

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Kevin Scott Karsjens, David Leroy Gamble,
Jr., Kevin John DeVillion, Peter Gerard
Loneragan, James Matthew Noyer, Sr.,
James John Rud, James Allen Barber,
Craig Allen Bolte, Dennis Richard Steiner,
Kaine Joseph Braun, Christopher John
Thuringer, Kenny S. Daywitt, Bradley Wayne
Foster, Brian K. Hausfeld, and all others
similarly situated,

Civil No. 11-3659 (DWF/JJK)

Plaintiffs,

v.

**ORDER APPOINTING EXPERTS
UNDER RULE 706 OF THE
FEDERAL RULES OF EVIDENCE**

Lucinda Jesson, Dennis Benson, Kevin
Moser, Tom Lundquist, Nancy Johnston,
Jannine Hébert, and Ann Zimmerman,
in their individual and official capacities,

Defendants.

1. By order of October 25, 2013 (Doc. No. 354), the Court required the parties to “each submit nominations for such [Fed. R. Evid. 706] experts and identify the experts’ respective areas of expertise and hourly rates.”

2. The parties have jointly nominated the following experts and summarized their areas of expertise as follows.

Naomi Freeman

Dr. Freeman leads New York’s unit for Strict and Intensive Supervision and Treatment (SIST) that manages civilly committed individuals outside of secure facilities. SIST is an option in New York for initial placement on commitment or for individuals who have been initially committed to a secure treatment facility. New York’s SIST law served as a model for the Sheran-Liebling legislation. Dr. Freeman’s experience is highly relevant to the development and operation of less restrictive alternatives.

Deb McCulloch

Ms. McCulloch is the director of Wisconsin's sex offender civil commitment program. In that role, she has direct experience in the intersection of treatment and security in a facility similar to MSOP. Her program also has many clients who have been fully discharged or placed on supervised release. Wisconsin's periodic review statute is the model for the Sheran-Liebling biennial review proposal. She frequently works with Wisconsin legislators and policymakers. In the legislative session that just ended, she worked specifically on amendments to the discharge/supervised release standards in light of her program's experiences. Ms. McCulloch can be a valuable resource to the court on conditions of confinement and less-restrictive alternatives as well as discharge standards.

Dr. Robin Wilson

Dr. Wilson was clinical director at the Florida sex offender civil commitment program for from 2006 to 2011, during which time there was a class action and settlement. He is a widely published researcher. Some of his recent work covers individuals with special needs and also community management of offenders. Dr. Wilson's background and knowledge is highly relevant to treatment program issues and less restrictive alternatives.

Dr. Michael Miner

Dr. Miner is a Professor and Director of Research, at the Program in Human Sexuality, Department of Family Medicine and Community of Health, at the University of Minnesota. He is also a licensed psychologist, and coordinator of forensic assessments. His areas of research include treatment of sex offenders, etiology of sexual abuse, and compulsive sexual behavior. Miner's research has been funded by Office of Juvenile Justice and Delinquency Prevention, National Center for Injury Prevention and Control of the Centers for Disease Control and Prevention, National Institute of Mental Health, and the National Institute of Justice. Beyond his primary research, Miner serves as co-investigator on many federal grants due to his expertise in research design and statistics. He has published numerous articles and book chapters on sex offender treatment, forensic assessment, instrument development, and evaluation methodology. His clinical work includes sex offender treatment, relationship and sexual dysfunction, and HIV counseling. Miner is an associate editor of *Sexual Abuse: A Journal of Research and Treatment* and he is past vice president of the International Association for the Treatment of Sexual Abusers and Representative at Large to the Board of the Association for the Treatment of Sexual Abusers from 2006-2011. Miner received his PhD from St. Louis University.

3. The Court accepts the parties' nominations and finds that, given their extensive yet complementary backgrounds, it would be appropriate for the experts to function as a team insofar as they are able and decide it would be appropriate.

Dr. Michael Miner, Dr. Robin Wilson, Deb McCulloch and Robin Freeman are hereby appointed as the Court's experts under Fed. R. Civ. P. 706.

4. The Court expects the experts to confer as soon as possible and to suggest a methodology, areas of concentration, and division of labor, together with an expedited timetable for submission of their findings to the Court. For their consideration as the experts formulate their approach, they are advised a single expert may be able to cover more than one of the duties specified below; also, an expert may provide information on professional standards generally without visiting the Minnesota Sex Offender Program. The experts may submit joint or separate reports.

5. The experts are responsible to the Court, not the parties, and are directed to provide their independent professional judgment in performing their duties under this order.

6. Pursuant to Fed. R. Evid. 706(b)(1), the experts shall submit their findings and recommendations to the Court and to the parties simultaneously.

7. The Department of Human Services (DHS), and all officials, staff, consultants and contractors for DHS, and all those acting in concert with them, are directed to provide full and complete access to all relevant information, documents and records requested by the appointed experts, including but not limited to those of present,

former or proposed patients in the Minnesota Sex Offenders Program. DHS shall further create and provide any aggregation or analysis of data requested by the appointed experts.

8. The appointed experts are entitled to speak privately with Department of Human Services (DHS) officials, staff, consultants and contractors for DHS, and all those acting in concert with them, and with present, former or proposed patients in the Minnesota Sex Offenders Program.

9. The duties of the experts shall be:

- To advise the Court on professional standards of care and treatment of sex offenders, both within and outside large facilities;
- To advise the Court on professional standards on conditions/rules regarding confinement/security within large facilities, such as the Minnesota Sex Offender Program;
- To advise the Court on experiences and programs among the states in this field;
- To advise the Court on research on effectiveness of treatment, and on recidivism, in both large facilities and appropriate less restrictive programs;
- To advise the Court regarding risk assessment and placement decisions for sex offenders;
- To advise the Court practices, rules, treatment, conditions, risk assessments, and the like at the Minnesota Sex Offender Program, and the professional adequacy of care, treatment and confinement at the Program;
- To advise the Court on any matters the experts believe are pertinent to understanding their findings and recommendations regarding the above duties;
- To make recommendations to the Court regarding these matters, and to respond to any further inquiries by the Court.

10. The experts are entitled to a reasonable compensation which shall be at their usual rate for such work and shall be no more than \$300 per hour.

11. Pursuant to Rule 706(c), the compensation shall be charged as costs in this litigation. The compensation shall be paid by the parties in the proportion and at the time the Court will direct. Within ten (10) days of the date of this Order, the parties shall confer and report to the Court any joint or separate recommendations they may have for the allocation of such payment.

Dated: December 6, 2013

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge