25 non-TBS services delivered by a county MHP may be counted toward meeting the four
26 percent utilization benchmark.
- 27 • *MHP Certification Protocol.* The Settlement Team has worked with the Special Master
28 to finalize the criteria for certifying that Level II MHPs have satisfied the TBS utilization
29 and quality requirements of the Nine Point Plan.
- 30 • *The California Mental Health Directors Association* has rejoined the Settlement Team

1 through representation by the Sonoma County Director of Mental Health.

2
3 CDMH Implementation of the Emily Q Nine Point Plan

4 CDMH has submitted the *Therapeutic Behavioral Services County Mental Health Plan 2009*
5 *Progress Report* to the Court. As Special Master, I worked alongside the department's senior
6 staff as they prepared this annual report, and I concur with CDMH's findings. The Settlement
7 Team reviewed several drafts of the Progress Report and has commented and offered suggestions
8 to CDMH as it developed this document. The 2009 Progress Report accurately describes the
9 MHP's efforts and accomplishments toward fulfilling the requirements of the Nine Point Plan.
10 CDMH lead representative Sean Tracy, CDMH Director Dr. Stephen Mayberg, and their staff
11 have done an excellent job in positioning the Progress Report as a guiding document for tracking
12 MHP progress into the future. CDMH is working to assume full responsibility for sustained
13 implementation and updating of the Nine Point Plan following Court exit from the matter.

14
15 CDMH also accomplished the following:

- 16 • Continued to convene the Super TACT work group monthly meetings.
- 17 • Completed the Small County Strategy and submitted it to the Court in February 2010.
- 18 • Worked with its training contractor CiMH to provide various training sessions in Tulare
19 and Kern Counties, Los Angeles County, and Monterey County, with forthcoming
20 training sessions in San Diego and Los Angeles counties.
- 21 • Worked with its data contractor APS Healthcare to further develop and refine the Track
22 I, II, and III data reports.
- 23 • Completed the first stages of developing a Youth and Family Strategy in May 2010.
- 24 • Worked with the Settlement Team and the Court to modify the county MHP Local
25 Conversation discussion questions to reflect advances the MHPs have made in their
26 local TBS utilization efforts.
- 27 • Updated the MHP Progress Report to monitor and report about the MHP TBS activities
28 in 2010.

29

1 Special Master Activities

2 In April, I traveled to San Diego County, along with one of my assistants and a representative of
3 CDMH, to review case files for the San Diego Comprehensive Assessment and Stabilization
4 Service (CASS) Program as possible TBS Equivalent Services. Our team determined that 60
5 percent of the children served through CASS received TBS Equivalent services and that these
6 children can be counted toward the county's four percent benchmark. Following this "test" case,
7 CDMH arranged a Webinar conference call with the Level II MHPs to explain and promote both
8 the TBS Equivalent and Certification processes for the Level II MHPs. In addition, the Special
9 Master:

- 10 • Attended the CMHDA Small County Directors meeting, accompanied by CDMH, and
11 presented the collaborative TBS Small County Strategy that has been developed by the
12 Small County Committee and the settlement Team.
 - 13 • Attended a Child Welfare Council meeting to observe and monitor relevant foster
14 care/children's mental health issues.
 - 15 • With CDMH, Plaintiffs, and Settlement Team representatives, participated as a Panel
16 Member for the California Mental Health Advocates for Children and Youth
17 (CMHACY) Annual Conference to educate practitioners, families, and youth about the
18 Interest Based Decision Making Process and the progress of the Emily Q Nine Point
19 Plan.
 - 20 • Completed the Certification Protocol and started the process for rolling this out,
21 beginning in June 2010. I also anticipate that, in the next few months, I will certify the
22 five exempt counties whose utilization was above four percent prior to implementation
23 of the Nine Point Plan, and will most likely be able to certify other Level II MHPs that
24 have increased TBS utilization and improved quality following implementation of the
25 plan.
- 26

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4 Special Master Observations

5 In my role as special master to the Emily Q effort, I would like to report several key observations
6 and findings regarding the Nine Point Plan rollout effort from December 2009 through June
7 2010.

8

9 California Context and Service Environment

10 As reported previously, the California service delivery environment is experiencing
11 unprecedented difficulties that impact all child and family services including TBS. Another year
12 of enormous budget deficits and state and local mental health cutbacks have resulted in highly
13 volatile service environments and extraordinary uncertainties in all the MHPs. Nonetheless,
14 most counties are increasing their TBS efforts and are showing improvements in TBS utilization.
15 I am especially impressed with the efforts of local county children's mental health managers and
16 the private service providers who are driving significant structural changes in local TBS
17 utilization. Interestingly, the Governor's May Revised Budget includes increased spending on
18 EPSDT services, the basis of TBS funding, which suggests that the Nine Point Plan effort likely
19 will not be adversely impacted by the impending budget cuts.

20

21 Data Lag

22 California implemented a new Short-Doyle mental health data reporting system in Spring 2010,
23 which will ultimately bring efficiencies to the Medi-Cal claims payment system, provide
24 enhanced HIPAA protections, and create a tool for timely payments to MHPs. This new claims
25 payment system, known as Short-Doyle/Medi-Cal II, was a collaborative effort between the
26 Department of Health Care Services, Department of Alcohol and Drug Programs and CDMH.
27 As the system was fully implemented by all 56 MHPs in March 2010, a Medi-Cal claims data
28 and reporting problem was identified. The State Departments are working to resolve this system
29 issue, but currently there are lags in data reports from CDMH about TBS claims. The latest full
30 month data available from all MHPs is December 2009. CDMH reports that it is expected to

1 have the data collection and reporting system for Medi-Cal claims back on line in July 2010.

2

3 CMHDA Re-engaging with the Settlement Team

4 More than a year after the CMHDA representatives left the Settlement Team, CMHDA has
5 rejoined by assigning the Sonoma County Director of Mental Health as county representative to
6 the Settlement Team. In addition, the Small County Strategy and the TBS Equivalent
7 Determination effort have created positive new linkages with TBS staff in the counties, and
8 especially with CMHDA. Long-term differences between CMHDA and CDMH over issues
9 beyond TBS continue to complicate relationships at the mental health director level, but the "new
10 TBS culture" generated by the Nine Point Plan rollout effort has greatly improved relationships
11 with the MHPs.

12

13 Final Six Months Prior to Court Exit

14 As the deadline for Court Exit approaches, CDMH and the Settlement Team are discussing ways
15 to help the Level II MHPs satisfy the requirements for certification. Some possible strategies
16 include individualized MHP utilization approaches, increased review of potential TBS
17 Equivalent Services, methods to determine if an MHP is on a trajectory to reach the benchmark
18 by 2012, and steps MHPs must take to request and receive certification. As noted above, there
19 are barriers to data reporting that may complicate the certification process, although I am
20 confident that these can be resolved through a county-by-county evaluation process. I anticipate
21 increased requests for Special Master visits to counties to review their utilization data and to
22 certify them as having completed the Nine Point Plan requirements.

23

24 CDMH and the Settlement Team have demonstrated remarkable leadership and commitment to
25 assist the MHPs throughout the rollout period. However, much remains to be done in the
26 remaining six months before Court exit; it will require considerable effort at the state and local
27 levels to ensure that the exit requirements are met by December 2010.

28

1 **July through December 2010 Budget Proposal**

2 Budget: July 1–December 31, 2010 – \$51,916.00

3 The special master proposes the following budget, including travel and incidental
4 expenses, for the first six months of FY 2010-2011, anticipating the Court's exit
5 December 31, 2010.

6

7 Special Master and Consultants: July 1–December 31, 2010 – \$47,500.00

8 The special master will conduct the following activities:

- 9
- 10 • Convene and oversee the Emily Q Settlement Team.
 - 11 • Visit and work with county departments of mental health/MHPs to implement
12 the Nine Point Plan. This includes certification of a county MHP's 4%
13 benchmark and/or TBS equivalent certification.
 - 14 • Participate in meetings with CDMH, the Emily Q plaintiffs, and other
15 stakeholders.
 - 16 • Provide technical assistance to CDMH.
 - 17 • Monitor and advise SuperTACT, the combined Accountability Structure
18 Implementation Strategy, and Technical Assistance, Communications,
19 Training groups.
 - 20 • Develop and submit reports to the Court as required.
 - 21 • Appear in Court as required to report progress and account for the Emily Q
22 effort.

22

23 Assistance and support from consultants to the special master:

- 24
- 25 • Co-facilitate the Settlement Team meeting and prepare written summaries.
 - 26 • Co-facilitate SuperTACT group meetings.
 - 27 • Provide technical assistance to SuperTACT.
 - 28 • Provide technical assistance to CDMH.
 - 29 • Assist with county MHP certification of TBS equivalent services.
 - 30 • Data analysis and interpretation.
 - Assist with Court reports.

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The special master will be reimbursed at \$150.00 per hour and consultants reimbursed at \$100.00 per hour.

Travel and Incidental Costs - July 1–December 31, 2010 – \$2,166.00

Special Master:

- I anticipate that Settlement Team meetings will continue to take place in Sacramento, within one hour of my office. I will not be submitting an invoice for this travel expense.
- I will be submitting an invoice for travel and incidental expenses associated with county MHP visits for the purposes of TBS Certification and/or Determination of TBS Equivalency or consultation and any required Court appearance. At this time, I estimate air travel to Southern California three times for special master and consultant meetings with county MHPs, and for one Court appearance. Expenses will include airfare, parking, and – when necessary for MHP/County site visits requiring more than one day – lodging expenses will be included.

Parent and Practitioner Settlement Team participation – \$2,250.00

- I will continue to reimburse the parent and practitioner members’ travel expenses related to attending Settlement Team meetings or ad hoc task group meetings. As noted in earlier reports, their employers have donated these members’ time – only their travel and incidental expenses are included in this request for additional funding.
- I will be submitting an expense invoice for the parent and practitioner participation with the Settlement Team.

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5 **Special Master Recommendations to the Court**

6 In spite of the chaotic government environment that is currently dominating service delivery in
7 every county throughout California, the planning partners continue to move the plan forward,
8 and many county and local provider staffs are responding positively to the Nine Point Plan,
9 helping shift plan implementation from the state to the local level. In this regard, I make the
10 following recommendations to the Court at this time:

- 11 • Remain on course with the plan time line, continue to support CDMH and Settlement
12 Team efforts, and watch and wait as the counties strive to reach the TBS utilization
13 benchmark.
- 14 • Approve the special master's July 1 through December 31, 2010 budget proposal.

15

16 In closing, I would like to again thank the Court for affording me the privilege of serving as
17 special master for the Emily Q case.

18

19

20 Dated: June 15, 2010

Respectfully Submitted

21

22

/s/

23

24

Richard Saletta, LCSW

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Emily Q., et al. v. Diana Bonta, et al.**

Case No.: **CV 98-4181 AHM (AJWx)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On June 21, 2010, I served the attached **NOTICE OF LODGING OF SPECIAL MASTER'S SIXTH REPORT** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Allison Wheeler
Mental Health Advocacy Services
3255 Wilshire Boulevard, Suite 902
Los Angeles, CA 90010

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 21, 2010, at Sacramento, California.

Patty Conway
Declarant

Patty Conway
Signature