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Of Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

RODGER R. ANSTETT, et al,

Plaintiffs,

v.

STATE OF OREGON, et al,

Defendants.

Case No. 01-1619-BR

JOINT MOTION TO DISMISS

The parties hereby jointly move this court to dismiss this action against all defendants *with prejudice*, for the reasons detailed below.

On December 19, 2002, this court found that the interests of justice were best served by certifying a limited class solely for the determination of liability and injunctive relief. (USDC Doc # 84). The resulting class action was settled pursuant to a Settlement and Release Agreement (Agreement) dated April 4, 2004 (USDC Doc # 142) in which the parties agreed to the Special Master forming a three-member Medical Review Panel (MRP) to evaluate the Oregon Department of Corrections (ODOC) 2003 HCV Treatment Guidelines (Guidelines).

The three-member MRP was charged with two tasks: (1) "assess[ing] the Guidelines' compliance with the community standard of care for treatment of HCV" and "determin[ing] whether the [2003 ODOC Hepatitis C treatment] Guidelines reflect[ed] a reasonable community standard of care appropriate for the treatment of Hepatitis C<sup>1</sup> and (2) with a random chart review to "assess the compliance of treatment utilized for the specific patient with the existing Guidelines and the medical standard of care". (Release and Settlement Agreement, pp 5-10, §2 (c)(i) and (ii) and §3 (a)-(j)).

The MRP's initial chart review found the ODOC fell below the agree-upon 90% compliance standard so, the review period was (as set forth in the Agreement), extended for six months, to the end of 2006. At that time, the ODOC produced 23 charts randomly selected for review and the MRP began their second chart review in January 2007. The MRP recently completed their chart review and issued a report dated March 21, 2007, entitled "Report From the Hepatitis C Medical Review Panel" (Report). (USDC Doc #198).

However, the parties' counsel were unable to determine from the MRP's report and subsequent email correspondence, whether or not the ODOC's treatment decisions were made in temporal compliance with the "Medical Guidelines for Hepatitis C Evaluation and Treatment - 2004"[USDC Doc #170]. Judge Ashmanskas therefore ordered the parties' counsel to review the 23 charts for temporal compliance.

Counsel having reviewed the randomly selected charts provided to the MRP on May 24, 2007, found sufficient temporal compliance by the ODOC health care providers to jointly move this court to institute the dismissal provisions found in the Agreement.

These dismissal provisions require the Plaintiff Class to "dismiss all class claims against Defendants *with prejudice*". (Agreement, p. 4, §1 (e)(ii)). The Agreement further notes that this action will resolve all issues between Plaintiff Class and Defendants with Plaintiff Class barred

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<sup>1</sup> The MRP elected to update and re-draft the Guidelines which were then filed with this court. (USDC Doc#170).

from filing any further actions on the same issues for which the action was certified (Agreement, p. 4, §1 (f)), and provides that all class members will have two years from the date of the dismissal's filing in which to file any action arising from the acts or omissions of any potential ODOC defendants. (Agreement, p. 4, §1 (g)).

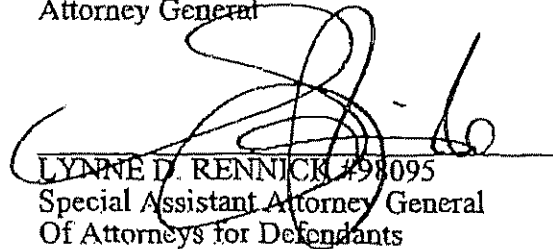
**CONCLUSION**

For the reasons stated above the parties jointly move this court for an order implementing the Agreement provisions to "execute and file a stipulated dismissal of litigation" in which all class claims shall be dismissed with prejudice against all Defendants.

DATED this 31<sup>st</sup> day of May, 2007.

Respectfully submitted,

HARDY MYERS  
Attorney General



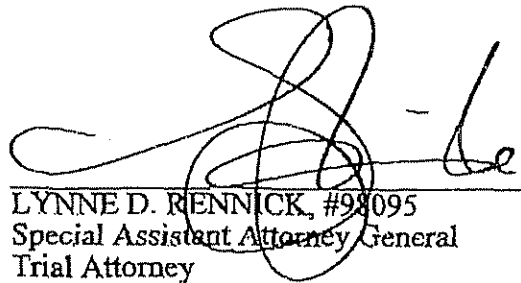
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Of Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I certify that on May ~~31~~<sup>31<sup>st</sup></sup>, 2007, I served the foregoing JOINT MOTION TO DISMISS upon the parties hereto by the method indicated below, and addressed to the following:

Michelle Burrows  
Attorney at Law  
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- HAND DELIVERY
- MAIL DELIVERY
- OVERNIGHT MAIL
- TELECOPY (FAX)
- E-MAIL
- E-FILE



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