

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LEAH JIMMIE, JOSETTE	:	CIVIL ACTION NO. 3:09-CV-1112
HALECHKO, LEWIS BOWERS, and	:	
JANICE SLATER, by and through	:	(Judge Conner)
their next friend, Carl Mosier;	:	
RONALD PEARSON and WILLIAM	:	
SACKS, by and through their next	:	
friend, Connie Hammann; and	:	
EDWARD NAUSS and BENJAMIN	:	
PERRICK, by and through their next	:	
friend, Akhnaton Browne;	:	
on behalf of themselves and	:	
all others similarly situated,	:	

Plaintiffs

v.

DEPARTMENT OF PUBLIC WELFARE	:
OF THE COMMONWEALTH OF	:
PENNSYLVANIA and ESTELLE B.	:
RICHMAN, in her official capacity as	:
Secretary of Public Welfare of the	:
Commonwealth of Pennsylvania,	:

Defendants

ORDER

AND NOW, this 2nd day of September, 2010, upon consideration of the motion (Doc. 41) for preliminary approval of the proposed class action settlement agreement and for approval of the class notice, it is hereby ORDERED that:

1. The motion (Doc. 41) is GRANTED.
2. The proposed Settlement Agreement (“the Agreement”), (Doc. 41 Ex. 2, or Doc. 41-4), is preliminarily approved as fair, adequate, and reasonable, in accordance with Federal Rule of Civil Procedure 23(e). The Agreement resulted from serious, informed, and non-collusive negotiations among the parties. The Agreement treats all class

members equally. The Agreement falls within the range of possible approval, given the complexity, expense, and likely duration of the litigation; the stage of proceedings at which the Agreement was reached; the risks of establishing liability and securing relief; and the range of reasonableness of the Agreement in light of the best possible recovery and the risks of continued litigation. See In re AT & T Corp., 455 F.3d 160, 164-65 (3d Cir. 2006); Kaplan v. Chertoff, Civil Action No. 06-5304, 2008 WL 200108 at *11 (E.D. Pa. 2008); Bradburn Parent Teacher Store, Inc. v. 3M (Minnesota Mining & Mfg. Co.), 513 F. Supp. 2d 322, 330 (E.D. Pa. 2007).

3. The Summary Notice of Pendency of Class Action and Notice of Hearing and Proposed Settlement (“the Notice”), (Doc. 41 Ex. 3, or Doc. 41-5), and the plan for notifying class members, comply with Rule 23(e)(1), and they are approved. The content of the notice adequately apprises class members of the litigation: the terms of the Agreement, class members’ right to object, the fairness hearing, and information on how they can receive a copy of the Agreement and contact class counsel. See Kaplan, 2008 WL 200108 at *12. The method to distribute notice also is appropriate. The written notice will be individually delivered to class members either through mail or in-person by advocates who can answer the class members’ questions.
4. On or before Friday, September 17, 2010, plaintiffs’ counsel will have the Notice delivered by first class mail, postage prepaid, to Leah Jimmie, Josette Halechko, Lewis Bowers, Janice Slater, Ronald Pearson, and William Sacks, the remaining class representatives, whose addresses DPW will provide, and their next friends.
5. On or before Friday, September 24, 2010, DPW will assure that written notices are sent by first class mail, postage prepaid, to all class members who no longer reside in state hospitals.
6. On or before Friday, October 1, 2010, an advocate employed by plaintiffs’ counsel, the Disability Rights Network of Pennsylvania, and/or the Mental Health Association of Pennsylvania will hand deliver copies of the written notice all class members who remain in the state hospitals. If the class member is unavailable or unwilling to speak with the advocate, the advocate will have state hospital staff deliver the written notice to him together with contact information for the advocate.

7. Any objections from class members must be received in writing by the Clerk of this Court on or before Monday, November 8, 2010.
8. On or before Monday, November 15, 2010, plaintiffs shall file with the court a memorandum of law in support of final approval of the proposed Settlement Agreement.
9. On or before Monday, November 15, 2010, counsel for plaintiffs and defendants each will provide a certification notice to the court. The certification notice will state when and how the notice to class members required herein was accomplished.
10. A hearing on final approval of the proposed Settlement Agreement will commence at **10:00 a.m. on Wednesday, December 1, 2010**, in Courtroom No. 2, Ninth Floor, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge