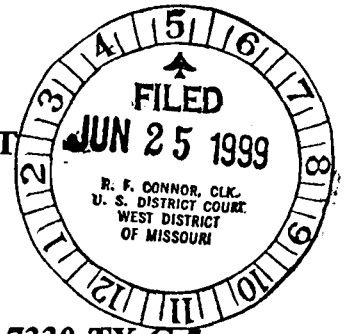


IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION



In re: TEXAS PRISONER
LITIGATION

Master Case No. 98-7330-TX-C-5

PHILLIP JOHNSON et al.

Plaintiffs,

v.

BRAZORIA COUNTY, TEXAS,
et al.,

Defendants.

In re: Texas Prison Litigation



PC-MO-0003-0005

No. 99-4021-CV-C-5

Joint Motion for Approval of Settlement

Having negotiated a resolution to this case, the parties move the Court to approve the proposed settlement. For their motion, the parties state:

1. The parties have requested that this case be conditionally certified as a mandatory, no-opt out class action under Rule 23(b)(2) for the purpose of permitting the parties to submit a settlement of all claims by the class.
2. The parties attach as Exhibit 1, and incorporate by reference, the Settlement Agreement executed on behalf of Class Counsel and Settling Defendants, as defined therein.
3. The Settlement Agreement provides in part that (1) members of the Settlement Class may request a review of conduct violations which they contend were improperly issued when they were confined in a Texas correctional facility as part

COPY

of the Texas Cell Lease Program; (2) certain Defendants will not, at any time before June 15, 2004, contract with any Defendant or any other entity to transfer any member of the Settlement Class to the State of Texas, other than on an individual basis pursuant to the Interstate Corrections Compact; (3) certain Defendants will not, with respect to any member of the Settlement Class who might be transferred to the State of Texas on an individual basis pursuant to the Interstate Corrections Compact, contract with any entity which employs anyone convicted of a crime the elements of which include abuse, neglect or assault upon an inmate; (4) certain Defendants will not maintain or pursue any claim for reimbursement of a Settlement Class member's cost of incarceration or medical care from any funds recovered from the Texas Inmate Litigation Settlement Fund; and (5) the sum of \$2,220,000.00 will be paid into the Texas Inmate Litigation Settlement Fund, to be disbursed under the supervision of the Court to members of the Settlement Class who submit claims pursuant to further notice to be provided by the Court. In exchange for the above consideration, the Class Plaintiffs will release the Defendants and all other persons, firms, corporations, and governmental entities whomsoever from any and all liability to any member of the Settlement Class for claims arising from their confinement in any correctional facility in the State of Texas as part of the Texas Cell Lease Program at any time between January 1, 1995 to December 31, 1997.

4. The monetary compensation of \$2,220,000 will be initially distributed as follows:

6. Group B consists of all inmates who submit a claim for monetary compensation as a result of being confined in any of the cell blocks which were searched by law enforcement personnel at the Brazoria County Correctional Center on September

Texas for 100 days would receive \$2,000.00

5. Group A consists of all inmates who submit a claim for monetary compensation for the conditions of their confinement in the State of Texas. The sum of \$100,000.00 will be initially allocated to group A. Additional sums may be allocated to group A as set forth below after all payments have been made to the group C claimants and the litigation and class administration expenses incurred by Class Counsel have been paid. The total funding of group A will be distributed to the group A claimants on a per diem rate. The per diem rate shall be determined by dividing the total funding by the total number of days spent by group A claimants in confinement in the State of Texas. By way of example, if the total funding equals \$250,000.00 and the total number of claimants/days equals 12,500, then the per diem rate would be \$20.00. Thus, an inmate who was confined in Texas for 100 days would receive \$2,000.00

administration expenses incurred by Class Counsel.

- (a) Initial funding of \$100,000.00 for Group A;
- (b) Initial funding of \$100,000.00 for Group B;
- (c) Total maximum funding of \$820,000.00 for Group C;
- (d) \$900,000.00 for Class Counsel attorneys' fees;
- (e) Total maximum funding of \$300,000.00 for the litigation and class

18, 1996 and/or Gregg County Correctional Center on March 2, 1997. The sum of \$100,000.00 will be initially allocated to group B. Additional sums may be allocated to group B as set forth below after all payments have been made to the group C claimants and the litigation and class administration expenses incurred by Class Counsel have been paid. The total funding of group B will be distributed to the group B claimants on a pro rata basis. Pro rata basis shall be determined by dividing the total funding by the total number of group B claimants. In the event a group B claimant was in both institutions as referred to above, he shall receive two pro rata shares. By way of example, if the total funding equals \$250,000.00 and the total number of group B claimants equals 100, the pro rata share would be \$2,500 per inmate.

7. Group C consists of all inmates who submit a claim for monetary compensation for significant physical injuries. The sum of \$820,000.00 will be allocated to group C. The value of each group C claim shall be determined by United States Magistrate Judge William Knox of the United States District Court for the Western District of Missouri, Central Division, or, for named plaintiffs in *Kesler, et al. v. King, et al.*, G-96-CV-703, filed in United States District Court for the Southern District of Texas, Galveston Division, at the election of such plaintiffs, by United States Magistrate Judge John Froeschner of the United States District Court for the Southern District of Texas, Galveston Division. The Court shall enter an order establishing the procedure for the valuation of the group C claims. In the event the total value of all group C claims is less than \$820,000.00, then the remaining


balance shall be allocated equally to group A and group B. By way of example, if the total value of all group C claims is \$520,000.00, then an additional \$150,000.00 shall be allocated to group A and an additional \$150,000.00 shall be allocated to group B.

8. A class member may submit a claim under group A and/or group B. A class member may not submit a claim under group A and/or group B if he submits a claim under group C.
9. The following attorneys are proposed as Class Counsel: Michael P. Bastian, 906 Olive Street, St. Louis, MO 63101; Frank K. Carlson, Carlson & Hellman 17 South Oak Street, Union, MO 63004; Dan T. Dalton and Stephen M. Ryals, Ryals & Soffer, 8008 Carondelet Avenue, Suite 205, St. Louis, MO 63105; Craig R. Heidemann, Douglas, Lynch, Haun & Kirksey, P.C., 111 West Broadway, Bolivar, MO 65613; Sylvester James, Kenner, James & Kavanaugh, 800 West 47th Street, Suite 515, Kansas City, MO 64112; Lynn J. Klement, P.O. Box 1744, Angleton, TX 77516-1744; John P. Poland, Baker Sterchi Cowden & Rice, L.L.C., 1010 Market Street, Suite 1610, St. Louis, Missouri 63101; and Gary R. Sarachan, Rothman, Sokol, Adler & Sarachan, P.C., 7701 Forsythe Boulevard, Fourth Floor, St. Louis, Missouri 63105. The sum of \$900,000.00 is proposed to be paid to Class Counsel for their attorneys' fees as follows: \$150,000.00 to attorneys Bastian, Carlson, Dalton and Ryals; \$150,000.00 to attorney Heidemann; \$150,000.00 to attorney Klement; \$150,000.00 to attorney James; \$150,000.00 to attorney Poland; and \$150,000.00 to attorney Sarachan.

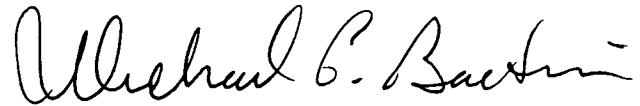
10. The sum of \$300,000.00 shall be the maximum sum allocated for litigation and class administration expenses incurred by Class Counsel. In the event the total expenses is less than \$300,000.00, the remaining balance shall be allocated equally to group A and group B. By way of example, if the total expenses is \$200,000.00, then an additional \$50,000.00 shall be allocated to group A and an additional \$50,000.00 shall be allocated to group B.
11. The settlement is the product of extensive negotiation conducted over a period of several months and requiring the services of a mediator experienced in this sort of litigation both from his private practice and from his time as a United States Magistrate in this Court.
12. The settlement, in all respects, is fair to all parties represented or not, participating or not.
13. Court approval of the settlement, mandatory under Rule 23(e) in any event, is a necessary and inherent part of the settlement as well as the class action certification. If this Court or any appellate court disapproves the settlement, then the entire settlement and certification are, by agreement of all parties, void.
14. In further support of this motion, various parties have contemporaneously filed suggestions.

WHEREFORE, the parties jointly move this Court for approval of the class settlement under Rule 23(e) upon the terms set out in the settlement agreement.

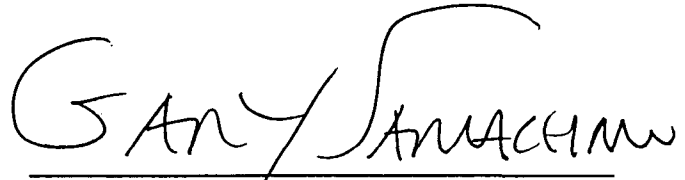
Respectfully submitted,



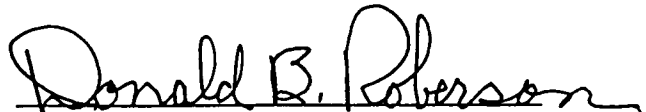
John P. Poland #30602
Baker, Sterchi, Cowden & Rice, LLC
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(314) 231-2925



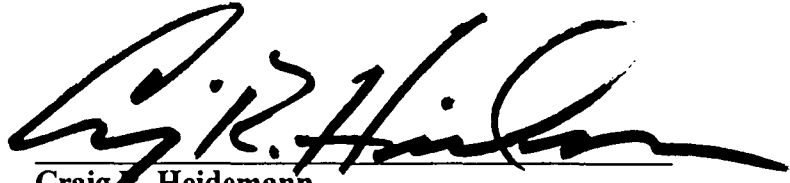
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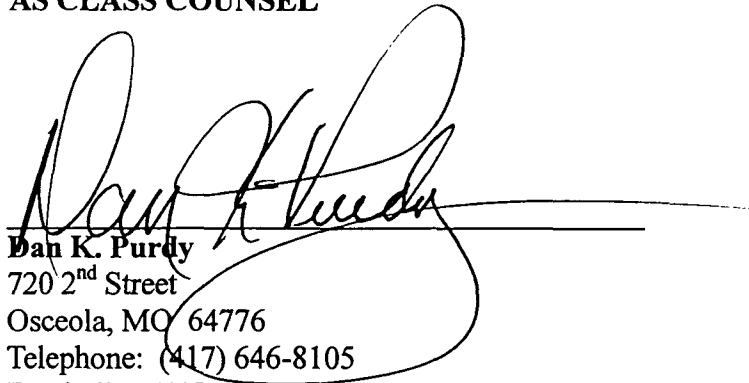
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AS CLASS COUNSEL



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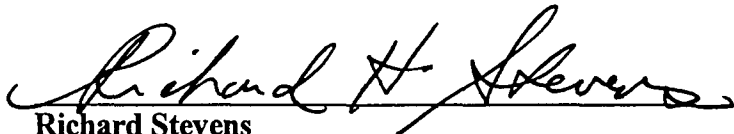
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Bass, et al. v. Schriro, et al.

Case No. 98-4004-CV-C-5



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Turbyville v. Brazoria Cty, et al.

Case No. 97-3633-CV-S-1

By: _____


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Law Office of Lynn J. Klement

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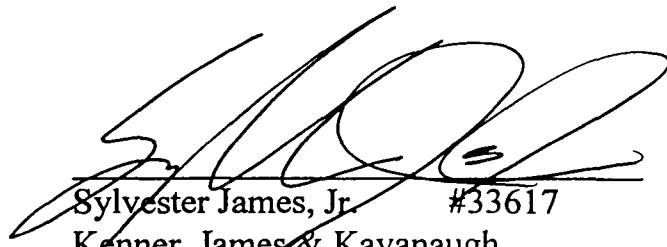
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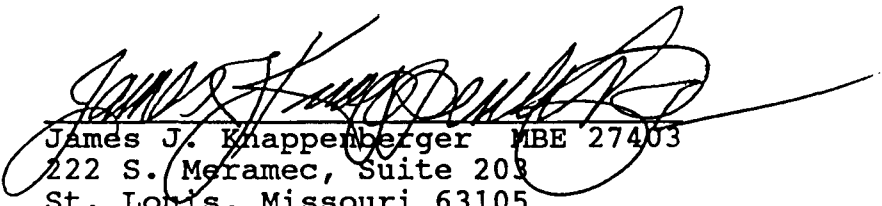
STATE BAR NO. 11567900

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Sylvester James, Jr. #33617
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Clifford B. Faddis

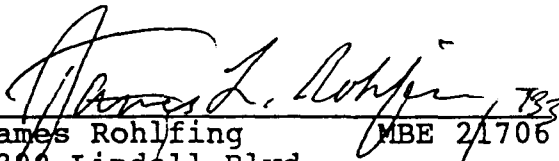
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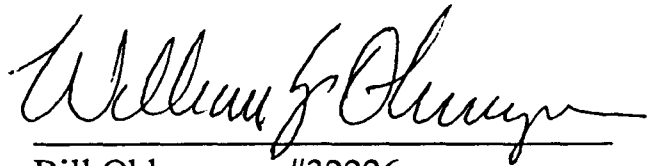
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Case No. 97-4297-CV-C-5



Bill Ohlemeyer, #32226

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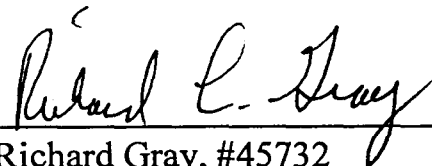
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Case Nos. 97-4297-CV-C-5

97-4275-CV-C-5



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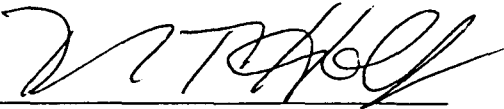
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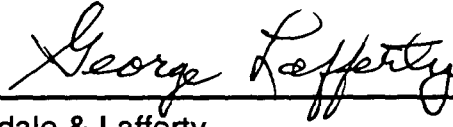
Case No. 97-4275-CV-C-5

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CASE NO. 98-4095-CV-C-5



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98-4098-CV-C-5

98-4148-CV-C-5

98-4149-CV-C-5

98-4150-CV-C-5

98-4151-CV-C-5

98-4152-CV-C-5

98-4153-CV-C-5

For John McCon

A handwritten signature in black ink, reading "Dennis Owens". The signature is fluid and cursive, with the first name "Dennis" and last name "Owens" clearly distinguishable.

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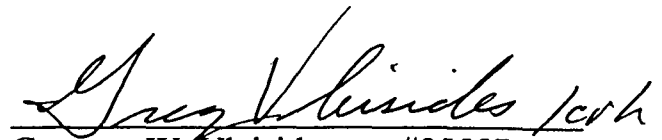
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Counsel for Plaintiff John McCon

In the Circuit Court of Cole County, Missouri

Case No. 98-4154-CV-C-5

McCon v. Limestone County, Texas, et alia

A handwritten signature in black ink, appearing to read "Greg Vleisides /crh", is written over a horizontal line.

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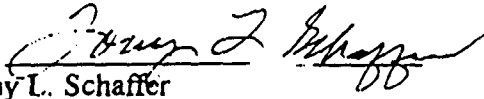
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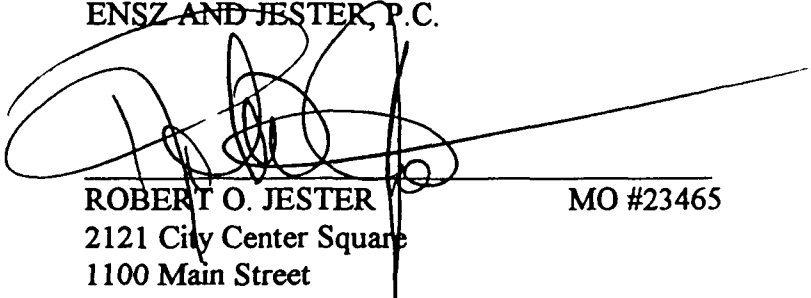
1021 Ranch Road 620 South

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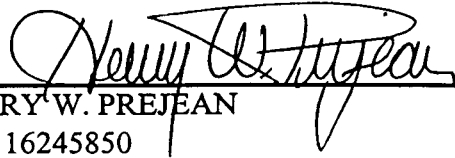
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Attorneys for Defendant SCHRIRO

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BY:

A handwritten signature in black ink, appearing to read "Thomas M. Mingus", is written over a horizontal line.

Thomas M. Mingus, #41784

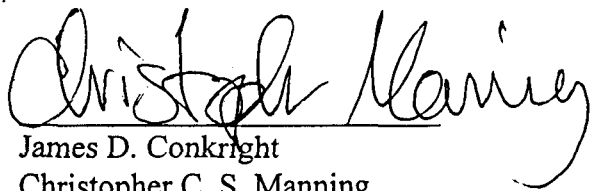
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ATTORNEYS FOR DEFENDANT GARY ALLAN

A handwritten signature in black ink, appearing to read "Christopher Manning". The signature is written in a cursive, flowing style. The first name "Christopher" is written with a large, prominent "C" and "h". The last name "Manning" is written with a large, prominent "M" and "n". The signature is written over a horizontal line.

James D. Conkright

Christopher C. S. Manning

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Attorneys For Gregg County, Texas