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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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INMATES OF THE BUCKS COUNTY  
CORRECTIONAL FACILITY; CHERYL  
ST. JOHN, TIMOTHY SPROUL, and ELLEN  
BOKA SMITH, individually and on behalf of  
all other inmates similarly situated,

Plaintiffs,

v.

COUNTY OF BUCKS, and MICHAEL G.  
FITZPATRICK; CHARLES MARTIN, and  
SANDRA MILLER, individually and as  
members of the Bucks County Board of  
Commissioners; GORDIAN EHRLACHER,  
individually and as Director, Bucks County  
DEPT. OF HEALTH; LEWIS POLK, M.D.,  
Medical Director, Bucks County Health Dept.,  
individually and as Director of Correctional  
Health Services (CHS); JOAN CROWE, R.N.,  
individually and as CHS director at BCCF;  
HARRIS GUBERNICK, individually and as  
Director, Bucks Co. Dept. of Corrections;  
WILLIS MORTON, individually and as  
Warden, Bucks County Correctional Facility;  
LENAPE VALLEY FOUNDATION t/a  
Correctional Mental Health Services,

Defendants.

CIVIL ACTION

NO. 02-7377

FILED  
MAR 27 2008  
MICHAEL J. KUNZ, Clerk  
By \_\_\_\_\_, Clerk

**NOTICE OF SETTLEMENT OF CLASS ACTION**

**To: All Persons Who Are Or Will Be Incarcerated in the Bucks County Correctional Facility ("BCCF").**

**PLEASE READ THIS ENTIRE NOTICE CAREFULLY. YOUR LEGAL RIGHTS  
MAY BE AFFECTED BY A LAWSUIT NOW PENDING IN THIS COURT.**

This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure. The purpose of this Notice is to inform you of the pendency of this litigation, the Court's preliminary approval of the Settlement Class as defined below, and that a proposed settlement has been reached on behalf of the Settlement Class with Defendants the County of Bucks (the

“County”); County Commissioners Martin and Miller; former County Commissioner Fitzpatrick; Harris Gubernick, individually and as Director of the Department of Corrections; and Willis Morton, individually and as former Warden of the BCCF (collectively, the “County Defendants”) and Gordian Ehrlacher, individually and as former Acting Director of the Bucks County Department of Health; Lewis Polk, M.D., individually and as retired Medical Director for the Department of Health; Joan Crowe, R.N., individually and as Supervisor of the BCCF’s Dispensary (collectively, the Medical Defendants) (both the County Defendants and the Medical Defendants may be referred to collectively as the “Defendants”).

**On September 19, 2002, several inmates filed a Complaint in the United States District Court for the Eastern District of Pennsylvania alleging that their conditions of confinement violated constitutional and statutory standards. Plaintiffs sought injunctive relief, which means that they sought an Order to compel the BCCF to make changes in their operations and in the maintenance of the facility. Plaintiffs did not seek an award of monetary damages. After several years of litigation, the parties believe that they have reached a fair and reasonable settlement.**

Your options with respect to this class action are described later in this Notice. Specifically, you have the right to:

- Remain a member of the Settlement Class, in which case you will be bound by the settlement upon the Order of this Court approving the settlement;
- Remain in the Class but object to the proposed settlement with the Defendants, and possibly to appear at the hearing before the Court to determine whether the proposed settlement should be approved as fair, adequate and reasonable;

You do **not** need to take any action at this time if you wish to remain in the Class and you do not object to the Settlement.

#### **DEFINITION OF THE CLASS**

On December 20, 2004, the court certified a Class to consist of all inmates who are or will be incarcerated in the Bucks County Correctional Facility. For purposes of this Notice the Class will be described as the Settlement Class.

For purposes of the Settlement Class definition set forth above, the following entities are Defendants: the County of Bucks; County Commissioners Martin and Miller; former County Commissioner Fitzpatrick; Harris Gubernick, individually and as Director of the Department of Corrections; and Willis Morton, individually and as former Warden of the BCCF and Gordian Ehrlacher, individually and as former Acting Director of the Bucks County Department of Health; Lewis Polk, M.D., individually and as retired Medical Director for the Department of Health; Joan Crowe, R.N., individually and as Supervisor of the BCCF’s Dispensary.

Plaintiffs Sandy Wilson, Angela Loch, Debbie Sherman and Joanne Williams have been appointed by the Court to serve as representatives for the Settlement Class.

The following attorneys have been appointed to serve as Class Counsel: Angus Love of the Pennsylvania Institutional Law Project and Anita Alberts of Anita Alberts & Associates.

If you are now or will be incarcerated in the BCCF, you are eligible to be a member of the Settlement Class and have the rights summarized below.

### **BACKGROUND OF THE LITIGATION**

On September 19, 2002, Plaintiffs filed a complaint in the United States District Court for the Eastern District of Pennsylvania asserting various claims against Defendants under 42 U.S.C. § 1983, the Rehabilitation Act, and the Pennsylvania Constitution. After Defendants responded with a number of motions, Plaintiffs filed an Amended Complaint on December 20, 2002. On April 30, 2004, Plaintiffs filed a Second Amended Complaint, alleging various violations of their rights. Defendants denied all material averments of the Second Amended Complaint. After discussions between the parties, the issues in the case were narrowed to the following: overcrowding; high level block-by-block decontamination; cleaning and inspection of the ventilation system, including ducts; precertification issue/PIMCC reform; overnight infirmary; BCCF isolation policies; laundry; preexisting conditions; inmate health education campaign; antibiotic/vancomycin; equipment; cleaning isolation cells between uses; aftercare for serious MRSA cases.

The purpose of this Notice is to inform you of the certification of the Settlement Class and the proposed settlement with the Defendants.

### **SUMMARY OF PROPOSED SETTLEMENT WITH THE DEFENDANTS**

#### **Crowding Issues**

Plaintiffs' experts, Drs. Leon Vinci and Robert Greifinger, have stated that the BCCF is "overcrowded." Defendants specifically denied that the BCCF was overcrowded. The County has taken several measures to mitigate the effect of any such crowding, including: (1) contracting for a comprehensive study dealing with the inmate population issue; (2) implementing a contract for community corrections beds, encouraging reentry into the community; (3) purchasing and preparing to install a temporary facility that will house 48-50 inmates; (4) seeking funding for pretrial alternatives; and (5) allowing inmates approximately nine hours of out-of-cell time and two hours of recreational time in the module urban yards per day.

The Defendants are not currently depriving Plaintiffs of their federal or state constitutional rights with regard to crowding issues.

### **Request For High Level Block-By-Block Decontamination**

Plaintiffs alleged that a block-by-block decontamination would assist the control the spread of methicillin-resistant *Staphylococcus Aureus* ("MRSA"). MRSA is a staph bacteria that can be carried on the skin or in the nose of healthy people, and which is resistant to a particular family of antibiotics. MRSA infections may be caused by direct physical contact with an infected area or with objects soiled by purulent material from the infected area. The BCCF has in place thorough decontamination practices and procedures to prevent the spread of MRSA and other communicable diseases, including: (1) paying inmate module runners to sweep and mop the entire module, disinfect the showers, shower curtains and shower mats, wipe the railings and windows with disinfectant, and disinfect the module water fountains and telephones; (2) cleaning the module showers on a daily basis; (3) cleaning and sanitizing the remainder of the facility, including the recreation area and yard, the multi-purpose room, the laundry, the education room, the library, the dispensary, and the MHU and RHU; and (4) disinfecting certain areas using Brulin's Uniquat Neutral Disinfectant 256, which is effective against bacteria, including MRSA, viruses, including HIV and Hepatitis C, fungus, mold and mildew.

The sanitation and decontamination practices and procedures currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

### **Request For Cleaning and Inspection of the Ventilation System, Including Ducts**

Plaintiffs' expert, Dr. Leon Vinci, stated in his report that the BCCF's ventilation system requires cleaning, alleging that this was last done in 1996. Defendants specifically denied that ventilation cleaning was last done in 1996. The County contracted with Aerotech Filtration, Inc. ("Aerotech") in 2004 to clean and balance the BCCF's air conveyance systems, including cleaning and sanitizing the facility's entire duct work.

The Defendants are not currently depriving Plaintiffs of their federal or state constitutional rights with regard to the cleanliness of the BCCF's ventilation system.

### **Precertification Issue/PIMCC Reform**

At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that the Department of Health had a practice of allowing nurses to override the treatment decisions of physicians by requiring that recommended treatments be "pre-certified" by Cost Management, a division of the Public Institution Medical Cost Containment ("PIMCC") program. Defendants denied that such a practice existed. Defendants contend that a physician has always made the ultimate decision as to what treatment an inmate receives and that the pre-certification requirement of the PIMCC program is merely an administrative process by which Cost Management is notified that an inmate is being referred to an outside physician and/or facility for treatment. This procedure is utilized by Cost Management personnel to verify the invoices of outside providers. Nonetheless, to eliminate any confusion caused by the use of the "pre-certification" form, the Department of Health has changed the form's title to "Preliminary Notification of Treatment."

The Defendants are not currently depriving Plaintiffs of their federal or state constitutional rights with regard to precertification issues or the determination of medical treatment by a physician.

### **Laundry Issues**

At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that the BCCF's laundry procedures were inadequate to combat the spread of communicable disease. Defendants specifically denied that its laundry procedures were inadequate to combat the spread of communicable disease. Parts of the laundry facilities were renovated to increase services and accommodate the larger laundry bag that is issued to each inmate upon admission. The renovations included the following: installation of a new 85-pound fully programmable washer/extractor to enable the laundering of infectious materials and mop heads; installation of an ancillary ventilation system to improve efficacy of the gas dryers and enhance safety of the laundry workers; installation of a new and expanded laundry chemical delivery system to accommodate the reprogrammed wash cycles; and modification to the central worktable and shelving to allow for the increased processing within the facility and separation of the different clothing and other washwear items.

Laundry processes were upgraded to more closely conform with hospitality and selected hospital standards, specifically those relating to infection control. The wash cycles for the various washwear and linens were modified to enhance cleaning through the additional use of bleach-containing products and increasing the number and time of pre- and post-rinse cycles. This enhances contamination control through both chemical means and dilution. The drying cycles were reprogrammed and modified for each type of wash- and flat-wear being processed resulting in a drier product and thereby enhancing further decontamination through desiccation. Par levels of clothing and linens were increased at the warehouse and in the laundry to ensure a full complement issue to each prisoner entering the facility. Each incoming prisoner is issued two changes of linen, three changes of undergarments (all female inmates are issued new undergarments), two jump suits, a blanket and a pair of gym shorts. As seasonally appropriate, each prisoner is also issued a jacket; female inmates are also issued pajamas. Inmates keep his or her set throughout the length of their stay. Unserviceable garments and linens are exchanged for new on a one-to-one basis. New 40" x 24" laundry bags were purchased. Each prisoner is given a laundry bag upon arrival and has the opportunity to use laundry services five days a week; with a one-day turn around time. All laundry carts are cleaned and sanitized between uses to prevent the cross-contamination from soiled to clean wash- and flat-wear. All infectious laundry is placed in melt away bags and washed separately in the laundry using a wash cycle specific to infectious materials. At no time is infectious washwear commingled with other non-infectious materials.

The laundry practices and procedures currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

### **Mattress Issues**

At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that mattresses in the BCCF were soiled or torn and in such poor condition that they allowed for the transmission of communicable diseases. Defendants specifically denied this allegation relating to mattresses. In 2003, all cloth mattresses were replaced with flame resistant and bacteria resistant vinyl covered mattresses. The vinyl mattresses are regularly disinfected by the inmate or by the sanitation crew or module runners when an inmate is discharged and that, if a mattress is torn, an inmate may request a new mattress.

The practices and procedures for sanitizing and replacing mattresses currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

### **Pre-Existing Conditions Issues**

At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that the Department of Health had a policy against treating inmates with pre-existing illnesses. Defendants specifically denied that it had a policy against treating inmates with pre-existing illnesses. The Department of Health does not employ a "Pre-Existing Condition" policy at the BCCF but rather provides treatment for pre-existing conditions. Nonetheless, to avoid any future confusion, the Department of Health has changed the language of the Inmate Questionnaire by removing any reference to "pre-existing conditions" and using a form entitled "Authorization for Assessment, Treatment and Release of Information."

The Defendants are not currently depriving Plaintiffs of their constitutional rights with regard to any "pre-existing conditions" policy.

### **Cleaning Medical Isolation Cells Between Occupants**

At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that the cells used to house inmates in medical isolation were not properly sanitized between occupants. Defendants specifically denied that the cells used for medical isolation were not properly sanitized between occupants. When an inmate is removed from medical isolation, the sanitation crew cleans the mattress, pillow, desk, toilet, sink, bunks, window frame, door and doorknob, walls and floor with a disinfectant such as Vindicator or Uniquat Neutral Disinfectant 256. Once the cell has been cleaned, it is recorded on the medical isolation cell cleaning log located in the sanitation office.

The practices and procedures for cleaning medical isolation cells currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

### **BCCF Medical Isolation Policies**

At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that inmates in medical isolation were housed in the RHU and were denied a number of the amenities afforded to inmates in the general population, including books, radios, TVs, visitation and recreation. The inmates requiring medical isolation are currently housed in G Module, MHU or the Farm, and not in RHU. The inmates on medical isolation have the opportunity to shower daily and to use the module telephones. They are also permitted to retain their walkmans and certain items purchased from the BCCF's Commissary. The inmates in medical isolation are neither shackled nor handcuffed when moving within or outside of their block. To the extent that inmates are denied access to books and televisions while in medical isolation, it is for the protection of the other inmates, because these items cannot be properly disinfected after use. To the extent inmates in medical isolation are denied recreation and visitation, it is for the protection of the other inmates and the general public.

The medical isolation practices and procedures currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

### **Security and Recreational Equipment**

At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that security and recreational equipment was not properly disinfected between uses. Defendants specifically denied that the security and recreational equipment was not properly disinfected between uses. The sanitation crew cleans recreational equipment on a daily basis. The security equipment that comes in contact with bodily fluids is immediately disinfected.

The practices and procedures for disinfecting recreational and security equipment currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

### **Overnight Infirmary**

Plaintiffs have requested an overnight infirmary for inmates with infectious diseases or other chronic conditions. Due to space constraints at the BCCF, it is currently not possible to add an overnight infirmary. Defendants agree to continue reviewing the possibility of establishing an overnight infirmary in connection with the County's strategic plan for an increased inmate population. In the event that Plaintiffs' counsel would like input into this review or analysis, Plaintiffs' counsel may submit in writing his or her recommendations to the Prison Oversight Board. Plaintiffs' counsel may also present his or her recommendations in person at any Prison Oversight Board meeting. In the absence of an overnight infirmary, the BCCF's medical personnel may make arrangements to have inmates requiring 24-hour skilled nursing care or treatment not available at the BCCF transferred to another facility that has the capability to provide the required level of treatment. The medical decision to transfer an inmate to another facility is made by qualified medical personnel. Defendants further agree that the Department of Health will create two new nursing positions at the dispensary. The first position will be an additional nurse assigned to the night shift. By adding an additional night shift nurse, one nurse can be assigned to monitor inmates requiring frequent monitoring. The second position is that of

a Public Health Nurse III ("PHN III"), who will work primarily during the day shift. One responsibility of the PHN III will be to develop and monitor individual care plans for special needs inmates. In addition, the PHN III will act as a case manager for inmates placed in medical isolation, as well as chronically ill inmates. The PHN III will submit monthly reports on chronically ill inmates. Further, the PHN III will develop comprehensive discharge plans for inmates with chronic diseases. It will also be the responsibility of the PHN III to develop a list of medical resources available to inmates upon discharge. The PHN III will be responsible for the inmates that require monitoring on a more frequent basis during the day shift.

### **Inmate Health Educational Campaign**

At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that inmates were given false information about the presence of communicable disease, specifically MRSA, in the BCCF. Defendants specifically denied that they gave any false information to inmates regarding the presence of communicable diseases. The Defendants have taken steps to educate inmates about MRSA and its transmission including the following: (1) posting MRSA fact sheets in each module and the dispensary; and (2) posting in each module and distributing with the inmate comfort kits instructions for effective hand washing techniques. Plaintiffs requested that Defendants substitute the MRSA fact sheet currently posted in the modules and dispensary with that of the Federal Bureau of Prisons ("BOP"), Appendix 5 to the Federal Bureau of Prisons Clinical Guidelines. Defendants agree to do so.

Plaintiffs also requested that Defendants use Appendix 10 to the Federal Bureau of Prisons Clinical Guidelines, entitled "MRSA Containment Checklist," to track MRSA infections in the BCCF. Defendants agree to do so for inmates who have had recurrent MRSA infections. The Department of Health will create a videotape describing the potential sources, potential causes, diagnosis, treatment, and prevention of MRSA infections for use in further training of the corrections officers and inmates.

### **Antibiotic/Vancomycin Issues**

At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that inmates with MRSA infections were not given vancomycin due to its cost. Plaintiffs requested that "[t]he decision as to what type of antibiotics to use should be within the province of the medical doctor on staff." Defendants contend that the medical decisions are always within the province of the medical doctor on staff. With respect to MRSA, antibiotics are prescribed pursuant to a culture's sensitivity results. Currently, no inmate culture testing positive for MRSA has shown a sensitivity only to Vancomycin. Nonetheless, Defendants agree that, in the event that a medical care provider determines that an inmate requires intravenous therapy, the medical care provider will order the inmate either hospitalized or transferred to another facility that has the capability to administer the appropriate medication.

### **Aftercare For Serious MRSA Cases**

Plaintiffs request that Defendants provide inmates with recurrent MRSA infections continued care after their release from the BCCF. Once inmates are released from the BCCF, the County is no longer legally obligated to provide them with medical care. Prior to an inmate's release, the medical staff at the BCCF attempts to meet with all inmates to discuss ongoing medical issues and appropriate follow up care. The Defendants agree that the Department of Health may assign inmates who have had several recurrences of MRSA to the newly added PHN III for case management, if this action is determined to be in the best interest of the inmate based on the medical doctor's care and treatment plan.

### **Monitoring of This Agreement**

The parties agree that Robert W. Powitz, Ph.D., M.P.H., R.S. will submit a written report, every six months or so, for a period of two years after court approval of this Agreement (a total of four reports), to the Prison Oversight Board, with a copy to Plaintiffs' counsel, Angus Love, addressing environmental health, safety, sanitation, and other public health issues in the BCCF.

The parties agree that Dr. Robert E. Nieman, M.D., F.A.C.P., Chief, Division of Infectious Diseases, Abington Memorial Hospital, or another Infectious Disease specialist, will submit a written reports every six months or so, for a period of two years after court approval of this Agreement (a total of four reports), to the Prison Oversight Board, with a copy to Plaintiffs' counsel, Angus Love, addressing whether the Bucks County Health Department's practice, procedure, and policies designed to prevent the spread of infectious diseases in the BCCF are appropriate, given the number of MRSA infections at the BCCF.

### **CONSEQUENCES OF CLASS MEMBERSHIP**

If you are a member of the Settlement Class as defined above, you will automatically remain a Class member.

If the Settlement Agreement is approved by the court, you will be bound by the Settlement Agreement which provides for a dismissal of the Second Amended Complaint and a complete general release of all claims or potential claims for injunctive relief against Defendants. As a member of the Settlement Class, you also may file an objection to the proposed settlement of this litigation.

If you wish to object to the Settlement Agreement, you must do so in writing. Your objection must include the caption of this litigation; must be signed; and must be filed with the Clerk of Court, United States District Court, 601 Market Street, Room 2609, Philadelphia, PA 19106-1797, no later than \_\_\_\_\_. If you mail an objection, please allow at least one week for mail service to effect a timely filing.

**THE SETTLEMENT HEARING**

The Court will hold a hearing on \_\_\_\_\_ at the United States District Court, 601 Market Street, Room, Philadelphia, PA 19106, to determine whether the proposed settlement of the litigation between the Settlement Class and the Defendants should be approved as fair, reasonable and adequate. The hearing may be continued without further notice.

Dated: \_\_\_\_\_

BY ORDER OF:

\_\_\_\_\_  
The Clerk of Court  
for the District Court for the Eastern  
District of Pennsylvania

## **EXHIBIT 2**

**PRIVATE SETTLEMENT AGREEMENT AND RELEASE**

This Private Settlement Agreement and Release is hereby entered by and between named plaintiffs Sandy Wilson, Angela Loch, Debbie Sherman, and Joanne Williams, on their own behalf and as representatives for a class of all persons who are or will be incarcerated in the Bucks County Correctional Facility (the "BCCF") (collectively, "Plaintiffs"), and named Defendants County of Bucks (the "County"); County Commissioners Martin and Miller; former County Commissioner Fitzpatrick; Harris Gubernick, individually and as Director of the Department of Corrections; and Willis Morton, individually and as former Warden of the BCCF (collectively, the "County Defendants") and Gordian Ehrlacher, individually and as former Acting Director of the Bucks County Department of Health; Lewis Polk, M.D., individually and as retired Medical Director for the Department of Health; Joan Crowe, R.N., individually and as Supervisor of the BCCF's Dispensary (collectively, the Medical Defendants)(both the County Defendants and the Medical Defendants may be referred to collectively as the "Defendants") .

WHEREAS, certain disputes arose between Plaintiffs and Defendants concerning Plaintiffs' incarcerations in the BCCF, including but not limited to those matters alleged in Civil Action No. 02-7377, United States District Court for the Eastern District of Pennsylvania;

WHEREAS, on September 19, 2002, Plaintiffs filed a complaint asserting various claims against Defendants under 42 U.S.C. § 1983, the Rehabilitation Act, and the Pennsylvania Constitution. After Defendants responded with a number of motions, Plaintiffs filed an Amended Complaint on December 20, 2002;

WHEREAS, on April 9, 2003, Plaintiffs moved for class certification, seeking to represent a class of all persons who are or will be confined at the BCCF;

WHEREAS, on January 30, 2004, the Court held a conference and suggested that that Plaintiffs further clarify the issues in the case, prompting Plaintiffs to request the opportunity to file another amended complaint;

WHEREAS, on April 30, 2004, Plaintiffs filed their Second Amended Complaint, to which Defendants replied with a motion to dismiss on June 16, 2004;

WHEREAS, on December 20, 2004, the Court granted in part and denied in part Defendants' motion to dismiss and granted Plaintiffs' Motion for Class Certification;

WHEREAS, after the Court's December 20, 2004 decision, Plaintiffs alleged in the Second Amended Complaint that the County has official policies and practices that deprive the Plaintiffs of their Constitutional rights in the following manner:

- a. failing to provide an infirmary or medical housing for inmates with communicable diseases, and house "medical isolation" inmates sick with infectious disease in solitary confinement (RHU cells) under punitive conditions; Defendants specifically denied this allegation;

- b. failing to clean and sanitize handcuffs or shackles used on sick inmates before they are used on other inmates; Defendants specifically denied this allegation;
- c. failing to clean or sanitize solitary cells, including but not limited to sanitizing mattresses and linens used for "medical isolation" inmates with communicable diseases before housing other inmates in the same cells; Defendants specifically denied this allegation;
- d. failing to clean or sanitize keys, handcuffs, radios or phones used by guards on a daily basis before they are given to other guards for use; Defendants specifically denied this allegation;
- e. failing to repair multiple roof leaks causing water to run down cell walls when it rains, causing dangerous bacteria, mold and fungus on walls and surfaces; Defendants specifically denied this allegation;
- f. failing to properly maintain inmate showers and ventilation to provide basic sanitation; Defendants specifically denied this allegation;
- g. failing to remedy overcrowding, which fosters spread of disease as inmates are housed in close quarters, also leading to violence and spread of sickness; Defendants specifically denied this allegation;
- h. denying inmates sick with MRSA treatment with vancomycin to save money; Defendants specifically denied this allegation;
- i. providing false information about jail infection to inmates, staff and to state health department representatives; Defendants specifically denied this allegation;
- j. failing to promulgate, publish, implement or enforce a policy for the prevention, diagnosis and treatment of communicable diseases among inmates, including but not limited to tuberculosis, hepatitis C and Staph or MRSA at the BCCF; Defendants specifically denied this allegation;
- k. utilizing prolonged punitive solitary confinement without treatment for sick inmates, especially women; Defendants specifically denied this allegation;
- l. failing to number or track inmate request forms (green slips) and arbitrarily destroy them, while requiring inmates to utilize them as an initial step in the grievance procedure for medical complaints; Defendants specifically denied this allegation;
- m. falsifying or destroy inmate complaints and medical records to cover up known infections, including hepatitis C, tuberculosis, Staph, and MRSA,

- and to cover up lack of treatment of infections among inmates and guards; Defendants specifically denied this allegation;
- n. refusing to test for infections or retest after treatment, if provided; Defendants specifically denied this allegation;
  - o. retaliating against inmates seeking medical care by denying treatment, charging them with malingering and/or misconduct, and locking them down; Defendants specifically denied this allegation;
  - p. returning hospitalized inmates to the prison at night when there are no physicians on duty in the BCCF; Defendants specifically denied this allegation;
  - q. failing to provide physician supervision of the nurses who run Correctional Health Services ("CHS"); Defendants specifically denied this allegation;
  - r. allowing nurses to choose the inmates who will be seen by a doctor; Defendants specifically denied this allegation;
  - s. ignoring sanitation standards for county jails despite state citations requiring ventilation and fresh air, cleaning ducts of dirt and mold, cleaning walls, floors and ceilings; Defendants specifically denied this allegation;
  - t. failing to implement a safe procedure for properly laundering clothing, towels, underwear and linens of infected inmates separately from laundry of well inmates; Defendants specifically denied this allegation;
  - u. maintaining a policy under which inmates with chronic disease could be denied treatment on an arbitrary basis; Defendants specifically denied this allegation;
  - v. failing to adopt a policy or protocol defining standards for when and under what circumstances medical care must be provided to inmates; Defendants specifically denied this allegation;
  - w. failing to discuss, study or make reports on inmate deaths through the M & M (morbidity and mortality) committee; Defendants specifically denied this allegation;

WHEREAS, on February 18, 2005, Defendants filed an answer to the Second Amended Complaint, denying every material allegation contained therein;

WHEREAS, on September 27, 2006 and November 29, 2006, the Court held status conferences and suggested that the parties attempt to narrow and then resolve the issues in this case;

WHEREAS, during several discussions between the parties held before and after the status conferences, the parties agreed that a number of the allegations contained in the Second Amended Complaint were no longer issues and while Defendants denied that any issues regarding the BCCF were present that came close to causing a Constitutional deprivation, Plaintiffs further limited the scope of their requested relief to the following general issues:

- a. Overcrowding;
- b. High Level Block-by-Block Decontamination;
- c. Cleaning and Inspection of the Ventilation System, Including Ducts;
- d. Precertification Issue/PIMCC Reform;
- e. Overnight Infirmary;
- f. BCCF Isolation Policies;
- g. Laundry;
- h. Preexisting Conditions;
- i. Inmate Health Education Campaign;
- j. Antibiotic/Vancomycin;
- k. Equipment;
- l. Cleaning Isolation Cells Between Uses;
- m. Aftercare for Serious MRSA Cases;

WHEREAS, the Defendants denied Plaintiffs are entitled to any relief in the afore-mentioned areas;

WHEREAS, the parties desire to compromise, settle, and resolve any and all such issues without the risks, delays, and expenses resulting from further litigation of any kind;

WHEREAS, the parties have been represented by independent counsel of their own choosing.

NOW THEREFORE, intending to be legally bound, knowingly and voluntarily, and in consideration of the mutual covenants contained herein, the parties hereby agreed as follows:

### **THE PARTIES**

1. Defendant County of Bucks is a municipal governmental agency that maintains offices in Doylestown, Pennsylvania. Defendants Martin and Miller are Commissioners on the County's Board of Commissioners. Defendant Fitzpatrick was a Commissioner on the County's Board of Commissioners at the time of the filing of the Second Amended Complaint. Gordian Ehrlacher was the Acting Director of the Bucks County Department of Health (the "Department of Health") at the time of the filing of the Second Amended Complaint. Lewis Polk, M.D. had retired as Medical Director for the Department of Health at the time of the filing of the Second Amended Complaint. Joan Crowe, R.N. is currently the supervisor of the BCCF's dispensary and employed by the Department of Health. Harris Gubernick is currently the Director of the Bucks County Department of Corrections. Willis Morton was the Warden of the BCCF at the time of the filing of the Complaint.

2. The named Plaintiffs are current or former inmates of the BCCF. The Plaintiff class consists of current and future inmates incarcerated in the BCCF.

### **THE BUCKS COUNTY CORRECTIONAL FACILITY AND ITS POPULATION**

3. The BCCF is a one story medium to maximum security prison located at 1730 South Easton Road in Doylestown, Pennsylvania. The BCCF was built in 1985 and currently houses approximately 737 inmates (641 men and 96 women). (See Commonwealth Department of Corrections 2005 Cycle Inspection of the BCCF dated July 2005 (the "2005 State Inspection Report") at 1, attached hereto as Exhibit A).

4. The BCCF has nine units for men with the following number of cells and beds: A Module (46 cells, 92 Beds); B Module (46 cells, 92 Beds); C Module (46 cells, 92 Beds Approved); D Module (46 cells, 92 Beds); E Module (46 cells, 90 Beds); G Module (46 cells, 67 Beds Approved); H Module (25 cells, 2 Dorm Rooms, 76 Beds); Restricted Housing Unit ("RHU") (20 cells, 32 Beds); and Mental Health Unit ("MHA") (8 cells, 8 Beds). (See Ex. A at 3-4). The modules contain two tiers of cells, arranged in a U-shape around the module common area.

5. The MHU is used to house male inmates requiring isolation for mental health issues or communicable disease.

6. The BCCF has a female unit, F Module, with 49 cells and 96 Beds Approved. (See Ex. A at 4). F Module contains two tiers of cells, arranged in a U-shape around the module common area.

7. The BCCF has a medical and mental isolation unit for women, which it calls the FRHUMHU or the "Farm." The Farm consists of four cells with six approved beds. The Farm is also used for restricted housing for women.

8. During the 2005 State Inspection, the BCCF had 662 in-house inmates (585 men and 77 women). (See Ex. A at 1). Also during the 2005 State Inspection, the BCCF had 33 inmates housed at other facilities, including Norristown State Hospital. (See Ex. A at 1).

9. The inmate population at the BCCF is constantly changing. For the last three years, the BCCF has averaged more than 7,200 commitments per year, with over 22,000 commitments from January 2003 through December 2005. During this same time period, the BCCF averaged more than 7,300 discharges per year, with over 22,000 discharges from January 2003 through December 2005. (See Prison Oversight Board Report for February 2006 at 3, attached hereto as Exhibit B).

10. The BCCF inmate population is made up of sentenced inmates and detainees. In January 2006, the number of detainees was 299, while the number of sentenced inmates was 364. In February 2006, the number of detainees was 399, while the number of sentenced inmates was 326. (See Ex. B at 1, 9).

11. On November 19, 2001, the Pennsylvania Department of Corrections conducted an Annual Inspection of the BCCF identifying certain areas in need of maintenance or repair, apparently caused by roof leaks, including (1) peeling paint in various locations; (2) rusted shower and dayroom ceiling vents; and (3) wall and ceiling paint discoloration in various locations. The replacement of the roof at the BCCF was substantially completed. As soon as the roof was replaced, Defendants began the process of painting the interior of the facility and replacing rusted or damaged vents.

12. On August 11, 2005, the Pennsylvania Department of Corrections awarded the BCCF a Certificate of Compliance for achieving 100 percent compliance with the requirements of Pennsylvania Law Title 37, Chapter 95. As reflected in the 2005 State Inspection Report, the Certificate of Compliance signifies that the BCCF met the state standards for, among other things, sanitation and safety, personal hygiene, clothing, housing, food service, climatic conditions including HVAC and ventilation, toilet and bathing facilities, lighting, minimum floor space, and general maintenance. (See Ex. A).

13. Plaintiffs' environment expert, Dr. Leon Vinci conducted two site visits of the BCCF, the first occurring on June 3, and June 4, 2003 and the second visit occurring on November 7, 2005. In a report dated November 7, 2005, Dr. Vinci noted that "[s]everal improvements since the last inspection were observed: most notably the roof repair, kitchen, and the completion of shower area renovations. BCCF staff confirmed that the property had been recently repainted in relation to preparations for a recent State inspection (about 2 weeks earlier). Efforts to maintain hygiene and general sanitation were also noted in different sections of the facility."

**PLAINTIFFS' REMAINING REQUESTS FOR RELIEF**

**Crowding Issues**

14. Plaintiffs' experts, Drs. Leon Vinci and Robert Greifinger, have stated that the BCCF is "overcrowded." Defendants specifically denied that the BCCF was overcrowded.

15. The County has taken several measures to mitigate the effect of any such crowding, including: (1) contracting for a comprehensive study dealing with the inmate population issue; (2) implementing a contract for community corrections beds, encouraging reentry into the community; (3) purchasing and preparing to install a temporary facility that will house 48-50 inmates; (4) seeking funding for pretrial alternatives; and (5) allowing inmates approximately nine hours of out-of-cell time and two hours of recreational time in the module urban yards per day.

16. The Defendants are not currently depriving Plaintiffs of their federal or state constitutional rights with regard to crowding issues.

**Request For High Level Block-By-Block Decontamination**

17. Plaintiffs alleged that a block-by-block decontamination would assist the control the spread of methicillin-resistant *Staphylococcus Aureus* ("MRSA").

18. MRSA is a staph bacteria that can be carried on the skin or in the nose of healthy people, and which is resistant to a particular family of antibiotics.

19. MRSA infections may be caused by direct physical contact with an infected area or with objects soiled by purulent material from the infected area.

20. The BCCF has in place thorough decontamination practices and procedures to prevent the spread of MRSA and other communicable diseases, including: (1) paying inmate module runners to sweep and mop the entire module, disinfect the showers, shower curtains and shower mats, wipe the railings and windows with disinfectant, and disinfect the module water fountains and telephones; (2) cleaning the module showers on a daily basis; (3) cleaning and sanitizing the remainder of the facility, including the recreation area and yard, the multi-purpose room, the laundry, the education room, the library, the dispensary, and the MHU and RHU; and (4) disinfecting certain areas using Brulin's Uniquat Neutral Disinfectant 256, which is effective against bacteria, including MRSA, viruses, including HIV and Hepatitis C, fungus, mold and mildew.

21. The sanitation and decontamination practices and procedures currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

**Request For Cleaning and Inspection of the Ventilation System, Including Ducts**

22. Plaintiffs' expert, Dr. Leon Vinci, stated in his report that the BCCF's ventilation system requires cleaning, alleging that this was last done in 1996. Defendants specifically denied that ventilation cleaning was last done in 1996.

23. The County contracted with Aerotech Filtration, Inc. ("Aerotech") in 2004 to clean and balance the BCCF's air conveyance systems, including cleaning and sanitizing the facility's entire duct work.

24. The Defendants are not currently depriving Plaintiffs of their federal or state constitutional rights with regard to the cleanliness of the BCCF's ventilation system.

**Precertification Issue/PIMCC Reform**

25. At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that the Department of Health had a practice of allowing nurses to override the treatment decisions of physicians by requiring that recommended treatments be "pre-certified" by Cost Management, a division of the Public Institution Medical Cost Containment ("PIMCC") program. Defendants denied that such a practice existed.

26. Defendants contend that a physician has always made the ultimate decision as to what treatment an inmate receives and that the pre-certification requirement of the PIMCC program is merely an administrative process by which Cost Management is notified that an inmate is being referred to an outside physician and/or facility for treatment. This procedure is utilized by Cost Management personnel to verify the invoices of outside providers.

27. Nonetheless, to eliminate any confusion caused by the use of the "pre-certification" form, the Department of Health has changed the form's title to "Preliminary Notification of Treatment."

28. The Defendants are not currently depriving Plaintiffs of their federal or state constitutional rights with regard to precertification issues or the determination of medical treatment by a physician.

**Laundry Issues**

29. At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that the BCCF's laundry procedures were inadequate to combat the spread of communicable disease. Defendants specifically denied that its laundry procedures were inadequate to combat the spread of communicable disease.

30. Parts of the laundry facilities were renovated to increase services and accommodate the larger laundry bag that is issued to each inmate upon admission. The renovations included the following:

- (i) Installation of a new 85-pound fully programmable washer/extractor to enable the laundering of infectious materials and mop heads;
- (ii) Installation of an ancillary ventilation system to improve efficacy of the gas dryers and enhance safety of the laundry workers;
- (iii) Installation of a new and expanded laundry chemical delivery system to accommodate the reprogrammed wash cycles; and
- (iv) Modification to the central worktable and shelving to allow for the increased processing within the facility and separation of the different clothing and other washwear items.

Laundry processes were upgraded to more closely conform with hospitality and selected hospital standards, specifically those relating to infection control:

- (i) The wash cycles for the various washwear and linens were modified to enhance cleaning through the additional use of bleach-containing products and increasing the number and time of pre- and post-rinse cycles. This enhances contamination control through both chemical means and dilution.
- (ii) The drying cycles were reprogrammed and modified for each type of wash- and flat-wear being processed resulting in a drier product and thereby enhancing further decontamination through desiccation.
- (iii) Par levels of clothing and linens were increased at the warehouse and in the laundry to ensure a full complement issue to each prisoner entering the facility. Each incoming prisoner is issued two changes of linen, three changes of undergarments (all female inmates are issued new undergarments), two jump suits, a blanket and a pair of gym shorts. As seasonally appropriate, each prisoner is also issued a jacket; female inmates are also issued pajamas. Inmates keep his or her set throughout the length of their stay. Unserviceable garments and linens are exchanged for new on a one-to-one basis.
- (iv) New 40" x 24" laundry bags were purchased. Each prisoner is given a laundry bag upon arrival and has the opportunity to use laundry services five days a week; with a one-day turn around time.
- (v) All laundry carts are cleaned and sanitized between uses to prevent the cross-contamination from soiled to clean wash- and flat-wear.

31. All infectious laundry is placed in melt away bags and washed separately in the laundry using a wash cycle specific to infectious materials. At no time is infectious washwear commingled with other non-infectious materials.

32. The laundry practices and procedures currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

#### **Mattress Issues**

33. At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that mattresses in the BCCF were soiled or torn and in such poor condition that they allowed for the transmission of communicable diseases. Defendants specifically denied this allegation relating to mattresses.

34. In 2003, all cloth mattresses were replaced with flame resistant and bacteria resistant vinyl covered mattresses.

35. The vinyl mattresses are regularly disinfected by the inmate or by the sanitation crew or module runners when an inmate is discharged and that, if a mattress is torn, an inmate may request a new mattress.

36. The practices and procedures for sanitizing and replacing mattresses currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

#### **Pre-Existing Conditions Issues**

37. At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that the Department of Health had a policy against treating inmates with pre-existing illnesses. Defendants specifically denied that it had a policy against treating inmates with pre-existing illnesses.

38. The Department of Health does not employ a "Pre-Existing Condition" policy at the BCCF but rather provides treatment for pre-existing conditions.

39. Nonetheless, to avoid any future confusion, the Department of Health has changed the language of the Inmate Questionnaire by removing any reference to "pre-existing conditions" and using a form entitled "Authorization for Assessment, Treatment and Release of Information."

40. The Defendants are not currently depriving Plaintiffs of their constitutional rights with regard to any "pre-existing conditions" policy.

#### **Cleaning Medical Isolation Cells Between Occupants**

41. At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that the cells used to house inmates in medical isolation were not properly sanitized

between occupants. Defendants specifically denied that the cells used for medical isolation were not properly sanitized between occupants.

42. When an inmate is removed from medical isolation, the sanitation crew cleans the mattress, pillow, desk, toilet, sink, bunks, window frame, door and doorknob, walls and floor with a disinfectant such as Vindicator or Uniquat Neutral Disinfectant 256. Once the cell has been cleaned, it is recorded on the medical isolation cell cleaning log located in the sanitation office.

43. The practices and procedures for cleaning medical isolation cells currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

#### **BCCF Medical Isolation Policies**

44. At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that inmates in medical isolation were housed in the RHU and were denied a number of the amenities afforded to inmates in the general population, including books, radios, TVs, visitation and recreation.

45. The inmates requiring medical isolation are currently housed in G Module, MHU or the Farm, and not in RHU.

46. The inmates on medical isolation have the opportunity to shower daily and to use the module telephones. They are also permitted to retain their walkmans and certain items purchased from the BCCF's Commissary.

47. The inmates in medical isolation are neither shackled nor handcuffed when moving within or outside of their block.

48. To the extent that inmates are denied access to books and televisions while in medical isolation, it is for the protection of the other inmates, because these items cannot be properly disinfected after use.

49. To the extent inmates in medical isolation are denied recreation and visitation, it is for the protection of the other inmates and the general public.

50. The medical isolation practices and procedures currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

#### **Security and Recreational Equipment**

51. At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that security and recreational equipment was not properly disinfected between uses. Defendants specifically denied that the security and recreational equipment was not properly disinfected between uses.

52. The sanitation crew cleans recreational equipment on a daily basis.

53. The security equipment that comes in contact with bodily fluids is immediately disinfected.

54. The practices and procedures for disinfecting recreational and security equipment currently in place at the BCCF do not deprive Plaintiffs of their federal or state constitutional rights.

#### **Overnight Infirmary**

55. Plaintiffs have requested an overnight infirmary for inmates with infectious diseases or other chronic conditions.

56. Due to space constraints at the BCCF, it is currently not possible to add an overnight infirmary.

57. Defendants agree to continue reviewing the possibility of establishing an overnight infirmary in connection with the County's strategic plan for an increased inmate population. In the event that Plaintiffs' counsel would like input into this review or analysis, Plaintiffs' counsel may submit in writing its recommendations to the Prison Oversight Board. Plaintiffs' counsel may also present its recommendations in person at any Prison Oversight Board meeting.

58. In the absence of an overnight infirmary, the BCCF's medical personnel may make arrangements to have inmates requiring 24-hour skilled nursing care or treatment not available at the BCCF transferred to another facility that has the capability to provide the required level of treatment. The medical decision to transfer an inmate to another facility is made by qualified medical personnel.

59. Defendants further agree that the Department of Health will create two new nursing positions at the dispensary. The first position will be an additional nurse assigned to the night shift. By adding an additional night shift nurse, one nurse can be assigned to monitor inmates requiring frequent monitoring. The second position is that of a Public Health Nurse III ("PHN III"), who will work primarily during the day shift. One responsibility of the PHN III will be to develop and monitor individual care plans for special needs inmates. In addition, the PHN III will act as a case manager for inmates placed in medical isolation, as well as chronically ill inmates. The PHN III will submit monthly reports on chronically ill inmates. Further, the PHN III will develop comprehensive discharge plans for inmates with chronic diseases. It will also be the responsibility of the PHN III to develop a list of medical resources available to inmates upon discharge. The PHN III will be responsible for the inmates that require monitoring on a more frequent basis during the day shift.

#### **Inmate Health Educational Campaign**

60. At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that inmates were given false information about the presence of communicable disease, specifically MRSA, in the BCCF. Defendants specifically denied that they gave any false information to inmates regarding the presence of communicable diseases.

61. The Defendants have taken steps to educate inmates about MRSA and its transmission including: (1) posting MRSA fact sheets in each module and the dispensary; and (2) posting in each module and distributing with the inmate comfort kits instructions for effective hand washing techniques.

62. Plaintiffs requested that Defendants substitute the MRSA fact sheet currently posted in the modules and dispensary with that of the Federal Bureau of Prisons ("BOP"), Appendix 5 to the Federal Bureau of Prisons Clinical Guidelines. Defendants agree to do so.

63. Plaintiffs also requested that Defendants use Appendix 10 to the Federal Bureau of Prisons Clinical Guidelines, entitled "MRSA Containment Checklist," to track MRSA infections in the BCCF. Defendants agree to do so for inmates who have had recurrent MRSA infections.

64. The Department of Health will create a videotape describing the potential sources, potential causes, diagnosis, treatment, and prevention of MRSA infections for use in further training of the corrections officers and inmates.

#### **Antibiotic/Vancomycin Issues**

65. At the time of the filing of the Second Amended Complaint, Plaintiffs alleged that inmates with MRSA infections were not given vancomycin due to its cost. Plaintiffs requested that "[t]he decision as to what type of antibiotics to use should be within the province of the medical doctor on staff." Defendants contend that the medical decisions are always within the province of the medical doctor on staff.

66. With respect to MRSA, antibiotics are prescribed pursuant to a culture's sensitivity results. Currently, no inmate culture testing positive for MRSA has shown a sensitivity only to Vancomycin.

67. Nonetheless, Defendants agree that, in the event that a medical care provider determines that an inmate requires intravenous therapy, the medical care provider will order the inmate either hospitalized or transferred to another facility that has the capability to administer the appropriate medication.

#### **Aftercare For Serious MRSA Cases**

68. Plaintiffs request that Defendants provide inmates with recurrent MRSA infections continued care after their release from the BCCF.

69. Once inmates are released from the BCCF, the County is no longer legally obligated to provide them with medical care.

70. Prior to an inmate's release, the medical staff at the BCCF attempts to meet with all inmates to discuss ongoing medical issues and appropriate follow up care.

71. The Defendants agree that the Department of Health may assign inmates who have had several recurrences of MRSA to the newly added PHN III for case management, if this action is determined to be in the best interest of the inmate based on the medical doctor's care and treatment plan.

#### **MONITORING OF THIS AGREEMENT**

72. The parties agree that Robert W. Powitz, Ph.D., M.P.H., R.S. to submit a written report, every six months or so, for a period of two years after court approval of this Agreement (a total of four reports), to the Prison Oversight Board, with a copy to Plaintiffs' counsel, Angus Love, addressing environmental health, safety, sanitation, and other public health issues in the BCCF.

73. The parties agree that Dr. Robert E. Nieman, M.D., F.A.C.P., Chief, Division of Infectious Diseases, Abington Memorial Hospital, or another Infectious Disease specialist, will submit a written reports every six months or so, for a period of two years after court approval of this Agreement (a total of four reports), to the Prison Oversight Board, with a copy to Plaintiffs' counsel, Angus Love, addressing whether the Bucks County Health Department's practice, procedure, and policies designed to prevent the spread of infectious diseases in the BCCF are appropriate, given the number of MRSA infections at the BCCF.

#### **ATTORNEYS' FEES, EXPERT WITNESS FEES AND LITIGATION EXPENSES**

74. Defendants shall pay Plaintiffs' counsel the sum of Sixty Thousand dollars (\$60,000) within thirty (30) days after court approval of the Private Settlement Agreement and Release, representing all reasonable attorneys' fees, including costs of litigation and expert fees, incurred by Plaintiffs.

#### **WITHDRAWAL OF CLAIMS AND GENERAL RELEASE**

75. In exchange for the covenants described above, Plaintiffs agree to voluntarily dismiss Civil Action No. 02-7377, with Court approval, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

76. Plaintiffs hereby release the Defendants, and their predecessors, successors and assigns, and their past, present and future Commissioners, employees, agents, servants, attorneys and representatives (the "Releasees") from all actions and claims for injunctive relief sought under the Second Amended complaint hereunder, or in later correspondence further describing relief sought, which is outlined in the Whereas clauses in this Agreement, under any theories now or hereafter recognized. This release also includes a waiver of all Claims against the Releasees for attorney's fees and costs.


#### **IMPLEMENTATION**

77. The provisions of this Agreement shall go into effect on the date when the Agreement is fully executed by all parties and approved by the Court.


**ENFORCEMENT**

78. The parties agree that this Agreement is a Private Settlement Agreement, as that term is defined in the Prison Litigation Reform Act, 18 U.S.C. § 3626. The parties also agree that this Agreement may be enforced as a settlement agreement under the laws of the United States of America and the Commonwealth of Pennsylvania. The provisions of this Agreement will terminate two (2) years after the Agreement is fully executed and approved by the Court.

Doc. 4  
Date: November, 2007


  
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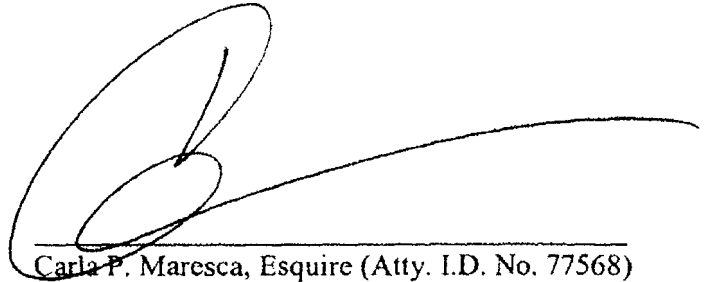
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**APPROVED BY THE COURT:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Buckwalter, S.J.

