

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

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Shalonda Spruill, and John and Jane Does 1-10,

Plaintiffs,

No. 09 CV 292-S

v.

Gary Alexander, in his official capacity
as Director of the Rhode Island
Department of Human Services

**STIPULATION AND ORDER
OF SETTLEMENT**

Defendant

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WHEREAS, this action was commenced pursuant to 42 U.S.C. § 1983 to enforce rights under the Due Process Clause of the Fourteenth Amendment of the United States Constitution and federal statutes and regulations on behalf of persons alleging that defendant fails to process applications for food stamps in a timely manner in violation of federal and state law;

WHEREAS, defendant denies any and all claims of wrongdoing asserted in connection with Plaintiffs' complaint;

WHEREAS, no finding of liability has been made;

WHEREAS, the parties wish to avoid the expense and disruption of litigation on the issues presented in this litigation, and are prepared to settle their differences without admitting any fault or liability;

WHEREAS, defendant represents that he has taken actions to ensure that applications for food stamps are timely processed and benefits issued in accordance with federal and state law that include a) policy changes to lengthen the recertification period, expand categorical eligibility and eliminate the asset test, expand telephone interviews, and require increased same day screening of

applicants entitled to expedited processing ; b) technology changes to enhance access to applications; c) requiring increased supervisory oversight of scheduling of expedited appointments; d) hiring of additional eligibility workers, clerical staff and supervisors; and e) approval of overtime;

WHEREAS, defendant represents that he will take actions to ensure that applications for food stamps are timely processed and benefits issued in accordance with federal and state law; and;

WHEREAS, plaintiffs neither dispute nor admit that the actions defendant represents to have been undertaken have, in fact, been undertaken or that, if undertaken, they have or will result in applications for food stamps being timely processed and benefits provided;

WHEREAS, plaintiffs neither dispute nor admit that the actions defendant represents will be undertaken will, in fact, be undertaken or that, if undertaken, they will result in applications for food stamps being timely processed and benefits provided;

NOW, THEREFORE, IT IS HEREBY ORDERED, UPON THE STIPULATION AND AGREEMENT OF THE PARTIES, through their undersigned attorneys for the respective parties herein, that this action is settled, subject to the approval of the Court pursuant to the Federal Rules of Civil Procedure, on the following terms and conditions:

I. DEFINITIONS

1. “Applicant” means any person or household that applies for food stamps.
2. “Expedited Service of a Food Stamp Application” refers to the processing of a food stamp application on an expedited basis for households that meet the criteria for expedited processing set forth in 7 U.S.C. § 2020(e)(9) and 7 C.F.R. § 273.2(i).
3. “Food Stamps” means Supplemental Nutrition Assistance provided pursuant to the Food and Nutrition Act, as amended, 7 U.S.C. § 2011 *et seq.*, and any and all successor programs.

II. DEFENDANT'S OBLIGATIONS

4. Defendant shall accept for processing each application for food stamps on the first day the applicant contacts defendant as required by 7 U.S.C. § 2020 (e)(2)(B)(iii); 7 C.F.R. § 273.2(c)(1), (c)(2)(i).

5. Defendant shall act promptly on all applications for food stamps, give applicants an opportunity to participate in the food stamp program, and provide food stamp benefits retroactive to the month of application to those households that have completed the application process and been determined eligible as required by 7 U.S.C. § 2020(e)(3); 7 C.F.R. § 273.2(a). If an individual or household seeks to apply jointly for cash assistance and food stamps, defendant shall not permit any delays in the processing of the application for cash assistance to delay the processing of the food stamp application as required by 7 U.S.C. §§ 2014(b), 2020(i)(2); 7 C.F.R. § 273.2(j)(1)(iii). If the cash assistance application is denied or withdrawn, defendant shall not require the applicant to submit a new application for food stamps as set forth in 7 U.S.C. §§ 2014(b), 2020(i)(2); 7 C.F.R. § 273.2(j)(1)(v).

6. Defendant shall screen applicant households to determine if the household is eligible for expedited service of their food stamp application at the time the household applies for benefits in accordance with 7 U.S.C. § 2020(e)(9) and 7 C.F.R. § 273.2(i)(2).

7. Defendant shall provide expedited service of a food stamp application to households eligible for such expedited service no later than the seventh calendar day following the day the application is filed as set forth in 7 U.S.C. § 2020 (e)(9) and 7 C.F.R. § 273.2(i)(3).

8. Defendant shall provide eligible households that complete the initial application process an opportunity to participate in the food stamp program as soon as possible, but no later than

thirty calendar days following the date the application was filed as required by 7 U.S.C. § 2020(e)(3); 7 C.F.R. §§ 273.2 (g)(1).

9. Plaintiffs' counsel may bring to the attention of defendant's designee, by e-mail, those instances in which plaintiffs' counsel represents that an eligibility determination was not timely processed in accordance with applicable Federal and/or State statutes and regulations cited herein and that they have investigated and determined based on available information from the applicant that all information required for such a determination has been submitted to defendant. Defendant shall investigate the case(s) and take any appropriate steps required to resolve the issue(s) concerning each individual case. Defendant's designee shall report the result of such investigation, via e-mail, to plaintiffs' counsel, including the current status of the applicant's application; if the application has been approved, the approximate time frame in which food stamps has been or will be provided; the steps defendant will take to process the applicant's application and provide food stamps and the approximate time frame in which they will be taken; and, if applicable, and the reason the applicant's application has been denied. Such report shall be provided within three (3) business days of receiving plaintiffs' counsel's report of the alleged violation(s). If after three (3) business days of receiving plaintiffs' counsel's report of the alleged violation(s), the applicant is not receiving food stamps, defendant's designee shall promptly inform plaintiffs' counsel of what information, if any, is required to process the applicant's application. Plaintiffs' counsel shall make every effort to facilitate, when possible, the obtaining of additional information which may be needed to process the application. In addition, if providing food stamps to the household at issue requires the household to complete the application process, then defendant shall promptly inform plaintiffs' counsel of what action the household must take to complete the application process.

Defendant will identify an alternate designee to investigate the case(s) and take any appropriate steps required to resolve the issue(s) in each individual case when defendant's designee is unavailable or unable to investigate and take appropriate steps to resolve issues in individual cases brought to defendant's attention within 3 business days. Defendant will provide plaintiffs' counsel with the name of and contact information for the alternate designee. Nothing herein shall alter nor shall be construed or interpreted to alter defendant's obligation to assist households in obtaining verification of their food stamp applications.

III. MONITORING

10. Each month during the term of this Stipulation and Order of Settlement, defendant shall provide plaintiffs' counsel or their designated representatives, with the following monitoring within seventy-five (75) days of the end of the month being monitored:

- a. **Applications Received** - A report noting the number of applications received in the reporting month.
- b. **Expedited Processing** - For those applications received in the reporting month for which a determination has been made, a report showing:
 - i) The number of applicants screened for eligibility for expedited service;
 - ii) The number of applicants determined eligible for expedited service as well as the number of applications determined not eligible for expedited service;
 - iii) For those applicants determined to be entitled to expedited service, the number of determinations and issuances regarding eligibility made within seven (7) days following the date of application; made within eight (8) to fourteen (14) days following the date of application; and made in more than

fourteen (14) days following the date of application; and

iv) For those applicants determined not to be entitled to expedited service, the number of determinations of ineligibility made within seven (7) days following the date of application; made within eight (8) to fourteen (14) days following the date of application; and made in more than fourteen (14) days following the date of application.

c) **Non-Expedited Processing** - For those applications received in the reporting month for which a determination has been made, a report showing:

i) The number of applicants for whom eligibility for food stamps was determined, but who were not determined eligible for expedited service;

ii) Of the number of applicants for whom eligibility for food stamps was determined, but who were not determined eligible for expedited service, the number that were determined eligible for food stamps and the number that were determined not eligible for food stamps;

iii) For those applicants determined to be entitled to food stamps, the number of determinations and issuances regarding eligibility made within fifteen (15) days following the date of application; within sixteen (16) to thirty (30) days following the date of application; within thirty-one (31) to forty-five (45) days following the date of application; within forty-six (46) to sixty (60) days following the date of application; and in more than sixty (60) days following the date of application;

iv) For those applicants determined to be entitled to food stamps and for which

the determination and issuance regarding eligibility was not made in thirty (30) or fewer days following the date of application, whether the reason for the defendant not making the determination and issuance regarding eligibility within thirty (30) or fewer days following the date of application was the fault of the applicant or of the defendant. The information concerning fault shall be provided and broken down by time-frame for each application whose determination of eligibility was made within thirty-one (31) to forty-five (45) days following the date of application; within forty-six (46) to sixty (60) days following the date of application; and in more than sixty (60) days following the date of application;

- v) For those applicants determined not to be entitled to food stamps, the number of determinations regarding eligibility made within fifteen (15) days following the date of application; within sixteen (16) to thirty (30) days following the date of application; within thirty-one (31) to forty-five (45) days following the date of application; within forty-six (46) to sixty (60) days following the date of application; and in more than sixty (60) days following the date of application; and
- vi) For those applicants determined not to be entitled to food stamps and for which the determination regarding eligibility was not made in thirty (30) or fewer days following the date of application, whether the reason for the defendant not making the determination and issuance regarding eligibility within thirty (30) or fewer days following the date of application was the

fault of the applicant or of the defendant. The information concerning fault shall be provided and broken down by time-frame for each application whose determination of eligibility was made within thirty-one (31) to forty-five (45) days following the date of application; within forty-six (46) to sixty (60) days following the date of application; and in more than sixty (60) days following the date of application;

- d) A report of all previously open applications defendant processed during the month being monitored broken down by whether the application was accepted or denied and whether the reason for processing late was agency fault or applicant fault.
- e) A cumulative report of all open applications in which defendant has not made a determination of eligibility or ineligibility by the sixtieth (60th) day following the end of the month being monitored.
- f) Defendant shall not be required to identify whether the delay in processing an application is the fault of the applicant or the defendant until the report prepared for the month of December 2009, which shall be produced on March 15, 2010.
- g) All the reports will be provided electronically in an Excel spreadsheet.
- h) At any time during the term of this agreement, defendant may propose and plaintiffs shall reasonably consider any alternative means for monitoring that provides the information set forth in this paragraph ten (10).

IV. GENERAL PROVISIONS

11. No provision herein shall infringe upon any individual applicant's right to seek to compel defendant to provide him or her with an application for or a grant of food stamps, or with

the expedited processing of an application for food stamps by way of an administrative hearing.

12. Except to the extent set forth herein, the terms and conditions of this Stipulation and Order of Settlement shall become effective upon the “so ordering” of the Stipulation and Order of Settlement by the Court.

13. This Stipulation and Order of Settlement is final and binding upon the parties, their successors and assigns.

14. The Parties recognize and acknowledge that the only consideration for signing this Stipulation and Order of Settlement are the terms stated herein and no other promise, agreement or representation of any kind has been made to any party by any person or entity whatsoever to cause any party to sign this Stipulation and Order of Settlement.

15. This Stipulation and Order of Settlement constitutes a compromise settlement of disputed and contested matters between the Parties. It shall not be construed as an admission of any sort by any of the Parties, nor shall it be used as evidence in a proceeding of any kind, except as necessary to administer and/or enforce the terms of this Stipulation and Order of Settlement.

16. This Stipulation and Order of Settlement constitutes an integrated Stipulation and Order of Settlement, containing the entire understanding of the Parties with respect to the matters addressed herein and, except as set forth in this Stipulation and Order of Settlement, no representations, warranties or promises, oral or written, have been made or relied on by the Parties. This Stipulation and Order of Settlement shall prevail over any prior communications between the Parties or their representatives relative to matters addressed herein. This Stipulation and Order of Settlement may not be changed unless the change is in writing and signed by the Parties or by order of the Court.

17. The Parties warrant and represent that they have read and understand the foregoing provisions of this Stipulation and Order of Settlement and that they and their respective signatories are fully authorized and competent to execute this Stipulation and Order of Settlement on their behalf.

18. Subject to the right of plaintiffs to seek extension of the Court's jurisdiction as provided in this paragraph and paragraph "19" of this Stipulation and Order of Settlement, the Court shall retain jurisdiction over this Stipulation and Order of Settlement for all purposes until fifteen (15) days after the provision of the ninth (9th) monthly monitoring report that includes information as to the fault for the delay, if any, in processing food stamp applications is provided to plaintiffs pursuant to paragraph "10" of this Stipulation and Order of Settlement, at which time the Court's jurisdiction shall end and the claims against the defendant shall be deemed dismissed with prejudice, unless the Stipulation and Order of Settlement is extended as provided in paragraph "19" herein. Such dismissal shall be automatic and the parties shall not be required to take any further steps to effectuate the dismissal.

19. Plaintiffs may move for enforcement of this Stipulation and Order of Settlement, including the remedy of extension of the Court's jurisdiction, based on a showing of systemic non-compliance by defendant with the terms of this Stipulation and Order of Settlement.

20. In the event that plaintiffs move for enforcement of this Stipulation and Order of Settlement, including the remedy of extension of the Court's jurisdiction, defendant shall not object to the standing of any of the plaintiffs to make that motion nor shall defendant interpose facts concerning the standing of any of the plaintiffs to bring such motion nor shall defendant object to the intervention or adding of such other additional plaintiffs who seek to enforce the order.

21. Nothing herein shall preclude or diminish plaintiffs' right to move for fees and costs pursuant to 42 U.S.C. § 1988. Within 45 days of entry of this Stipulation and Order of Settlement, plaintiffs' counsel shall submit a bill of costs and a motion for attorney's fees and costs with the Court, pursuant to 42 U.S.C. § 1988.

22. The parties agree the defendant must at all times comply with federal and state law. Accordingly, this Stipulation and Order of Settlement is subject to any changes in federal law applicable to the plaintiffs.

Dated: September 28, 2009

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So Ordered:

UNITED STATES DISTRICT JUDGE