IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
v.	)	CIVIL ACTION NO: 2:08-cv-475
THE STATE OF OHIO, *et al.*,	)	
Defendants.	)	

UNITED STATES' MOTION FOR LEAVE TO FILE SUPPLEMENTAL COMPLAINT

The United States moves the Court for leave to file a Supplemental Complaint in this matter, under Fed. R. Civ. P. 15(d). The grounds for this motion are set forth in the attached Memorandum of Points and Authorities. The United States requests an expedited ruling on this motion in order to expedite consideration of the accompanying Motion for a Temporary Restraining Order.

Respectfully Submitted,

s/ Silvia J. Dominguez-Reese
SILVIA J. DOMINGUEZ-REESE
Trial Attorney
U.S. Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 616-8547(T)
(202) 514-4883 (F)
Silvia.Dominguez-Reese@usdoj.gov

Attorney for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE UNITED STATES' MOTION FOR LEAVE TO FILE SUPPLEMENTAL COMPLAINT

The United States seeks to supplement its Complaint in this case under Fed. R. Civ. P. 15(d) to enforce the constitutional and federal statutory rights of youth confined in Ohio's juvenile justice facilities, including youth in Circleville Juvenile Correctional Facility ("Circleville"), Cuyahoga Hills Juvenile Correctional Facility ("Cuyahoga"), Indian River Correctional Facility ("Indian River"), and Scioto Juvenile Correctional Facility ("Scioto") (collectively, the "DYS Facilities"). The United States alleges that the State of Ohio (the "State") is engaging in a pattern or practice of harming youth in its custody through its unnecessary use of seclusion. The United States also alleges that the State is engaging in a pattern or practice of denying adequate mental health care and rehabilitative treatment to youth in its custody, particularly youth the State has harmed through unwarranted seclusion. Finally, the United States alleges that the State's use of seclusion exceeds the point that the use is reasonably related to a legitimate governmental objective and is tantamount to punishment and a violation of youths' due process rights. *See* U.S. Supplemental Compl. (Attach. A). The United States discovered this conduct recently, and subsequent attempts to resolve the violations without litigation have failed. The United States notified the State of its intention to seek leave to file a Supplemental Complaint on March 7, 2014. On March 10, 2014, the United States contacted the State to ascertain whether it would consent to the motion, and the State replied that it would object to this motion.

I. INTRODUCTION

The United States has pursued reform of unlawful conditions at the DYS Facilities since May 2007, when it issued findings of unlawful conditions at Scioto and the since-closed Marion

Juvenile Correctional Facility ("Marion"). The United States entered into a stipulation with the State regarding Scioto and Marion in June 2008 in this case, *U.S .v. Ohio*, ECF No. 8, and has participated as an interested party in the related case, *S.H. v. Reed*, No. 2:04-cv-1206 (S.D. Ohio), since that time. Thereafter, the parties and the monitoring teams in each case worked toward resolving the unconstitutional conditions, and the United States understood that the litigation was working its way toward a final resolution.

That understanding changed beginning in November 2013. Recent developments have made it increasingly clear that certain unconstitutional conditions exist at Scioto as well as the other DYS Facilities, placing Scioto boys and other youth at risk of continued harm, with no signs from the State that it intends to remedy these conditions. In particular, these developments include:

- The discovery in November 2013 that the State is excessively secluding youth at Scioto who have significant mental health needs, *see* K. Dedel, Results of Seclusion Analysis (Nov. 8, 2013) (Attach. B);

- The State's announcement in November 2013 that it is closing Scioto and moving the 20 boys there to other DYS Facilities by May 2014, *see* Letter from Harvey Reed, DYS Director, to Stakeholders (Nov. 21, 2013) (Attach. C);

- The State's attempt on December 18, 2013, to end the stipulation in *U.S. v. Ohio* via the Prison Litigation Reform Act ("PLRA") rather than correct its unlawful practices, *see U.S. v.Ohio*, ECF No. 121;

- The discovery on January 17, 2014, that the State is also excessively secluding youth with mental health needs at its other DYS Facilities, as reflected in records the State produced that day, *see* United States' Seclusion Hours Summary Table (Attach. D);

- The failure of mediation in January 2014 to resolve concerns about the State's seclusion of, and provision of mental health services to, youth with mental health needs; and

- The *S.H.* plaintiffs' filing on February 18, 2014, of a motion for specific performance on these issues, *see id.* at ECF No. 389.

It is thus appropriate for the United States to supplement its Complaint in this matter in order to ensure full and appropriate relief for Scioto boys and other youth in all DYS Facilities. The United States seeks to supplement its Complaint to include these new events: the State's closure of Scioto, the State's transfer of boys subject to excessive seclusion at Scioto to other DYS Facilities where the same unconstitutional conditions exist, and the State's pattern and practice of harming Scioto boys and other youth through excessive seclusion and insufficient mental health treatment at the other DYS Facilities. As discussed below, the United States' motion to supplement its Complaint should be granted because the inclusion of the new facts will avoid piecemeal litigation, allow a prompt and efficient resolution of the entire controversy between the parties, and impose no prejudice on the State. In particular, the State will not be prejudiced by allowing the United States to add the new facts because they are timely filed, relate to the same legal theories underlying the original Complaint, will not impose undue delay or trial inconvenience, and the State has received ample notice of its constitutional violations. More fundamentally, this Court should grant the United States' motion to supplement its Complaint so that the United States can promptly vindicate the federal rights of youth that the State is violating by excessively isolating them and denying them access to mental health care.[1]

[1] The United States Attorney General is tasked with protecting the rights of juveniles in custody pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. A national enforcement priority of the United States is preventing the use of unlawful seclusion on persons in custody who have significant mental health needs. The United States can best fulfill these responsibilities to protect the public interest by resolving the unconstitutional conditions at all DYS Facilities in a single action.

II. BACKGROUND

A. The State Has Inflicted Extraordinary Levels of Seclusion on Scioto Youth.

On November 8, 2013, the United States learned that the State was inflicting extraordinary rates of seclusion on youth, particularly youth with mental health needs. On that day, the monitor in this case[2], Dr. Kelly Dedel, reported that the State had secluded a number of youth for over 10 percent of their total time in custody over a recent six-month period. *See* Attach. B. She noted "that there are a number of [Scioto] youth who spent a considerable amount of time (20, 30, 40, nearly 50 days) in seclusion." *Id*. at 1. All of the youth identified in her report also suffered mental health issues. *Id.* at 2.

The monitor also reported that the State was denying mental and behavioral health treatment to the same Scioto youth with mental health disorders whom it was secluding, thereby effectively withholding the interventions these youth needed to address the causes of the behaviors triggering their seclusion. *See* Fifth Compliance Report, *U.S. v. Ohio*, ECF No. 127. The monitor's subject matter expert reviewed the mental health records of the youth identified in the monitor's report, and this review revealed that these youth were not receiving mental health treatment via group during their seclusion period. Instead, they received visits by mental health staff limited to "brief checks per protocol, [that] were not treatment oriented." *Id.* at 60.

---

[2] The Consent Order addresses violations of federal rights including, but not limited to, failures to protect youth from harm, inadequate provision of mental health care, and the excessive use of seclusion. *U.S. v. Ohio*, ECF No. 8.

B. **The Other Three DYS Facilities Similarly Impose Seclusion and Withhold Mental Health Care.**

The State's unconstitutional treatment of youth in its custody is not limited to Scioto youth. In January 2014, the State provided the United States and *S.H.* plaintiffs with seclusion data for youth with mental health disorders at all four DYS Facilities for the period July 1, 2013-December 31, 2013. The State's data were clear: It imposed 59,865 seclusion hours on 229 youth with mental health disorders during this six month period. *See* Attach. D.

In December 2013, Dr. Andrea Weisman, a member of the *S.H.* monitoring team, confirmed that the excessive use of seclusion at Scioto was present at the other DYS Facilities. Specifically, Dr. Weisman explained:

> It is clear to me that the deficiencies in behavioral health care led to the high rates of seclusion for youth at Scioto, and that the same deficiencies exist at the other three DYS facilities. . . . Given the recent closure of the [Scioto special management unit] and Scioto JCF, plaintiffs' question regarding whether youth with behavioral challenges at other facilities spend a significant portion of their DYS stays in seclusion is a valid one.

See Report by Andrea Weisman, *S.H.* "Compliance with Consent Order Provisions Regarding Mental Health" (Dec. 16, 2013) (Attach. E). In early January 2014, Dr. Weisman reviewed the mental health records for youth at Circleville, Indian River, and Cuyahoga and found that youth with mental health disorders were disproportionately engaging in behaviors likely to result in their being secluded. *S.H. v. Reed*, ECF No. 388.

C. **The State Has Refused to Address the Seclusion and Mental Health Care Problems at the Facilities.**

The parties have been unable to resolve the problems Dr. Dedel identified. Following her November 8, 2013, seclusion report, both the United States and Dr. Dedel invited the State to engage in substantive discussions about its seclusion practices. Instead, the State filed a PLRA

motion on December 18, 2013, to terminate this case. *U.S. v. Ohio*, ECF No. 121. Settlement discussions broke down at a joint January 29, 2014 court-mediated settlement conference. The *S.H.* plaintiffs moved for specific performance on February 18, 2014, and the United States promptly sought leave to supplement its Complaint.

D. The Proposed Supplemental Complaint.

The proposed Supplemental Complaint is attached for the Court's review. Attach. A. As with the allegations in the United States' original Complaint, the Supplemental Complaint includes allegations concerning newly discovered events involving Defendants' pattern or practice of harming youth through unnecessary seclusion and the denial of adequate mental health care and rehabilitative treatment. Specifically, the new events detailed in the Supplemental Complaint include the State's closure of Scioto, the State's transfer of boys subjected to excessive seclusion at Scioto to other DYS Facilities where the same unconstitutional conditions exist, and the State's pattern and practice of harming Scioto boys and other youth through excessive seclusion and insufficient mental health treatment at the other DYS Facilities. These new allegations are based upon information revealed by the monitors in this case and the *S.H.* case. Despite significant efforts to reach a resolution outside of litigation, it has become evident that the State has not remedied these violations. Consequently, the United States seeks to supplement its Complaint to vindicate the rights of Scioto youth who have been, or will be transferred to the State's other Facilities, and the rights of other youth at these Facilities whom the State has excessively secluded and prevented from receiving adequate mental health care.

E. <u>The United States' Dismissal Without Prejudice.</u>

On May 16, 2008, the United States moved to intervene in *S.H. v. Reed*. *See S.H. v. Reed*, ECF No. 99. On June 5, 2008, the United States entered into a stipulation with the State to remedy the conditions at Scioto and Marion and stipulated to the conditional dismissal of its original Complaint as to the other DYS Facilities. *See U.S. v. Ohio*, ECF No. 6. The *S.H.* plaintiffs separately entered into a consent decree with the State to remedy conditions at all DYS Facilities. The order conditionally dismissing the United States' Complaint in intervention was without prejudice. *U.S. v. Ohio*, ECF No. 7. Federal Rule of Civil Procedure 41(a)(2) instructs that a court-ordered voluntary dismissal is without prejudice unless the order of dismissal states otherwise. Following the conditional dismissal, the United States participated in *S.H.* as an interested party.

On February 18, 2014, the *S.H.* plaintiffs moved for specific performance to secure compliance with the *S.H.* consent decree. *S.H. v. Reed*, ECF No. 388. The *S.H.* plaintiffs argue that the State must provide adequate mental health treatment to address youth's misconduct and respond in a manner that reduces recurrence – not simply resort to seclusion again and again. *Id.* The *S.H.* plaintiffs allege that the conditions for youth on the DYS Facilities' mental health caseload violate both the *S.H.* consent decree and the Eighth and Fourteenth Amendments to the Constitution. *Id.*

III. ARGUMENT

The United States seeks leave to supplement its Complaint pursuant to Fed. R. Civ. P. 15(d), which provides that "the [C]ourt may, on just terms, permit a party to serve a

supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented." Fed. R. Civ. P. 15(d). The Sixth Circuit has instructed that Rule 15(d) should be given a "liberal construction," so as "to permit amendments freely." *McHenry v. Ford Motor Co.*, 269 F.2d 18, 24, 25 (6th Cir. 1959).

"The purpose of Rule 15(d) is to promote as complete an adjudication of the dispute between the parties as possible by allowing the addition of claims which arise after the initial pleadings are filed." *William Inglis & Sons Baking Co. v. ITT Cont'l Baking Co.*, 668 F.2d 1014, 1057 (9th Cir. 1981) (citing *Case-Swayne Co. v. Sunkist Growers, Inc.*, 369 F.2d 449, 462 (9th Cir. 1966); 6 C. Wright & A. Miller, *Federal Practice and Procedure* § 1504 (1971)). Rule 15(d) allows a party to seek additional relief where, as here, events occurring subsequent to the original complaint justify such relief. *See Griffin v. Cnty. Sch. Bd.*, 377 U.S. 218, 226-27 (1964) (finding grant of leave to file supplemental complaint proper where original complaint challenged racial segregation in public schools and, ten years later, supplemental complaint challenged the same county's subsequent funding of segregated private schools in a "continued, persistent effort[]" to avoid desegregation). Courts normally grant leave to file a supplemental complaint if there is no substantial showing of prejudice to the defendant. *See McHenry*, 269 F.2d at 25.

Consistent with this lenient standard, the Court should grant the United States leave to file a supplemental complaint under Fed. R. Civ. P. Rule 15(d) because it would avoid piecemeal litigation and allow a prompt and efficient resolution of the entire controversy between the parties without prejudice to the State.

A. Supplementation Will Allow a Prompt and Efficient Resolution of the Entire Controversy Between the Parties and Will Avoid Piecemeal Litigation.

Consistent with the purpose of Rule 15(d), the United States' Supplemental Complaint will promote the prompt, efficient, and full resolution of all of the claims at issue here regarding excessive seclusion of youth with mental health disorders. This Court has stated that "[a]s a matter of judicial economy, and for the sake of providing a complete and adequate remedy, if plaintiff prevails on the merits, the plaintiff should present any and all additional allegations concerning the defendants' illegal conduct, occurring subsequent to the filing of the . . . [c]omplaint." *Selelyo v. Drury*, 508 F. Supp. 122, 128 (S.D. Ohio 1980) (urging plaintiff to file a supplemental complaint). The alternative is for the United States to initiate a separate action, which would involve needless expense, delay, and waste of judicial resources. This would also result in piecemeal litigation in which the parties would litigate the issue of excessive seclusion at Scioto in this case while separately litigating the same issues at the other DYS Facilities in another case. "[P]iecemeal litigation should be discouraged, not only because it is antagonistic to the goals of public policy, but also because it is prejudicial to the rights of individual litigants." *Troxel Mfg. Co. v. Schwinn Bicycle Co.*, 489 F.2d 968, 970 (6th Cir. 1973). Allowing the United States to file a supplemental complaint would avoid piecemeal litigation between the same parties on substantially similar issues.

Hearing the additional violations now – rather than in new litigation – is particularly appropriate because of the public interest at stake. The United States seeks to supplement its Complaint in order to fully protect the federal rights of youth confined in the DYS Facilities, especially youth who have been, or will be, moved to other DYS Facilities from Scioto. This interest arises out of the United States' efforts in this case to safeguard the federal rights of youth

who have experienced unlawful conditions at Scioto. Those youth are now being transferred to other DYS Facilities where they are experiencing harm resulting from the same type of unlawful conditions. The State cannot avoid its obligations in this suit to the Scioto youth simply by transferring them to other DYS Facilities. *Cf. Griffin*, 377 U.S. at 226-27 (explaining that grant of leave to file supplemental complaint was proper to address a "continued, persistent effort[]" to avoid court-mandated desegregation). It is vital that these issues be resolved in the most expeditious manner available to the parties and the Court. Until then, the State will continue to harm youth in its custody by subjecting them to excessive seclusion and denying them adequate mental health care.[3]

B. Supplementation Will Not Prejudice the State.

The Court should freely grant leave to supplement the Complaint where, as here, there is no substantial showing of prejudice to the State. *See McHenry*, 269 F.2d at 25. In the similar context of a motion to amend a complaint, [4] the opposing party must make a "significant showing of prejudice to prevail." *Sec. Ins. Co. v. Tucker & Assocs.*, 64 F.3d 1001, 1009 (6th Cir. 1995). The State cannot show it will be prejudiced, because it has received ample notice of the

[3] For this reason, the United States intends to seek a temporary restraining order when its motion to supplement is granted, to stop the most egregious aspects of the State's unlawful conduct.

[4] Courts have recognized that the same factors and rationale may apply to motions to supplement pleadings under Fed. R. Civ. P. 15(d) as to motions to amend under Fed. R. Civ. P. 15(a). *See Marshall v. Columbus*, No. 2:05-cv-484, 2008 WL 4334616, at *2 (S.D. Ohio Sept. 17, 2008) (citing *Spies v. Voinovich*, No. 00-4015, 48 Fed. Appx. 520, 527 (6th Cir. Sept. 20, 2002)). Factors to be considered in deciding a motion to amend include "[u]ndue delay in filing, lack of notice to the opposing party, bad faith or dilatory motive on the part of the moving party, repeated failure to cure deficiencies by previous amendments, undue prejudice to the opposing party by virtue of allowance of the amendment, and futility of the amendment." *Foman v. Davis*, 371 U.S. 178, 182 (1962). As discussed herein, the United States has timely filed this motion, the State received sufficient notice of the violations, and the State will not be prejudiced by any delay or impairment of discovery or trial preparation. The other factors – bad faith, repeated failure to cure deficiencies by previous amendments, and futility – are plainly not at issue here.

unconstitutional conditions at the DYS Facilities, the United States has acted in a timely manner in filing its Supplemental Complaint, and the litigation will not be unduly delayed or otherwise impaired.

1. The State Has Been on Notice of its Constitutional Violations and the United States' Supplemental Complaint Is Timely.

The State has had ample notice that the conditions in the DYS Facilities are unconstitutional and that the United States would seek to remedy these conditions. The United States' initial Complaint put the State on notice that unnecessary and excessive seclusion and failure to provide adequate mental health treatment to youth in custody constituted constitutional violations for which the United States could seek relief. *U.S.v. Ohio*, ECF No. 2. Thus, the State has known since 2007 that the United States could bring claims for these types of conditions. The State itself has been in the best position to know whether these conditions actually existed at the DYS Facilities.

As soon as the United States became aware of the present unconstitutional conditions, it contacted the State and subsequently made several attempts to resolve its concerns outside of litigation. Following calls and email exchanges in which the United States attempted to discuss the State's use of seclusion at Scioto, the State responded to these concerns by moving to terminate the parties' Stipulation under the PLRA on December 18, 2013. *U.S. v. Ohio*, ECF No. 121. At a December 19, 2013 status conference, the Court encouraged the parties to negotiate a settlement of these issues, and the parties agreed to temporarily refrain from litigating. *S.H. v. Reed*, ECF No. 387. Throughout this entire period, the United States – and the *S.H.* plaintiffs – sought to negotiate with the State to resolve their concerns regarding seclusion and mental health care. On January 29, 2014, the parties engaged in court-directed mediation, at

which the United States raised all of its concerns regarding the use of excessive seclusion at Scioto, the closure of Scioto, the transfer of the Scioto boys to other DYS Facilities, and the existence of unconstitutional conditions in the form of excessive seclusion at the other DYS Facilities and denial of mental health care to youth there, particularly youth subjected to seclusion. All attempts to resolve these issues ended without success.

On March 7, 2014, the United States notified the State that, in light of the failed settlement negotiations, it intended to seek leave to file a supplemental complaint regarding these issues. On March 10, 2014, the United States contacted the State in an attempt to ascertain its position and, when the State did not consent, the United States promptly filed this motion. Thus, the State has received sufficient notice of the unconstitutional conditions at DYS Facilities and the United States has timely sought to supplement its Complaint in this matter.

2. The Allegations in the Supplemental Complaint Are Related and Substantially Similar to the United States' Original Complaint.

"[W]here facts set forth in the original complaint relate to and support the new cause of action in the amended complaint, the amended cause of action 'is not so different as to cause prejudice to the defendant.'" *Belle v. Ross Prods. Div.*, No. 2:01-CV-677, 2003 WL 133242, at *3 (S.D. Ohio Jan. 2, 2003) (quoting *Tefft v. Seward*, 689 F.2d 637, 639 (6th Cir. 1982)). Here, the United States seeks to advance new facts that are related and substantially similar to the claims presented against the State in the United States' original Complaint.[5] The allegations in

[5] Courts have found supplementation appropriate where the supplemental complaint alleges new facts that relate to the cause of action in the original complaint, and where the supplemental complaint alleges a course of conduct that has continued from the filing of the original complaint. *See, e.g.*, *Griffin*, 377 U.S. at 226-27 (explaining that the supplemental pleading added new parties and relied on events that occurred since the action began, which were "alleged to have occurred as a part of continued, persistent efforts" to circumvent the Court's prior holding requiring desegregation of public schools); *McHenry*, 269 F.2d at 25 (finding that where

the Supplemental Complaint relate to facts that the United States has recently discovered, regarding violations of youths' federal rights at all four DYS Facilities. But these allegations are factually similar and related to the claims in the original Complaint. Moreover, the Supplemental Complaint arises out of the United States' continued interest in protecting the rights of former Scioto youth.

The original Complaint and the proposed Supplemental Complaint share core questions of law and fact:

- Whether the State has deprived youth in DYS Facilities of their rights under the Fourteenth Amendment to the Constitution, Compl. at ¶ 20; Supplemental Compl. at ¶ 24;
- Whether the State fails to provide adequate mental health care and rehabilitative treatment to youth with mental health needs at the DYS Facilities, Compl. at ¶ 24; Supplemental Compl. at ¶ 20; and
- Whether the State fails to ensure that youth at the DYS Facilities are adequately protected from harm and from undue risk of harm, especially harm due to unnecessary and excessive seclusion, Compl. at ¶ 22; Supplemental Compl. at ¶ 21.

Accordingly, the State cannot show prejudice, because the Supplemental Complaint is related and substantially similar to the claims and facts in the original Complaint.

3. **<u>Supplementation Will Not Cause Undue Delay or Impair the State's Trial Preparation.</u>**

The State cannot show that any delay will ensue if the United States' motion is granted, nor can the State show that its ability to litigate these issues will be impaired. "[P]rejudice is demonstrated when a party has insufficient time to conduct discovery on a new issue raised in an untimely manner. Allowance of the amendment would then force that party to go to trial without

new allegations described a continuing trespass, supplementation "should be allowed almost as a matter of course"). Moreover, "a change in legal theory of the action is not the test of propriety of an amendment to a pleading, particularly in view of the prevailing practice of making final disposition of actions on the evidence rather than the pleadings." *McHenry*, 269 F.2d at 25 (allowing supplementation where supplemental complaint stated a new cause of action).

adequate preparation on the new issue." *Estes v. Ky. Utils. Co.*, 636 F.2d 1131, 1134 (6th Cir. 1980) (quoting *Garrison v. Balt. & Ohio R.R. Co.*, 20 F.R.D. 190 (W.D. Pa. 1957)); *see also Hageman v. Signal L.P. Gas, Inc.*, 486 F.2d 479, 484-85 (6th Cir. 1973) (quoting *Green v. Wolf Corp.*, 50 F.R.D. 220, 223 (S.D.N.Y. 1970)). Here, the dispute over the State's use of seclusion and provision of mental health care at the DYS Facilities has just begun. There is presently no discovery schedule or trial date set. There has been no litigation taking place because parties have been working to resolve the issues outside of court. With the filing of the Supplemental Complaint, the parties and the Court will have the opportunity to set a schedule for discovery on these issues, providing the State sufficient time to conduct any discovery and trial preparation it deems necessary. Discovery will be followed by a full hearing and decision by the Court. *See McHenry*, 269 F.2d at 25 ("A full hearing and decision on the merits can do injustice to neither party."). The State thus cannot show that it will be prejudiced by any delay or inability to conduct discovery or prepare for trial.

IV. CONCLUSION

Supplementation of the United States' Complaint, rather than prejudice the State, will advance judicial economy for the benefit of the parties and the Court. More fundamentally, it will accelerate the adjudication of the United States' claims that the State is currently violating the most basic federal rights of youth in its custody by excessively secluding them and withholding mental health care from them. These claims warrant this Court's immediate attention. Accordingly, the Court should grant the United States' Motion for Leave to File a Supplemental Complaint.

DATE: March 12, 2014

Respectfully submitted,

CARTER STEWART
United States Attorney
Southern District of Ohio

*/s/ Deborah F. Sanders*____________
DEBORAH F. SANDERS (0043575)
Assistant United States Attorney
Southern District of Ohio
303 Marconi Boulevard, Suite 200
Columbus, Ohio 43215
(614) 469-5715 (T)
(614) 469-5653 (F)
Deborah.Sanders@usdoj.gov

STEVEN M. DETTLEBACH
United States Attorney
Northern District of Ohio

*/s/ Michelle L. Heyer*____________
MICHELLE L. HEYER, Reg. No. 0065723
Assistant United States Attorney
Northern District of Ohio
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113
(216) 622-3686/(216) 622-3781 (T)
(216) 522-2404 (F)
michelle.heyer@usdoj.gov

JOCELYN SAMUELS
Acting Assistant Attorney General
Civil Rights Division
United States Department of Justice

JONATHAN M. SMITH
Chief
Special Litigation Section

BENJAMIN O. TAYLOE, JR.
Deputy Chief
Special Litigation Section

CYNTHIA COE
ALEXANDRA L. SHANDELL
Trial Attorneys
Special Litigation Section

*/s/ Silvia J. Dominguez-Reese*__________
SILVIA J. DOMINGUEZ-REESE
Trial Attorney
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 616-8547(T)
(202) 514-4883 (F)
Silvia.Dominguez-Reese@usdoj.gov

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this date, March 12, 2014, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will simultaneously serve notice of such filing to counsel of record and the Court Monitor to their registered electronic mail addresses.

/s/ Silvia J. Dominguez-Reese
SILVIA J. DOMINGUEZ-REESE
Trial Attorney
U.S. Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 616-8547 (T)
(202) 514-4883 (F)
Silvia.Dominguez-Reese@usdoj.gov

Attorney for Plaintiff

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
v.	)	CIVIL ACTION NO: 2:08-cv-475
THE STATE OF OHIO, *et al.*,	)	
Defendants.	)	

[PROPOSED] ORDER GRANTING UNITED STATES' MOTION FOR LEAVE TO FILE SUPPLEMENTAL COMPLAINT

Upon consideration of the parties' submissions and the applicable law, the Court hereby grants the United States' Motion for Leave to File Supplemental Complaint.

It is so ordered.

Signed this ____ day of ____________, 2014

____
HONORABLE ALGENON MARBLEY
UNITED STATES DISTRICT JUDGE