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District Court Says Inmate's Claim Against Prison Operators May Proceed

Court Holds Pre-Lawsuit Administrative Claim Filing Requirements Do Not Apply to Tort Claims Against Private Parties.

By Feldman & Wallach

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LOS ANGELES, Feb. 22, 2013 -- /PRNewswire/ -- Asserting that their inmate-client, Gregory Edison, was negligently exposed to a terminal and deadly form of Valley Fever, Los Angeles-based attorneys, Jason Feldman and Ian Wallach, prevailed in court on Friday, February 22, 2013, when the court held that the case of *Edison v. GEO Group, Inc. et al.* (EDCA 1:12-cv-02026) could proceed.

The case before the United States District Court for the Eastern District of California, brought by an inmate housed at the Taft Correctional Facility in Taft, California, alleges that the subcontractors who operated the prison, The GEO Group, Inc. ("GEO") and Management and Training Corporation ("MTC"), failed to protect Mr. Edison from acquiring the terminal form of coccidiomycosis (aka "Valley Fever").

GEO and MTC moved to dismiss the case--asserting that the Plaintiff failed to exhaust the administrative remedy filing requirements normally asserted by Governmental entities. Feldman and Wallach countered that such requirements do not apply to tort claims against private entities.

United States Senior District Judge Anthony W. Ishii upheld the findings of Magistrate Judge Jennifer L. Thurston, who had explained that there was no statutory authority supporting Defendants' argument that they were permitted to impose an administrative remedy that must be exhausted before an inmate may file a complaint raising state tort claims.

The Defendant corporations cited *Wright v. State of California*, 122 Cal.App.4th 659 (Cal.Ct.App. 2004), as authority for the proposition that an inmate raising a state-law claim must exhaust

administrative remedies before suing them. The Court disagreed, by stating "Neither GEO nor MTC are administrative tribunals. Thus, there is no other tribunal involved whose jurisdiction is an impediment to this Court's authority. Likewise, the instant matter does not concern remedies provided by an administrative agency, but instead, a remedial scheme imposed by private corporations." The Court further stated "There are statutorily-mandated procedures in place for tort claims (28 CFR part 543, subpart C) . . . Coupled with 28 CFR § 542.10's explicit instruction that '...the Bureau will refer the inmate to the appropriate statutorily-mandated procedures,' there can be no serious argument that tort claims brought against the [Bureau of Prisons] must be pursued according to the four-part process as a prerequisite to filing suit." The ruling also concluded its ruling remarks, with "Therefore, because 28 CFR § 542.10 does not require a federal prisoner placed in a federal prison to exhaust a tort claim through the four-part administrative remedy program, there is no legal footing for the proposition that a federal prisoner placed in a non-federal facility, must."

"This is a great win for inmates whose terminal illnesses could have been prevented," said attorney Wallach, "All these prisoners want is their day in court. Wallach went on to say, "These rulings have paved the way for that possibility."

Moreover, attorney Jason Feldman asserts, "Society has not yet arrived at the era when corporate immunity is stronger than sovereign immunity. These are private, for-profit companies asking the court to give them broader protections than even those available to the government," added Feldman. Feldman further explained that GEOs and MTC's position would have, in essence, created a 20-day statute of limitations for tort claims making it virtually impossible for anyone to bring a tort claim against a private company running a federal prison. Wallach further stated, "This ruling could have broad implications for private companies that assume government functions."

Another matter with very similar claims and defenses--*Fekrat v. GEO Group, Inc. et al.*, (EDCA 1:12-cv-01940) is also pending before the Eastern District of California, and it is anticipated that a similar order will imminently be issued by the court.

Feldman and Wallach are available for comment by contacting their press relations manager. A copy of the court ruling is available upon request.

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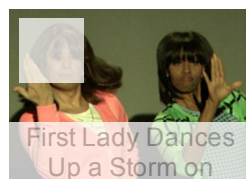
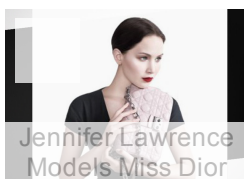
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