

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JONAS CABALLERO, on behalf of himself
and all others similarly situated,

Plaintiff,

-against-

NEW YORK STATE DEPARTMENT OF
CORRECTIONS AND COMMUNITY
SUPERVISION,

Defendant.

No. 9:20-CV-1470-DNH-CFH

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the annexed Declaration of Douglas E. Lieb, the Affirmation of Jonas Caballero, the Declaration of Samuel Barr and the exhibits attached thereto, the accompanying memorandum of law, and all other pleadings and proceedings in this action, Plaintiff, by and through undersigned counsel, will, as soon as counsel may be heard, move this Court for an Order, pursuant to Federal Rules of Civil Procedure 23(b)(3), 23(c)(4), and 23(g), certifying a plaintiff class of all persons who (1) were incarcerated in DOCCS custody; (2) were excluded from the Shock Incarceration Program on the basis that they were designated OMH Level 3 at any time between December 2, 2017, and November 3, 2021; (3) were not judicially ordered to be enrolled in Shock by their sentencing court; (4) were statutorily eligible to enroll in Shock; and (5) were not offered an alternative six-month pathway to early release from prison, and further appointing as class counsel Douglas E. Lieb, Alison Frick, and Samuel Barr, of Kaufman Lieb Lebowitz & Frick LLP, and for any other relief the Court deems just and proper.

Dated: October 28, 2022
 New York, New York

KAUFMAN LIEB LEBOWITZ
& FRICK LLP

_____/s/_____
Douglas E. Lieb

Alison Frick

Samuel Barr

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Attorneys for Plaintiff