

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RAYMOND O'TOOLE, ILONA SPIEGEL, and
STEVEN FARRELL, individually and on behalf of all
others similarly situated

Plaintiffs,

- against -

KATHY HOCHUL, in her official capacity as Governor
of the State of New York, NIRAV R. SHAH, in his
official capacity as Commissioner of the New York State
Department of Health, ANN MARIE T. SULLIVAN, in
her official capacity as Commissioner of the New York
State Office of Mental Health, THE NEW YORK
STATE DEPARTMENT OF HEALTH, and THE
NEW YORK STATE OFFICE OF MENTAL
HEALTH,

13-CV-4166-NGG-ST

Defendants.

[PROPOSED] ORDER OF DISMISSAL AND JUDGMENT

The parties having agreed that Defendants are in substantial compliance with the Third Stipulation and Order of Settlement (the “Order”), this case, *O’Toole, et al. v. Hochul, et al.*, Civil Action No. 13-cv-4166 (the “Action”), is dismissed with prejudice pursuant to Paragraph J.1 of the Order.

Notwithstanding this Dismissal and Judgment, between June 30, 2025, and June 30, 2026 (“the Transitional Phase”), this Court shall retain jurisdiction over this Action solely to consider a motion by Plaintiffs to restore the Action to the Court’s calendar. Plaintiffs may file a motion to restore the Action to the Court’s calendar for the limited and sole purpose of addressing any major, systemic issues that emerge during the Transitional Phase, arising out of non-compliance by Defendants with a material provision of the Order that is not minimal or isolated but substantial and sufficiently frequent or widespread to be systemic, and which cause: (1) a significant number of Class Members to be deprived of the services Defendants are obligated to provide under the terms of the Order, or

(2) a significant number of new individuals with serious mental illness, who are not the subject of a waiver, to be admitted to Transitional Adult Homes as defined by 18 NYCRR 487.13 (“a Systemic Event”). There shall be no further extensions of the Court’s jurisdiction over the Action, unless the Court finds that additional time is needed to address a Systemic Event raised by Plaintiffs during the Transitional Phase.

In the event Plaintiffs believe a Systemic Event has occurred during the Transitional Phase, Plaintiffs shall notify Defendants’ counsel, and counsel to the parties shall meet and confer in an effort to resolve the reported issue. If Plaintiffs file a motion, Plaintiffs shall bear the burden of establishing the existence of such a Systemic Event. This Dismissal and Judgment does not constitute a waiver of arguments that could be raised in a motion by Plaintiffs to restore the Action during the Transitional Phase.

During the Transitional Phase, Defendants will submit Quarterly Reports to the Plaintiffs that contain the following information: (a) Appendix E, as described in Paragraph H.2 of the Order, provided in the same format as it is currently provided; (b) aggregate data on post-transition incidents as defined in Paragraph D.2 of the Order; and (c) admission of people with serious mental illness to Transitional Adult Homes. Defendants shall designate a State point of contact to whom Plaintiffs may raise concerns and who will confer in good faith about reasonable requests for information or documents about Class Members who are individually identified as potentially deprived of the services Defendants are obligated to provide under the terms of the Order. Such requests shall be reasonably limited in number and scope and related to the services Defendants are obligated to provide under the terms of the Order. Defendants are authorized to provide Plaintiffs’ counsel with protected health information, specifically medical and mental health information regarding Class Members, during the Transitional Phase. All such information shall be maintained by Plaintiffs’ counsel in accordance with all applicable state and federal confidentiality regulations. Consistent with Paragraph H.6. of the

Order, any personally identifying information shared with the Plaintiffs about Class Members shall be treated and maintained as confidential.

In the event that the currently assigned District Court Judge ceases to serve on the Court or otherwise becomes unavailable during the Transitional Phase, the parties shall jointly request that the Chief Judge of the United States District Court of the Eastern District of New York appoint a replacement District Court Judge for this matter.

SO ORDERED THIS 30th
DAY OF June, 2025

s/Nicholas G. Garaufis

Hon. Nicholas G. Garaufis
United States District Judge