

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BILL SNIDER, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 1:11-cv-00731 WTL-MJD
)	
SUPERINTENDENT, WABASH)	
VALLEY CORRECTIONAL FACILITY,)	
<i>et al.</i> ,)	
)	
Defendants.)	

**STIPULATION OF PARTIES TO ENTER INTO PRIVATE SETTLEMENT
AGREEMENT AFTER PLAINTIFFS’ COUNSEL GIVES NOTICE TO THE CLASS
AND AFTER FAIRNESS HEARING / MOTION TO APPROVE FORM AND MANNER
OF NOTICE**

The parties, by their counsel, stipulate and agree as follows

I. Introduction

1. This is an action for declaratory and injunctive relief brought by Bill Snider, claiming that he and other prisoners confined to the Special Confinement Unit (“SCU”) at Wabash Valley Correctional Facility are receiving an inadequate diet in violation of the Eighth Amendment to the United States Constitution.

2. This action has been certified as a class action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure. The class is defined as:

All prisoners now, and in the future, confined to the Special Confinement Unit at Wabash Valley Correctional Facility.

(ECF No. 34).

3. The defendants do not concede the merits of any of the allegations of the plaintiffs’ complaint. However, the parties are desirous of reaching a settlement of this matter and

therefore they enter into this Stipulation. Plaintiffs agree that defendants' entry into this Private Settlement Agreement ("Agreement") is not an admission of any kind and imposes no liability on the defendants for any violation of law, constitutional or otherwise.

4. Although plaintiffs' counsel has signed this Stipulation, the parties agree that this Stipulation will not be deemed to be approved by the class until notice is given to the class as provided in paragraph 15 and until plaintiffs' counsel notifies the Court and the parties following the class notice and the Court finds that this Agreement is a fair and just resolution of this matter. For purposes of this Stipulation this latter date will be referred to as "the effective date."

5. Insofar as the plaintiffs have sought relief under 42 U.S.C. § 1983 for violations of the United States Constitution, this litigation is subject to the Prison Litigation Reform Act, 18 U.S.C. § 3626, *et seq.* This Act imposes certain requirements on agreements made in litigation such as this, but provides that the parties may enter into private agreements which are exempted from the requirements of the Act. 18 U.S.C. § 3626(c). However, such agreements are not subject to enforcement under federal law other than reinstatement of the proceedings, although they are enforceable under state law regarding breaches of contract. *Id.*

6. Accordingly, to the extent that the parties agree to the terms and conditions as set forth below, this is deemed to be a private settlement agreement under the Prison Litigation Reform Act.

II. Private Settlement Agreement – Substantive Terms

7. In order to assure that the food served to prisoners within the SCU is served in the quantity provided on the daily menus at each meal, the defendants will have one or more correctional officers randomly check a number of the food trays before they are served to the prisoners. If any problems are noted concerning the quantities all necessary steps will be taken

to correct the shortage before the food is served to the prisoners.

8. If any shortages are noted on any of the trays, the deficiencies will be recorded and a permanent written record will be made by the defendants of the deficiencies.

9. Once food is delivered, the prisoners must immediately inform the custody staff delivering the meals if they have any issues with the quantities on their trays.

10. In the event of a complaint by a prisoner, custody staff delivering the meal will immediately inspect the tray and if there is a confirmed shortage of any item(s) as compared to the menu or if there is some other problem with the food that renders it inedible, the staff members shall provide the item that was omitted or a complete replacement tray as quickly as possible. A copy of the daily menu shall be located in each control pod of the SCU for this purpose.

11. If a replacement item or tray is issued, custody staff must document this in writing on the Wabash Valley Correctional Facility Special Confinement Unit Meal Flow Sheet.

12. During the pendency of this Agreement counsel for plaintiffs has the right, with reasonable prior notice, to inspect the activity sheets, logbooks, and permanent written records mentioned above.

III. Costs and attorneys' fees

13. The parties agree that each side shall be responsible for their costs and attorneys' fees and plaintiffs waive any and all claims to costs and attorneys' fees pursuant to 42 U.S.C. § 1988 or any other statute or rule.

IV. Notice to the Class

14. The parties acknowledge that Rule 23(e) of the Federal Rules of Civil Procedure requires that before a class action can be dismissed or compromised that notice must be given to the class

members and the Court must determine that this Agreement is fair, reasonable, and adequate.

15. Attached to this Agreement is a proposed notice that plaintiffs' counsel has prepared for the class. The parties agree that this notice, if approved by the Court, should be given by delivering the notice to each prisoner in the SCU on a date to be selected by the defendants and by posting the notice in a prominent area within each pod in the SCU for 14 days.

16. No earlier than 30 days following the date the notice is distributed to the class, counsel for plaintiffs will report to the Court and to the defendants as to the comments received from class members and will make further recommendations as to whether, in counsel's estimation, the Agreement is a fair, reasonable, and adequate resolution of this matter pursuant to Rule 23(e) of the Federal Rules of Civil Procedure. Plaintiffs' counsel believes that this Agreement is a just and equitable resolution of the current contested matters in this cause but wishes to hear from the class before rendering a final opinion.

IV. Further proceedings

17. As specified, the parties intend this to be a private settlement agreement resolving all of the contested issues in this cause. After the effective date of this Agreement either party reserves the right to seek a further hearing before the Court if deemed appropriate. However, absent an emergency, prior to seeking any enforcement of this Agreement or prior to seeking to have this case placed back before the Court, plaintiffs will communicate with the defendants' counsel at least 10 days prior to the filing. Likewise, absent an emergency, prior to seeking any changes in this Agreement in Court the defendants will communicate with the plaintiffs' counsel at least 10 days prior to the filing.

18. The parties agree that absent an order from the Court or a subsequent written agreement by the parties, this Agreement, if approved, should remain in effect for six months after the

effective date at which time the case will be automatically dismissed without prejudice.

V. Parties' Further Requests of the Court

The parties request that this Court:

- a. Approve the proposed class notice and order that the notice be given to the class as provided in paragraph 15 of this Agreement and that plaintiffs' counsel be required to report back to the Court as provided in paragraph 16 of this Agreement.
- b. Find, after the required notice, that this proposed private settlement agreement is a fair, reasonable, and adequate pursuant to Rule 23(e) of the Federal Rules of Civil Procedure.
- c.. Award all other proper relief.

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