

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

RHODE ISLAND AFFILIATE
OF THE AMERICAN CIVIL LIBERTIES
UNION, INC.

VS.

C.A. No. PC10-3788

DR. MICHAEL FINE, in his capacity as
Director of the Rhode Island
Department of Health

CONSENT DECREE

WHEREAS, Plaintiff, Rhode Island Affiliate of the American Civil Liberties Union, Inc. has filed this civil action against Defendant, David Gifford, in his capacity as Director of the Rhode Island Department of Health, alleging facts and causes of action as set forth in its Complaint and seeking declaratory and injunctive relief; and

WHEREAS, Defendant, Department of Health, expressly denies the allegations and claims in this civil action; and

WHEREAS, the parties agree that it is in their best interest to settle this civil action;

NOW, THEREFORE, the parties to this civil action, by and through the undersigned attorneys of record, stipulate and agree to the following:

1. That, pursuant to Rule 25 of the Rhode Island Superior Court Rules of Civil Procedure, Defendant, David Gifford is hereby substituted as a party to this action by Doctor Michael Fine, as Director of the Rhode Island Department of Health;
2. The Defendant's prior practice of adopting unofficially promulgated policies to implement obligations under the Rhode Island Health Information Exchange Act of 2008 shall cease, and those regulations and policies previously adopted by the Department of Health in support of their obligations under the Act shall be superseded by the regulations described below in Paragraph 3.
3. The Defendant has prepared for promulgation, regulations, agreed to by the Plaintiff which completely fulfill his duties and obligations under the Health Information Exchange, for notice, comment and public hearing on April 14, 2014, or such other date as shall be duly noticed and advertised;

4. The State shall consider all comments received during the open notice and comment period, as well as those as presented during the public hearing as required by the Rhode Island Administrative Procedures Act;
5. Upon close of the public hearing, the proposed Regulations, as revised during the open notice and comment period and incorporated at the public hearing, shall be adopted;
6. The Department of Health shall pay reasonable attorneys' fees in the amount of Twelve Thousand (\$12,000.00) Dollars to Plaintiff; and
7. The parties acknowledge and agree that there shall be a fee sharing arrangement, under the Rhode Island Rules of Professional Conduct, Rule 5.4(a)(4), resulting in a legal fee division of fifty (50%) percent to Frederic A. Marzilli, Esquire and fifty (50%) percent to the American Civil Liberties Union Foundation of Rhode Island.

ORDER:

B. Hengalamy
Clerk

Respectfully submitted:

4/16/14

Plaintiff,
Rhode Island Affiliate American Civil
Liberties Union, Inc.
By its attorney

Frederic A. Marzilli

Frederic A. Marzilli (2266)
685 Warren Avenue
East Providence, RI 02914
(401) 434-5887

ENTER:

Gifford 4/16/14

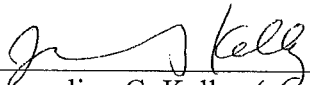
Defendant,
David Gifford, in his capacity as Director
Rhode Island Department of Health
By its attorney

Peter F. Kilmartin
Attorney General

Matthew I. Shaw

Matthew I. Shaw (7325)
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Jacqueline G. Kelley (xxxx)
Office of Health and Human Services

Dated: 4/1/14