

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

TRE MCPHERSON, ET AL., : CIVIL NO. 3:20-CV-534 (JBA)
: :
V. : :
: :
NED LAMONT, ET AL. : JUNE 17, 2020

NOTICE TO THE CLASS OF SETTLEMENT AGREEMENT

This Notice is to inform you that there has been a Settlement Agreement resolving a class action lawsuit over the provision of sanitation, hygiene supplies, personal protective equipment, testing, quarantining, and medical monitoring regarding the novel coronavirus, SARS-CoV-2, and treatment for COVID-19, for people in the custody of the Connecticut Department of Correction (“DOC”). This Notice is also to give you an opportunity to comment on and/or object to the Settlement, and how, when and where to mail your written comments and/or objections to it.

I. CASE BACKGROUND

On April 20, 2020, Plaintiffs filed this action challenging the adequacy of sanitation measures, and DOC efforts to reduce the risk of contracting the SARS-CoV-2 virus, the virus that causes COVID-19. This is not a money damages case, but instead seeks class wide systemic benefits for all members of the class. Plaintiffs contended that the DOC had inadequate policies and procedures for managing the risk of infection in violation of the Eighth and Fourteenth Amendments to the Constitution of the United States. Defendants Governor Lamont and Commissioner of Correction Rollin Cook have denied the allegations throughout. On June 6, 2020, after negotiations under the supervision of the Hon. William I. Garfinkel, the parties reached a Settlement Agreement. On June 12, 2020, the Court certified a class of plaintiffs who are:

All persons who were incarcerated in a DOC facility from March 1, 2020, or are incarcerated, or in the future will be so incarcerated, until the termination date of this Agreement, December 31, 2020.

As a person incarcerated in a DOC facility, you are a member of the class and you have a right to comment and/or object to the Settlement Agreement.

II. THE SETTLEMENT AGREEMENT

The parties in this lawsuit have recently entered into a settlement agreement, subject to final approval by the Court. Copies of the Settlement Agreement will be available upon written request to the facility FOI liaison officer, or you may request one by writing to plaintiffs’ counsel (listed below). The main terms of the Agreement are: (1) DOC will to be monitored by a five-person panel, two members of which will be chosen by the plaintiffs, two by the defendants, and a fifth member by agreement of the four other panel members. (2) DOC will test each person in each facility for the virus, unless a person has tested positive for it in the past fourteen days or does not consent to be tested. (3) DOC will quarantine every incarcerated person who comes into a prison for fourteen days. (4) DOC will provide increased medical monitoring of people who test positive for the virus. (5) DOC will make best efforts to return people quarantined for COVID-19 to the housing status, jobs, and programs that they had prior to becoming ill or being placed in quarantine. (6) DOC will provide people at every facility with antiseptic to clean telephones between uses, two bars of soap each week, two cloth masks that can be traded in for

cleaning or replaced if damaged, and antiseptic to clean living areas twice a week. (7) DOC will provide a minimum level of daily cleaning at each facility. (8) DOC will provide each person with showers under running water at least once every other day regardless of whether the person is COVID-positive or not. (9) DOC will fast-track people who are either 65 or older, or have a medical score of 4 or 5, for consideration for discretionary release. (10) The Agreement will end on December 31, 2020. (11) The defendants will pay plaintiffs' counsel \$40,000 as partial reimbursement for their litigation expenses and fees. To the extent there is a difference between the summary here and the Settlement Agreement, the latter controls.

Further details of the settlement terms are in the Settlement Agreement, which is available upon request from your facility FOI liaison officer or plaintiffs' counsel.

III. PURPOSES OF THIS NOTICE

The Settlement Agreement is under review by the Court, and it will not take effect until and unless it is approved by the Court. If you wish to submit any objections to or comments in support of the Settlement Agreement, you should submit an explanation in writing why you do or do not believe that the Settlement Agreement is fair, reasonable, and adequate.

This Notice is not intended to be, and should not be construed as, an expression or any opinion by the Court with respect to the truth of the allegations in the litigation or the merits of the claims or defenses asserted. This Notice is sent to advise you of this action and proposed settlement and of your rights with respect to this action.

IV. NOTICE OF FAIRNESS HEARING

The Court will consider any objections or comments you may have regarding the Settlement Agreement, provided they are received **no later than July 13, 2020**.

All written objections to the pending Settlement Agreement must be mailed to either:

Dan Barrett or Elana Bildner
ACLU Foundation of Connecticut
765 Asylum Avenue
Hartford, CT 06105

A hearing, which may be conducted by teleconference or ZOOM video conference, will be held at the discretion of the Court, on **July 20, 2020, at 10:00 AM** at which time the Court will consider the fairness of the Settlement Agreement and whether to approve it. Your objection will only be considered if it is in writing, and is received by plaintiffs' counsel listed above, on or before **July 13, 2020**. Your personal presence in court will not be required, and no testimony will be taken. The attorneys for the plaintiffs will collect, summarize and present your comments and objections for the Court and will, if permitted by the Court make them part of the record in this case. If you want to comment and/or object, it is important that you do so in writing and that you send your written comments or objections sufficiently in advance of the deadline. Any comments/ objections received after **July 13, 2020**, will not be considered.

APPROVED AND SO ORDERED.

Dated at New Haven, CT this 19 day of June, 2020

/s/

Janet Bond Arterton
United States District Judge