

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 97-2806-CIV-HUCK
MAGISTRATE JUDGE BROWN

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CLERK U.S. DISTRICT CT.
S.D. OF FLA - MIA

MARK OSTERBACK, et al.,)
)
Plaintiffs,)
)
v.)
)
MICHAEL W. MOORE, et al.,)
)
Defendants.)
_____)

JOINT CLASS ACTION NOTICE STATEMENT

The parties, by and through undersigned counsel, pursuant to this Court's Order of October 2, 2001, submit the following proposal for providing notice of settlement to the class members:

1. Attachments. Attached hereto are a proposed Order (Exhibit A), "Notice of Class Action Settlement" (Exhibit B), and an Affidavit for the Warden or Officer in Charge of each prison or facility housing inmates in the custody of the Florida Department of Corrections (Exhibit C) pertaining to the distribution and posting of the Notice of Class Action Settlement.

2. Distribution. The "Notice of Class Action Settlement," in English and Spanish, will be distributed to every correctional facility housing inmates, as set forth below.

3. Provisions for Notice. The "Notice of Class Action Settlement" will be posted in English and Spanish in conspicuous locations easily accessible by inmates at Florida State Prison and all other major institutions including annexes operated by the Florida Department of Corrections other than work camps, road prisons, contract drug facilities, and Community Correctional Centers. Such locations shall include all dayrooms, all inmate bulletin boards, and all general and law libraries.

4. Inmates in confinement status, including close management, administrative confinement, protective management and disciplinary confinement, and inmates who are housed in an infirmary or in any other manner that would preclude access to the designated posting areas on the date of posting, shall be individually hand delivered a copy of the notice on the date of posting.

5. Duration of Posting. The Notice shall be posted by November 26, 2001, and shall remain posted for not less than a continuous period of fifty-one (51) days, that is, until midnight, January 16, 2002.

6. Costs of Notice. The cost of translation into Spanish of the Notice of Class Action and Revised Offer of Judgment, the cost of duplication, and the costs of posting and distribution shall be borne by the Defendants.

7. Defendant Moore shall advise each facility in writing of the anticipated receipt of the notices and of the facilities' obligation to post or otherwise distribute the notices.

8. Completion of Giving Notice. After posting or otherwise giving notice to all inmates in the Florida Department of Corrections, each Warden or Officer in Charge

of a prison or facility shall sign and submit an Affidavit in the form set forth in Exhibit C to Defendant Moore or his designee and Defendant Moore or his designee shall provide the completed Wardens' Affidavits to Plaintiffs' counsel no later than the date of the fairness hearing.

9. The parties, having discussed this matter by phone, have agreed that counsel for the Plaintiffs may initial this Joint Class Action Notice Statement on behalf of counsel for the Defendants.

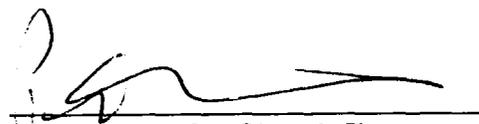
Respectfully submitted,

Peter M. Siegel, Esq.
Randall C. Berg, Jr. Esq.

Florida Justice Institute, Inc.
2870 First Union Financial Center
200 S. Biscayne Blvd.
Miami, FL 33131-2310
(305) 358-0910 FAX

Christopher Jones, Esq.
Florida Institutional Legal
Services, Inc.
1010-B N.W. 8th Avenue
Gainesville, Florida 32601
352-375-2494
352-271-4366 (FAX)

Counsel for the Plaintiffs



By: Peter M. Siegel, Esq.
Florida Bar No. 227862

Respectfully submitted,

Robert Butterworth
Attorney General

Charles Fahlbusch, Esq.
Assistant Attorney General,
Office of the Attorney General
110 S.E. 6th Street
10th Floor
Fort Lauderdale, Florida 33301
954-712-4692
954-712-4700 (FAX)

Counsel for the Defendants

By: Charles Fahlbusch, Esq.
Florida Bar No.0191948

9. The parties, having discussed this matter by phone, have agreed that counsel for the Plaintiffs may initial this Joint Class Action Notice Statement on behalf of counsel for the Defendants.

Respectfully submitted,

Peter M. Siegel, Esq.
Randall C. Berg, Jr. Esq.

Florida Justice Institute, Inc.
2870 First Union Financial Center
200 S. Biscayne Blvd.
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Counsel for the Plaintiffs

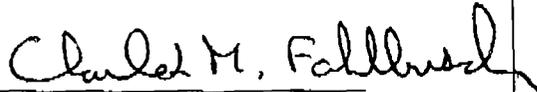
Respectfully submitted,

Robert Butterworth
Attorney General

Charles Fahlbusch, Esq.
Assistant Attorney General,
Office of the Attorney General
110 S.E. 6th Street
10th Floor
Fort Lauderdale, Florida 33301
954-712-4692
954-712-4700 (FAX)

Counsel for the Defendants

By: Peter M. Siegel, Esq.
Florida Bar No. 227862



By: Charles Fahlbusch, Esq.
Florida Bar No. 0191948

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 97-2806-CIV-HUCK
MAGISTRATE JUDGE BROWN

MARK OSTERBACK, et al.,)
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Defendants.)
_____)

ORDER

Plaintiffs have filed a Notice of Acceptance of Defendants' Revised Offer of Judgment. The parties have also filed a Joint Class Action Notice Statement and this proposed Order. Pursuant to Rule 23(e), Fed.R.Civ.P., notice will be given to all class members and they will be given an opportunity to file comments, support of, or objections to the Revised Offer of Judgment. A fairness hearing will then be held to determine whether the settlement should be approved by the court.

Accordingly, it is ORDERED that:

1. The proposed Notice of Class Action Settlement, exhibit B to the Joint Class Action Notice Settlement, and attached to this Order to provide a deadline for filing objections, is APPROVED.
2. A fairness hearing pursuant to Rule 23(e), Fed.R.Civ.P., is hereby scheduled for _____, 2002, at _____ (A.M. P.M.) in Courtroom Number 6 at

EXHIBIT A

the United States Courthouse, 99 N.E. 4th Avenue, 10th Floor, Miami, Florida 33132.

3. On or before November 26, 2001, pursuant to Rule 23(e), Fed.R.Civ.P., the Florida Department of Corrections shall provide the Notice of Class Action Settlement and all exhibits thereto to those members of the Plaintiffs' class presently in the custody of the Florida Department of Corrections. The Notice of Class Action Settlement shall be the notice attached to this Order and certified by the Clerk of the Court and will be posted in English and Spanish in conspicuous locations easily accessible by inmates at Florida State Prison and all other major institutions including annexes operated by the Florida Department of Corrections other than work camps, road prisons, contract drug facilities, and Community Correctional Centers operated by the Florida Department of Corrections or by any private contractor. Posting locations shall include all dayrooms, all inmate bulletin boards and all general and law libraries. A copy of the Revised Offer of Judgment and all exhibits thereto will be made available to inmates for inspection in the prison library system. Inmates without access to a library may request a copy for review from the Librarian and a copy will be provided by the Librarian or other official designated by the Warden at the facility where you are incarcerated.

4. Inmates in confinement status, including close management, administrative confinement, and disciplinary confinement, and inmates who are housed in an infirmary or in any other manner that would preclude access to the designated posting areas on the date of posting, shall be individually hand delivered a copy of the notice on the date of posting.

IN THE UNITED STATES DISTRICT COURT
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 97-2806-CIV-HUCK
MAGISTRATE JUDGE BROWN

MARK OSTERBACK, et al.,)
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 Plaintiffs,)
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 v.)
)
 MICHAEL W. MOORE, et al.,)
)
 Defendants.)
 _____)

**NOTICE OF CLASS ACTION SETTLEMENT TO ALL INMATES CURRENTLY
IN THE CUSTODY OF THE FLORIDA DEPARTMENT OF CORRECTIONS**

By Order of U.S. District Judge Paul Huck, a hearing will be held on _____, 2002, at _____ (A.M. P.M.) in Courtroom Number 6 at the United States Courthouse, 99 N.E. 4th Avenue, 10th Floor, Miami, Florida 33132, upon the Notice of Plaintiffs' Acceptance of Defendants' Revised Offer of Judgment in the above-captioned case. The purpose of the hearing is to determine whether the Court will approve the Revised Offer of Judgment.

The class of Plaintiffs in this case consists of all persons who are currently assigned to Close Management in prisons operated by the Florida Department of Corrections or who in the future will be assigned to Close Management. Within the general class are three subclasses, (1) persons who are currently or will be assigned to Close Management One, (2) persons who are currently or will be assigned to

EXHIBIT B

Close Management Two, and (3) persons who are currently or will be assigned to Close Management Three.

As an inmate in the custody of the Florida Department of Corrections, you are or may become a member of the class. The Defendants, while denying liability, have tendered and counsel for the Plaintiffs have accepted a Revised Offer of Judgment. Its terms, which will become effective upon final, non-appealable judicial approval by the Court, describe the way in which the Florida Department of Corrections will operate Close Management in the future. A copy of the entire Revised Offer of Judgment is available for your inspection upon request to the Librarian, or other official designated by the Warden at the facility where you are incarcerated.

If the Revised Offer of Judgment is approved by the Court, you will be bound by its terms. The substance of the Revised Offer of Judgment provides for the Florida Department of Corrections to:

1. Reduce the number of institutions that house CM inmates from ten to four (one for females and three for males), to consolidate security, program, and mental health staff resources; and to facilitate more uniformity of program operation;
2. Train staff on mental health issues relevant to the CM population;
3. Perform mental health screening before and after CM placement to help ensure timely access to necessary mental health services;
4. Assess behavioral risk for each CM inmate, in order to provide more objective information that will be useful for mental health

and other service planning, as well as for administrative decision-making (e.g., modification of CM level or termination of CM status);

5. Provide full range of outpatient mental health services (e.g. group/individual counseling; case management; psychiatric consultation; psychotropic medications; and timely referral to inpatient care), commensurate with clinical need, as determined by the Defendant's mental health staff;
6. Provide self-betterment/stimulation programming to CM inmates.

If you are satisfied with the terms of the Revised Offer of Judgement, it is not necessary that you appear at the hearing or take any other action at this time.

However, any member of the class may show cause, if any, why the Revised Offer of Judgment should not be approved as fair, adequate and proper, and why judgment approving the Revised Offer of Judgment should not be entered. You may submit written comments and objections for consideration by the Court. All written comments and objections must include the case number of this matter (CASE NO. 97-2806-CIV-HUCK) and must be mailed no later than January 23, 2002 to:

Clarence Maddox, Clerk of Court
United States District Court
Southern District of Florida
301 North Miami Avenue, Rm. 150
Miami, FL 33128

Anything you send to the Court must include a Certificate of Service stating that you have also mailed a copy of your comments and objections to the attorneys for both the Plaintiffs and Defendants, who are listed below:

Charles Fahlbusch, Esq.
Assistant Attorney General
Office of the Attorney General
110 S.E. 6th Street, 10th Floor
Fort Lauderdale, Florida 33301
Attorney for Defendants

Peter M. Siegel, Esq.
Randall C. Berg, Jr., Esq.
Florida Justice Institute, Inc.
2870 First Union Financial Center
200 S. Biscayne Boulevard
Miami, Florida 33131-2310
Attorneys for Plaintiffs

You may obtain further information about this matter from the attorneys for the Plaintiffs by writing to:

Peter M. Siegel, Esq.
Randall C. Berg, Jr., Esq.
Florida Justice Institute, Inc.
2870 First Union Financial Center
200 S. Biscayne Boulevard
Miami, Florida 33131-2310

This Notice has been posted pursuant to the Order of the Court.

Dated: _____, 2001.

Clerk, U.S. District Court
Southern District of Florida

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 97-2806-CIV-HUCK
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MARK OSTERBACK, et al.,)
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AFFIDAVIT OF CLASS NOTICE POSTING COMPLIANCE

State of Florida)
) ss.
County of _____)

Before me, the undersigned authority personally appeared _____,
who being duly sworn, deposes and says:

1. I am the Warden or Officer in Charge of the prison or facility set forth in Paragraph Three of this Affidavit.
2. I have been provided with a copy of the Joint Class Action Notice Statement.
3. I certify that at _____ (name of facility) the Notice of Class Action in the above-captioned case was posted on November 26, 2001, or otherwise made available to all inmates as set forth in Joint Class Action

EXHIBIT C

Notice Statement, and was checked daily for posting for a continuous period of fifty-one (51) days, until midnight, January 16, 2002, and re-posted during that time period if missing.

Further Affiant Sayeth Not.

(Type name)

Sworn and Subscribed to before me this ___ day of December, 2001.

The Affiant, _____, who personally appeared before me at the time of notarization, and produced satisfactory evidence that he is the individual described in and who is executing the instrument by producing by one of the following methods:

Affiant is personally known to me ___

Affiant produced an ID ____

ID Type _____

ID Number _____

Name:
Notary Public, State of Florida
Commission Number: