

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Michael Parish, et al.,)	
)	
<i>Plaintiffs,</i>)	
)	
-vs-)	No. 07 CV 4369
)	
Sheriff of Cook County and Cook)	
County,)	<i>(Judge Lee)</i>
)	
<i>Defendants.</i>)	

CLASS SETTLEMENT AGREEMENT

I. RECITALS

1. **Nature of the Litigation.** On August 3, 2007, the plaintiff, Michael Parish, filed this case alleging violations of rights under the Fourteenth Amendment to the United States Constitution regarding the discontinuation of medication that had been prescribed to him for a serious health need. Thereafter, Curtis Oats, Leila Khoury, Sean Driscoll, Carla Lorton, Roy Cleaves, Lisa Brown, Dan Taylor, Dean Miller, Stacey Clark, Kevin Sanders, and Carlotte Wilson joined the case as additional plaintiffs. At all times relevant to the Complaint, Cook County designated Cermak Health Services, a division of the Cook County Health and Hospital System, as the evaluator and provider of medical care to detainees at the Cook County Jail.

2. **Class Certification.** On October 24, 2008, the district court ordered that the case proceed as a class action under Rule 23(b)(3). The certified class consisted of: “All persons confined at the Cook County Jail on and after August 3, 2005 who provided notice that he or she had been taking prescription medication for a serious health need and who was not provided with appropriate medication within 24 hours thereafter.”

3. **Preparation for Trial.** The parties engaged in extensive discovery of documents and computer records. Each of the named plaintiffs answered written discovery and appeared for deposition. The parties conducted an additional twenty-four depositions of fact witnesses. Plaintiffs produced reports from four expert witnesses; defendants produced reports from two expert witnesses. The parties deposed each expert witness and filed cross-motions for summary judgment in September of 2012. In addition, the defendants filed a motion to decertify the plaintiff class.

4. **The CRIPA Litigation:** On May 13, 2010, the defendants in this action entered into an agreed order with the United States to resolve an action brought under the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 (“CRIPA”), *United States v. Cook County, Illinois, et al.*, No. 10-cv-2946. Defendants constructed a new facility for processing detainees entering the Cook County Jail and implemented a variety of poli-

cies and procedures that addressed the issues raised by the plaintiffs in this case. On August 30, 2013, the Medical Monitoring Team in the CRIPA litigation concluded that Cook County was in substantial compliance with the provisions of the intake screening aspects of the agreed order.

5. **Important Rulings:** On March 31, 2016, the Court denied the defendants' motion to decertify the class. On April 17, 2018, the Court denied defendants' motions to bar Plaintiffs' experts. On May 30, 2019, the Court ruled on the cross-motions for summary judgment. Plaintiffs filed a motion to reconsider two aspects that ruling; the Court denied that motion as moot in light of the settlement negotiations described below.

6. **Settlement Process.** Recognizing the risk, uncertainty, and delay of contested litigation, the parties enlisted the assistance and guidance of Magistrate Judge Andrew Rodovich to explore the possibility of compromising all matters at issue. At a settlement conference held on September 5, 2019, Magistrate Judge Rodovich provided the parties with a recommendation for a proposed resolution of all matters at issue in this case. The parties have accepted that recommendation.

7. **Certification by Class Counsel.** Class counsel are skilled and experienced in class actions, have investigated the facts and the applicable

law, and believe that it is in the best interest of the class to enter into this Agreement.

8. **Denial of Liability.** Cook County and the Sheriff of Cook County vigorously contest and deny each and every claim and all material allegations by the plaintiffs.

Cook County nonetheless has concluded that it is in its best interests and in the best interests of the citizens of Cook County that the action be settled on the terms and conditions set forth in this Agreement. Cook County reached this conclusion after considering the factual and legal issues in the action, the substantial benefits of a final resolution of the action, the expense that would be necessary to defend the action through trial and any appeals that might be taken, the benefits of disposing of protracted and complex litigation, and the desire of Cook County to conduct its business unhampered by the distractions of continued litigation.

Cook County and the Sheriff of Cook County enter into this Agreement without acknowledging any fault, liability, or wrongdoing of any kind. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by Cook County or the Sheriff of Cook County of the truth of any of the allegations made in the action, or of any liability,

fault, or wrongdoing of any kind whatsoever on the part of Cook County or the Sheriff of Cook County.

9. **Non-Precedential Settlement.** To the extent permitted by law, neither this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceeding, to establish any liability or admission by Cook County and/or the Sheriff of Cook County, except in any proceedings brought to enforce the Agreement.

Neither this Agreement, nor any pleading or other paper related in any way to this Agreement, nor any act or communication in the course of negotiating or implementing this Agreement, shall be deemed an admission by Cook County and/or the Sheriff of Cook County that certification of a class is appropriate in any other litigation, or otherwise shall preclude Cook County and/or the Sheriff of Cook County from opposing or asserting any argument it may have with respect to certification of any class in any proceeding. Moreover, the parties agree that this settlement shall not be used as precedent in any way as to any subsequent conduct of Cook County or the Sheriff of Cook County except as set forth herein.

II. DEFINITIONS

10. In addition to the foregoing, the following terms shall have the meanings set forth below:

- a. “Cook County” means Cook County, the Cook County Health and Hospital System, Cermak Health Services or and/or any other successors, assigns or legal representatives thereof.
- b. “Sheriff” means the Sheriff of Cook County and/or any other successors, assigns or legal representatives thereof.
- c. “Class Period” means the time between August 3, 2005 and August 30, 2013.
- d. “Potential Class Members” are all persons who entered the Cook County Jail on and after August 3, 2005, through August 30, 2013, who were taking prescription medication for a serious health need and did not receive that medication within 24 hours after entry into the Jail.
- e. “Agreement” means this Class Settlement Agreement.
- f. “Released Persons” means Cook County, the Cook County Health and Hospital System, Cermak Health Services, Cook County’s counsel, the Sheriff of Cook County, the Sheriff’s counsel, and any of their past, present or future boards, commissions, members, directors, officers, agents, employees and/or independent contractors, and/or any other successors, assigns, or legal representatives thereof.
- g. “Preliminary Approval Date” means the date the Court grants preliminary approval of this Agreement.
- h. “Final Approval Date” means the date that the Court grants final approval of this Agreement.
- i. “Final Settlement Date” means the date on which either of the following events has occurred: (a) if no objection is interposed to this proposed settlement, the “final approval date.” (b) If an objection is interposed to this proposed settlement and there is no appeal from the Final Approval Order, thirty-one (31) days after the Court enters the Final

Approval Order and any objector has been provided with notice that the Court entered the Final Approval Order. (c) If an appeal is taken from the Final Approval Order, seven (7) days after a reviewing court either affirms the Final Approval Order or denies review and either all avenues of appeal have been exhausted or the time for seeking further appeals has expired.

- j. “Settlement Fund” means the fund established to compensate class members and pay Class Members, incentive awards, fees and costs of counsel, and administration of this settlement.
- k. “Class Notice” means the form authorized by the court to be sent to Potential Class Members.

III. RELIEF

11. **Monetary Relief to the Class.** To resolve all claims at issue in this case, the parties have agreed that as the consideration for this Agreement, Cook County will establish a settlement fund in the amount of \$7,500,000 (seven million five hundred thousand dollars).

12. **Incentive Payments.** These sums will be paid, without any deduction for fees or costs, to the named plaintiffs and to the class members who appeared for deposition as follows:

- a. Original Plaintiff Michael Parish: \$25,000.
- b. Additional Plaintiffs \$15,000 each: Curtis Oats, Leila Khoury, Sean Driscoll, Carla Lorton, Roy Cleaves, Lisa Brown, Dan Taylor, Dean Miller, Stacey Clark, Kevin Sanders, and Carlote Wilson.
- c. Exemplars \$5,000 each: Sabrina Alexander, Rodney Bailey, Beria Beasley, Bobbie Berry, Jennifer Farrar, Daniel Gerl, Bernard Granderson, John Hendrix, John Holmes, Jerod Horne, Yvette Lee, Jess Mason, Willie

Mikel, Nicholas Morris, LaDon Pilcher, Veronica Stuckey, Terry Tharpe, Andre White, and Lance Woodard.

13. **Payments to Class Members.** The parties, while recognizing that each class member may have a distinct claim for damages, agree that the expense, uncertainty, and delay inherent in providing each class member with an individual determination of damages outweighs the benefits of a distribution based on date of occurrence.

Each class member shall receive one award even if he (or she) claims to have experienced an unreasonable delay in receiving previously prescribed medication on more than one admission to the Cook County Jail.

The amount to be paid to each claimant shall be computed by assigning two points to each class member who entered the Jail before January 1, 2011 and one point for each class member who entered the Jail on and after January 1, 2011 through August 30, 2013.¹ A person who would qualify as a class member in more than one stay at the Jail shall receive a single award for the highest available time period.

¹ Plaintiffs' statistical data showed that the problems with providing medication to new admittees were greatly reduced by January 1, 2011. August 30, 2013 is the date that the Medical Monitor in the CRIPA litigation concluded that defendants were in substantial compliance with intake procedures.

The dollar value of each point for the first installment shall be determined by dividing the total sum available for the unnamed members of the class by the total number of points assigned to all claimants. If the Court approves the awards agreed to by the parties, there will be \$3,965,000 (three million nine hundred and sixty-five thousand dollars) available for distribution to the class. No class member shall receive more than \$200 (two hundred dollars).

Class counsel believes that some class members will not receive mailed notice of this settlement and will first learn about the settlement after payment of the first installment. Accordingly, class members may submit claim forms in the nine-month period following the payment of the first installment. Payment shall be made to these “second wave” claimants at the same amount as paid in the first installment to the extent possible: if the total amount of these second wave payments exceeds the amount remaining after payment of the first installment, the amount to be paid to each “second wave claimant” shall be proportionately reduced.

14. **Opt Out:** Notice of this proposed settlement shall advise class members that they may opt-out of this settlement and file individual actions. Defendants agree that they will not assert failure to exhaust administrative remedies as a defense to any lawsuit brought by a class member

who opts out of this lawsuit. Defendants will, however, insist on the limitations on damages set by the PLRA for any person who opts out and filed an individual lawsuit while in custody. Class counsel are not required to represent class members who opt-out of this settlement.

15. **Reversion to Defendants.** Any portion of the settlement fund that is not expended in payment of damages for class members, incentive awards, fees and costs of counsel, and administration expenses shall revert to Defendant Cook County.

16. **Payment to Class Counsel.** Attorneys' fees and costs were not finally negotiated until after full agreement had been reached on the monetary relief for the class. The parties agreed that subject to the approval of the Court, class counsel will, without objection from Defendants, be reimbursed for costs, including expert expenses, to be paid from the settlement fund, in an amount not to exceed \$250,000. Subject to the approval of the Court and without objection from Defendants, class counsel will also receive payment as attorney fees from the settlement fund in the amount of \$2,500,000, or one-third of the settlement fund.

17. **Administration of the Settlement.** The settlement will be administered by an independent entity, to be selected by class counsel, with the consent of Defendants, which shall not be unreasonably withheld.

Defendants have agreed to pay up to \$500,000 for the actual costs of administration of the settlement. Any unused portion of this amount shall revert to Defendants.

IV. NOTICE AND CLAIMS PROCEDURE

18. By February 14, 2018, notice of the settlement, and information about the date and time of the fairness hearing will be sent by first class mail to the last ascertainable address of each Class Member. “Ascertainable” means the last known address appearing in the records of the Sheriff of Cook County as enhanced by the United States Postal Service change of address database.

19. To participate in this settlement, each Class Member must submit a sworn Claim Form (attached hereto as Exhibit 1) postmarked no later than the date certain established on the final Class Notice (attached hereto as Exhibit 2). The Class Notice will include a forwarding and return address, which will be a Post Office Box controlled by the Class Administrator.

V. DECEASED, DISSOLVED, BANKRUPT, OR INCAPACITATED CLASS MEMBERS

20. Where a Class Member is deceased and a payment is due to that Class Member, upon receipt of a proper notification and documentation, settlement payment shall be made in accordance with Illinois law.

21. Where the debts of a Class Member have been declared in bankruptcy, or are the subject of an open and ongoing bankruptcy proceeding, and a payment is due to the Class Member, upon receipt of proper notification and documentation, the settlement payment shall be made to such Class Member in accordance with applicable United States Bankruptcy Code laws.

VI. COMMUNICATIONS WITH THE CLASS

22. The Class Notice shall list class counsels' addresses. Other than as provided for in this Agreement, communications relating to the action or this Settlement with persons receiving Class Notices and Potential Class Members shall be through class counsel. Nothing in this Agreement shall be construed to prevent Cook County, the Sheriff, their employees, agents, or representatives from communicating with Potential Class Members or Class Members in the normal course of their operations.

VII. CONDITIONS OF SETTLEMENT AND EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF STIPULATION

23. If the Court disapproves this Agreement or fails to rule, or if the Court enters the Final Judgment but it is reversed or vacated on appeal, this Agreement shall be null and void and of no force and effect. If the Court materially modifies any provision of the Agreement or proposed Fi-

nal Judgment, or if either is materially modified on appeal or remanded to the Court for modification, any party shall have the option of terminating this Agreement and withdrawing consent to the entry of the Final Judgment, in which case this Agreement shall be null and void and of no force and effect.

24. If any financial obligation is imposed upon Cook County or the Sheriff in addition to or greater than those specifically set out in this Agreement, Cook County and the Sheriff may withdraw their consent to the entry of the Final Judgment, in which case this Agreement shall be null and void and of no force and effect.

VIII. OBJECTIONS

25. A Class Member may file a notice of intent to object to the proposed settlement. The written notice of intent to object must be filed with the Clerk of the Court not later than 7 days before the date set for the Final Settlement Hearing.

IX. REPRESENTATIONS AND WARRANTIES

26. Plaintiff and class counsel warrant and represent that no promise or inducement has been offered or made for this Agreement except as set forth herein, that this Agreement is executed without any reliance whatsoever on any statements or representations not contained

herein, including but not limited to any statements, conduct, disclosure or non-disclosure or representations regarding discovery in the action, and that this Agreement reflects the entire agreement among the parties with respect to the terms of the Release. The warranties and representations made herein shall survive the execution and delivering of this Agreement and shall be binding upon the heirs, representatives, successors and assigns of the parties.

X. RELEASES

27. Upon the Effective Date, Plaintiffs, all Class Members, and their heirs, trustees, executors, administrators, principals, beneficiaries, assigns and successors will be bound by the Final Judgment and conclusively deemed to have fully released, acquitted and forever discharged, as defined in paragraph 9(d). All people and entities who meet the Class Definition and who have not timely filed “opt out” forms shall be forever barred from prosecuting their own lawsuit asserting any of the claims at issue in this litigation and they and their heirs, executors, administrators, representatives, agents, partners, successors and assigns shall be deemed to have fully released and forever discharged the Released Persons (defined below) from all Released Claims (defined below).

28. “Released Persons” means Cook County, Cook County’s counsel, the Cook County Sheriff’s Office, the Sheriff’s counsel, and any of their past, present or future boards, commissions, members, directors, officers, agents, employees and/or independent contractors, and/or any other successors, assigns, or legal representatives thereof.

29. “Released Claims” means and includes any and all Unknown Claims, known claims, and rights, demands, actions, causes of action, suits, debts, liens, contracts, liabilities, agreements, interest, costs, expenses or losses, for the acts alleged or which are or could have been alleged by the named plaintiffs or the Potential Class Members in this action, or relate in any way whatsoever to failure to provide medication that had previously been prescribed for a serious health need within 24 hours of entry to the Cook County Jail between August 3, 2015 and August 30, 2013.

XI. MISCELLANEOUS PROVISIONS

30. The parties hereto and their undersigned counsel agree to undertake their best efforts and mutually cooperate to effectuate this Agreement and the terms of the settlement set forth herein, including taking all steps and efforts contemplated by this Agreement, and any other steps and efforts which may become necessary by order of the Court or otherwise. The parties hereto further agree to defend this Agreement

against objections made to final approval of the Settlement or in any appeal of the Final Judgment or collateral attack on the Agreement or Final Judgment. Class counsel will not seek from Cook County, Cook County's counsel, the Sheriff of Cook County, the Sheriff's counsel, and any of the Sheriff's and/or Cook County's past, present or future officers, agents, employees and/or independent contractors, and/or any other successors, assigns, or legal representatives thereof any additional compensation, including attorney fees, cost, expenses or reimbursements for any work that may be involved in defending this Agreement.

31. The undersigned counsel represent that they are fully authorized to execute and enter into the terms and conditions of this Agreement on behalf of their respective clients.

32. Except as otherwise provided between the parties, this Agreement contains the entire agreement between the parties hereto, and supersedes any prior agreements or understandings between them. All terms of this Agreement are contractual and not mere recitals, and shall be construed as if drafted by all parties hereto. The terms of this Agreement are and shall be binding upon each of the parties hereto, their agents, attorneys, employees, successors and assigns, and upon all other persons

claiming any interest in the subject matter hereof through any of the parties hereto, including any Class Member.

33. Any claim form or opt out form must be signed individually by a Class Member, not as or on behalf of a group, class, or subclass, except that such claim form or opt-out form may be submitted on behalf of an individual Class Member by the executor or administrator of a deceased Class Member's estate, or the legal guardian of a Class Member who has been declared incompetent.

34. To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of this Agreement.

35. **Funding of Administration of the Settlement:** Within forty-five (45) days after the Court has given its preliminary approval to this proposed settlement, Cook County shall pay to the Client Fund Account of Kenneth N. Flaxman P.C. ("the Flaxman firm"), the sum of \$500,000 (five hundred thousand dollars) so that the Flaxman firm may hire a Claim Administrator to administer the settlement and receive interim fees associated with providing notice to class members. The Flaxman Firm shall pay to the Claim Administrator the amounts due for payments to class members

who submit timely claims. The Flaxman Firm shall provide undersigned Defense counsel with all invoices from the Claim Administrator when such invoices are paid.

36. **Funding of the Settlement:** Within forty-five (45) days after the Court has entered final approval of the terms of the proposed class settlement (“Final Settlement Date”), Cook County shall pay to the Client Fund Account of Kenneth N. Flaxman P.C. the sum of \$7,000,000 (seven million dollars). Upon funding of the settlement, class counsel shall be entitled to receive the total amount of fees and costs approved by the Court. Payments to counsel shall be made notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on this Agreement or any part thereof, subject to class counsel’s obligation to make appropriate refunds or repayments to Defendants if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the award of attorneys’ fees or cost award is reduced or reversed.

37. **Payment of Claims.** If the Court enters the Final Settlement Order, the Claims Administrator shall within forty-five (45) days after the Final Approval Date mail the Class Member Payments to those Class Members who submitted a valid and timely claim.

Within 60 days of the Final Settlement Date, class counsel shall provide Defendants with copies of all releases and opt out forms signed by class members and Potential Class Members.

38. **Change of Time Periods.** All time periods and dates described in this Agreement are subject to the Court's approval. These time periods and dates may be changed by agreement of the parties without notice to the Class.

39. **Binding on Successors.** This Agreement binds and benefits the Parties' respective successors, assigns, legatees, heirs, and personal representatives.

40. **Entire Agreement.** This Agreement and the attached exhibits contain the entire agreement between the Parties and constitute the complete, final and exclusive embodiment of their agreement with respect to the settlement of the Lawsuit. This Agreement and the attached exhibits supersede any and all prior agreements, arrangements or understandings, whether written or oral, express or implied, between them relating to the subject matter hereof. The Parties agree that there are no understandings, written, oral, express, implied or otherwise, except as set forth in this Agreement and the attached exhibits, and that in entering into this Agreement, no Party has relied, or is entitled to rely, upon any promise,

inducement, representation, statement, assurance or expectation unless it is contained herein in writing.

41. **Exhibits.** The exhibits to this Agreement are integral parts of the Agreement and are incorporated into this Agreement as though fully set forth herein.

42. **Modifications and Amendments.** No amendment, change or modification to this Agreement will be valid unless in writing signed by the Parties or their counsel.

43. **Construction and Interpretation.** Neither the Parties nor any of the Parties' respective attorneys will be deemed the drafter of this Agreement for purposes of interpreting any provision in this Agreement in any judicial or other proceeding that may arise between them. This Agreement has been, and must be construed to have been, drafted by all the Parties to it, so that any rule that construes ambiguities against the drafter will have no force or effect.

44. **Counterparts.** This Agreement may be executed in counterparts, each of which constitutes an original, but all of which together constitutes one and the same instrument. Several signature pages may be collected and annexed to one or more documents to form a complete coun-

terpart. Photocopies or PDF copies of executed copies of this Agreement shall be treated as originals.

45. **Severability.** If any provision of this Agreement is declared by the Court to be invalid, void or unenforceable, the remaining provisions of this Agreement will continue in full force and effect.

46. **Waiver.** No delay on the part of either Party in the exercise of any right, power or remedy shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude the further exercise thereof, or the exercise of any other right, power or remedy.

47. **Governing Law.** This Agreement shall be governed and interpreted in accordance with the laws of the State of Illinois and without regard to conflict of laws principles.

48. **Attorneys' Fees and Costs.** Other than the payments set out above, each Party shall bear their own attorneys' fees and costs relating in any way to the Lawsuit or this Agreement, or the subject matter of any of them.

49. **Cooperation to Obtain Court Approval.** The Parties agree to cooperate fully to execute any documents and take all additional actions which are consistent with and which may be necessary or appropriate to secure the Court's preliminary and final approval of this Agreement.

50. **Enforcement and Reservation of Jurisdiction.** The parties agree that the Court will reserve jurisdiction to enforce the provisions of this Agreement. If the Court approves the settlement, it will enter an order of dismissal that will dismiss the litigation with prejudice as to all Class Members, except those persons who have timely filed “opt out” forms.

Agreed to, this __ day of December, 2019

/s/ Kenneth N. Flaxman
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(signatures continued on next page)

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