

Exhibit F

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

KIMBERLY HURRELL-HARRING; JAMES ADAMS; JOSEPH BRIGGS; RICKY LEE GLOVER; RICHARD LOVE; JACQUELINE WINBRONE; LANE LOYZELLE; TOSHA STEELE; BRUCE WASHINGTON; SHAWN CHASE; JEMAR JOHNSON; ROBERT TOMBERELLI; CHRISTOPHER YAW; LUTHER WOODROW OF BOOKER, JR.; JOY METZLER; VICTOR TURNER; EDWARD KAMINSKI; CANDACE BROOKINS; RANDY HABSHI; and RONALD McINTYRE, on behalf of themselves and all others similarly situated,

Index No. 8866-07

Plaintiffs,

-against-

THE STATE OF NEW YORK, GOVERNOR ANDREW M. CUOMO, in his official capacity, THE COUNTY OF ONONDAGA, NEW YORK, THE COUNTY OF ONTARIO, NEW YORK, THE COUNTY OF SCHUYLER, NEW YORK, THE COUNTY OF SUFFOLK, NEW YORK and THE COUNTY OF WASHINGTON, NEW YORK,

Defendants.

FIFTH AMENDMENT TO STIPULATION AND ORDER OF SETTLEMENT

WHEREAS, Plaintiffs, on behalf of the Plaintiff Class, as defined by the Appellate Division, Third Department (“Plaintiffs”), commenced and pursued a class action lawsuit entitled *Hurrell-Harring, et al. v. State of New York, et al.*, Index No. 8866-07, in New York Supreme Court, Albany County (the “Lawsuit”), seeking declaratory and prospective injunctive relief for, among other things, the alleged deprivation by the State of New York and the Governor of the State of

New York (the "State Defendants") of Plaintiffs' right to counsel in the counties of Onondaga, Ontario, Schuyler, Suffolk, and Washington (together the "Five Counties" and each a "County") guaranteed to Plaintiffs by the Sixth and Fourteenth Amendments to the United States Constitution, Article I, § 6 of the New York State Constitution, and various statutory provisions; and

WHEREAS, Plaintiffs, the State Defendants, and the Five Counties agreed to settle the Lawsuit and entered into a Stipulation and Order of Settlement, signed by Plaintiffs and the State Defendants on October 22, 2014 (the "Settlement Agreement"); and

WHEREAS, after receiving and reviewing submissions from the Parties, holding hearings in each County, and due deliberation, the Court approved the Settlement Agreement on March 11, 2015; and

WHEREAS, the parties made certain non-material amendments of this Settlement Agreement on or about September 16, 2015, February 9, 2016, June 3, 2016, and December 5, 2016, and those amendments are attached hereto as **Exhibit B**; and

WHEREAS, Plaintiffs and the State Defendants have now agreed to a material modification to the Settlement Agreement that will, *inter alia*, extend the implementation date of caseload/workload standards and the expiration date of this Settlement Agreement; and

WHEREAS, a fully integrated version of the terms of the Settlement Agreement as amended, including the agreement reflected herein, is appended hereto as **Exhibit A**;

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND ORDERED as follows:

The Settlement Agreement is amended as follows and in all other respects remains unaltered, except as previously amended by written agreement of the parties as reflected in Exhibit B hereto:

IV. CASELOAD RELIEF

* * *

- (B) (1) (i) No later than ~~September 11, 2017~~ April 30, 2019 (the "Implementation Date") and continuing thereafter, the State shall ensure that the caseload/workload standards are implemented and adhered to by all providers of Mandated Representation in the Five Counties.

(ii) If, as of the Implementation Date listed in paragraph IV(B)(1)(i), one or more providers of Mandated Representation in any of the Five Counties shall fail to implement or adhere to the caseload/workload standards determined in accordance with paragraph IV(B), which are set forth in Exhibit 1 hereto, then the expiration of this Agreement, as set forth in paragraph XIII(C), as amended, shall automatically be extended by an additional six months to and including March 31, 2024.

(iii) On or before March 1, 2019, ILS shall provide notice to the State Defendants and Plaintiffs of whether, in its best estimation, the caseload/workload standards will be fully implemented and adhered to by each provider of Mandated Representation in each of the Five Counties as of the Implementation Date. If ILS indicates that the Implementation Date might not be met, Plaintiffs will be entitled to immediately invoke the provisions set forth at paragraphs XI(A) and XI(B).

(2) (i) The State Defendants and Plaintiffs have agreed to the benchmarks set forth in Exhibit 2 (the "Interim Benchmarks") for the providers of Mandated Representation in each of the Five Counties to measure progress towards implementation of and adherence to the caseload/workload standards between now and the Implementation Date. ILS shall provide notice to the State Defendants and Plaintiffs, by the end of the month in

which each Interim Benchmark is due, of compliance with the Interim Benchmarks.

(ii) The State Defendants and Plaintiffs agree that any non-compliance with the Interim Benchmarks resulting from a violation of a benchmark's required net effect on the hiring and programs of a provider, as set forth in Exhibit B, that is either (a) incidental and non-sporadic and the result of factors outside the State Defendants' control or (b) met within two weeks of the target date set forth therein, will not be considered a violation of this amendment.

(iii) If any Interim Benchmark is not met, the State Defendants agree to (a) immediately consider and implement alternatives to cure the deficiencies, including but not limited to alternate staffing arrangements and accessing all available financial resources, and (b) within five (5) days of a missed Interim Benchmark, engage in in-person good faith negotiations with Plaintiffs to cure the deficiency. Nothing in this section will require the State to expend funds that have not been previously appropriated.

(3) ILS shall provide the following reports:

(i) By April 30, 2018, a full analysis and review of the caseload data collected from each provider of Mandated Representation in the Five Counties for the calendar year 2017.

(ii) By October 30, 2018, a full analysis and review of the data collected from the ILS case closing forms and an interim analysis and review of the caseload data collected from each provider of Mandated Representation in the Five Counties for the first six months of 2018 as compared to the same from calendar year 2017.

(iii) By April 30, 2019, a full analysis and review of the caseload data collected from each provider of Mandated Representation in the Five Counties for the calendar year 2018, and a review and analysis of the caseload data for the first three months of 2019 from any provider of Mandated Representation in the Five Counties that was not in compliance with the caseload/workload standards as of the end of calendar year 2018, together with an assessment of each such provider's compliance with the caseload/workload standards as of March 31, 2019.

(4) The State Defendants and ILS shall continue implementing the caseload/workload standards determined in accordance with paragraph IV(B), without waiting for court approval of this Fifth Amendment to the Settlement Agreement.

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XIII. GENERAL PROVISIONS

* * *

- (C) Expiration of Agreement. This Agreement shall expire ~~7.5 years after the Effective Date~~ on September 30, 2023.

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EXHIBIT 1 - CASELOAD/WORKLOAD STANDARDS

EXHIBIT 2 – INTERIM BENCHMARKS

The following Interim Benchmarks include both individual hires that will be made and programs that will be implemented, as well as net effects of the hirings and programs for each provider of Mandated Representation in the Five Counties.

<u>Target Date or Target Date Range</u>	<u>Activity (Net Effect on Hiring/Program)</u>	<u>Provider</u>
<u>June 2017</u>	<u>Executive Director hired, (1 executive director total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>June 2017</u>	<u>Deputy Director hired, (1 deputy director total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>June 2017</u>	<u>Quality Enhancement Director, (1 quality enhancement director total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>June 2017</u>	<u>Chief Financial Officer, (1 chief financial officer total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>June 2017</u>	<u>IT Specialist, (1 IT specialist total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>June 2017</u>	<u>Eligibility Specialist, (1 eligibility specialist total)</u>	<u>Onondaga County Assigned Counsel Program</u>

<u>Target Date or Target Date Range</u>	<u>Activity (Net Effect on Hiring/Program)</u>	<u>Provider</u>
<u>June 2017</u>	<u>Data Entry & Assistant, (2 data entry & client assistants total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>June 2017</u>	<u>IT Manager & Voucher Specialist, (1 IT manager & voucher specialist total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>June 2017</u>	<u>Claims Manager (1 claims manager total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>June 2017</u>	<u>Data Entry & Client Assistant, (2 data entry & client assistants total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>June 2017</u>	<u>Receptionist/Office Assistant, (1 receptionist/office assistant total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>June 2017</u>	<u>Quality Enhancement Assistant, (1 quality enhancement assistant total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>August 2017</u>	<u>Protocol for accessing investigator, experts, and interpreters implemented.</u>	<u>Onondaga County Assigned Counsel Program</u>

<u>Target Date or Target Date Range</u>	<u>Activity (Net Effect on Hiring/Program)</u>	<u>Provider</u>
<u>December 2017</u>	<u>Mentor program fully implemented (mentors and resource attorneys)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>January 2018</u>	<u>Contract with Center for Community Alternatives (CCA) (sentencing advocacy/mitigation services) finalized</u>	<u>Schuyler County Assigned Counsel Program</u>
<u>January 2018</u>	<u>Parole revocation attorney hired (3 parole revocation attorneys total)</u>	<u>Onondaga County Hiscock Legal Aid Society</u>
<u>January 2018</u>	<u>2 entry level investigators hired (8 investigators total)</u>	<u>Suffolk County Legal Aid Society</u>
<u>January 2018</u>	<u>IT director hired (1 IT staff total)</u>	<u>Suffolk County Legal Aid Society</u>
<u>January 2018</u>	<u>5 paralegals hired (5 paralegals total)</u>	<u>Suffolk County Legal Aid Society</u>
<u>January 2018</u>	<u>Social worker hired (1 social worker total)</u>	<u>Suffolk County Assigned Counsel Defender Program</u>

<u>Target Date or Target Date Range</u>	<u>Activity (Net Effect on Hiring/Program)</u>	<u>Provider</u>
<u>March 2018</u>	<u>6 data specialists hired</u> <u>(26 data specialists/secretaries</u> <u>total)</u>	<u>Suffolk County Legal Aid</u> <u>Society</u>
<u>March 2018</u>	<u>Entry level social worker hired</u> <u>(6 social workers total)</u>	<u>Suffolk County Legal Aid</u> <u>Society</u>
<u>March 2018</u>	<u>Investigator hired</u> <u>(1 investigators total)</u>	<u>Suffolk County Assigned</u> <u>Counsel Defender Program</u>
<u>March 2018</u>	<u>Training program implemented (2-</u> <u>week training program for new</u> <u>attorneys; regular in-house CL.Es;</u> <u>scholarship funding being utilized)</u>	<u>Onondaga County Assigned</u> <u>Counsel Program</u>
<u>March 2018</u>	<u>Protocol for accessing non-attorney</u> <u>supports implemented</u>	<u>Ontario County Assigned</u> <u>Counsel Program</u>
<u>March 2018</u>	<u>Protocol for accessing non-attorney</u> <u>supports implemented</u>	<u>Schuyler County Assigned</u> <u>Counsel Program</u>
<u>March 2018</u>	<u>Protocol for accessing non-attorney</u> <u>supports implemented</u>	<u>Washington County</u> <u>Assigned Counsel Program</u>
<u>March 2018</u>	<u>Protocol for accessing</u> <u>investigators, experts, and</u> <u>interpreters implemented</u>	<u>Suffolk County Assigned</u> <u>Counsel Defender Program</u>

<u>Target Date or Target Date Range</u>	<u>Activity (Net Effect on Hiring/Program)</u>	<u>Provider</u>
<u>May-June 2018</u>	<u>Social worker hired</u> <u>(1 social worker total)</u>	<u>Onondaga County Hiscock Legal Aid Society</u>
<u>May-June 2018</u>	<u>In-house Sentencing Advocate hired.</u> <u>(1 in-house sentencing advocate total)</u>	<u>Onondaga County Assigned Counsel Program</u>
<u>May-June 2018</u>	<u>Full-time assistant public defender hired</u> <u>(4 part-time and full-time assistant public defenders total)</u>	<u>Schuyler County Public Defender Office</u>
<u>May-June 2018</u>	<u>Part-time legal secretary hired</u> <u>(2 legal secretaries total)</u>	<u>Schuyler County Public Defender Office</u>
<u>May-June 2018</u>	<u>Mentoring program implemented</u>	<u>Schuyler County Assigned Counsel Program</u>
<u>May-June 2018</u>	<u>Second chair program implemented</u>	<u>Schuyler County Assigned Counsel Program</u>
<u>May-June 2018</u>	<u>Protocols for training scholarships developed</u>	<u>Schuyler County Assigned Counsel Program</u>

<u>Target Date or Target Date Range</u>	<u>Activity (Net Effect on Hiring/Program)</u>	<u>Provider</u>
<u>May-June 2018</u>	<u>Full time assistant public defender hired</u> <u>(7 full-time assistant public defenders total)</u>	<u>Washington County Public Defender Office</u>
<u>May-June 2018</u>	<u>Full time legal assistant hired</u> <u>(3 legal assistants total)</u>	<u>Washington County Public Defender Office</u>
<u>May-June 2018</u>	<u>Mentor program implemented</u>	<u>Washington County Assigned Counsel Program</u>
<u>May-June 2018</u>	<u>Second chair program implemented</u>	<u>Washington County Assigned Counsel Program</u>
<u>May-June 2018</u>	<u>Training program implemented</u>	<u>Washington County Assigned Counsel Program</u>
<u>May-June 2018</u>	<u>8-12 staff attorneys hired (advance team)</u> <u>(106-110 staff attorneys total)</u>	<u>Suffolk County Legal Aid Society</u>
<u>May-June 2018</u>	<u>Mentor program implemented</u>	<u>Suffolk County Assigned Counsel Defender Program</u>
<u>May-June 2018</u>	<u>Training protocols implemented</u>	<u>Suffolk County Assigned Counsel Defender Program</u>

<u>Target Date or Target Date Range</u>	<u>Activity (Net Effect on Hiring/Program)</u>	<u>Provider</u>
<u>May-June 2018</u>	<u>Contracts with 2 part-time quality control attorneys</u> <u>(2 quality control attorneys total)</u>	<u>Suffolk County Assigned Counsel Defender Program</u>
<u>May-June 2018</u>	<u>Paralegal/18-b coordinator hired</u> <u>(1 paralegal/18-b coordinator total)</u>	<u>Suffolk County Assigned Counsel Defender Program</u>
<u>June 2018</u>	<u>Training program implemented</u>	<u>Ontario County Assigned Counsel Program</u>
<u>September 2018</u>	<u>2nd investigator hired</u> <u>(2 investigators total)</u>	<u>Suffolk County Assigned Counsel Defender Program</u>
<u>September 2018</u>	<u>Office financial assistant hired</u> <u>(1 financial assistants total)</u>	<u>Suffolk County Assigned Counsel Defender Program</u>
<u>September-October 2018</u>	<u>16-12 additional staff attorneys hired</u> <u>(122 staff attorneys total)</u>	<u>Suffolk County Legal Aid Society</u>
<u>September-October 2018</u>	<u>5 support staff hired</u> <u>(53 support staff total)</u>	<u>Suffolk County Legal Aid Society</u>
<u>September-October 2018</u>	<u>Spanish interpreter hired</u> <u>(1 Spanish interpreters total)</u>	<u>Suffolk County Legal Aid Society</u>

<u>Target Date or Target Date Range</u>	<u>Activity (Net Effect on Hiring/Program)</u>	<u>Provider</u>
<u>September-October 2018</u>	<u>Administrative assistant hired (1 administrative assistant total)</u>	<u>Suffolk County Legal Aid Society</u>