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Chambers of
Honorable Robert C. Zampano, U.S.D.J.

OCT 17 1989

U.S. DISTRICT COURT

October 10, 1989

Honorable Robert Zampano
United States District Court
141 Church Street
New Haven, Connecticut 06510

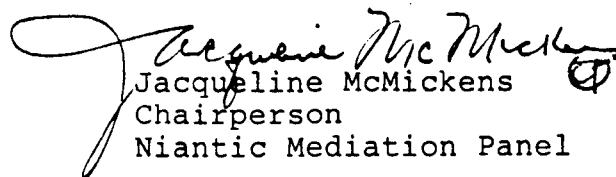
ATTENTION: Sharon Kaskie

Dear Sharon,

As per our conversation, I am forwarding you a fax copy of the proposed Consent Judgment. Re: Richard Bartkus, et al v. John R. Manson, et al. Civil No. H-80-506(JAC). Appendix A is incomplete, additional industries and Correction Officer staff should be added. Tom White of Commission Meachum's staff is working on this and will have the final document due you by next week. The Official hard copy will be forwarded to you as soon as I receive it.

The Panel agreed on Monday, October 11, 1989, that the content of the attached document represents unanimous agreement of the panel with, of course, additional staff.

Sincerely,


Jacqueline McMickens
Chairperson
Niantic Mediation Panel

JMCM:dh

Bartkus v. Commissioner of Correction



PC-CT-003-003

Soren

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

RICHARD BARTKUS, ET AL,	:	CIVIL ACTION NOS.
PLAINTIFFS,	:	H-80-506 (JAC)
	:	H-82-252
V.	:	H-81-512
	:	H-81-843
JOHN R. MANSON, ET AL,	:	
DEFENDANTS	:	

CONSENT JUDGMENT

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I. GENERAL PROVISIONS

1. The provisions of this Consent Judgment resolve the existing disputes and issues in the above-entitled case between the plaintiffs, individually and those similarly situated as present and future inmates confined at The Connecticut Correctional Institution at Somers, and the defendants, all of whom are officials and employees of the Connecticut Department of Correction.

2. This Consent Judgment satisfies and resolves the claims of the plaintiffs and plaintiffs' class in the above-entitled case as of the date of the Consent Judgment.

3. The provisions of this Consent Judgment are the result of lengthy and careful negotiation among all the parties under the supervision of the Settlement Judge and the Mediation Panel. They have been agreed upon solely as a means to put a reasonable end to this complex case and to avoid the costs, time and risks which would be involved for both parties. The Consent Judgment embodies a compromise of the issues involved in this case and, while its provisions are binding on the parties herein, its provisions are not to be construed to be statements, rulings, or precedents with respect to the constitutional and other legal rights of persons who are parties or nonparties to this litigation in this or any other action. Moreover, the provisions of this Consent Judgment are

not to be construed as statements, rulings, or precedents with respect to the constitutional or other legal rights of any person or persons involved in any action pertaining to any facility administered by the defendants other than the Somers Correctional Institution.

4. The provisions of this Consent Judgment may be suspended or modified in part or in its entirety if the Commissioner, Warden, or person next in command, determine that a "genuine emergency" exists at CCIS or any portion thereof. Genuine emergency means any special circumstances, or combination thereof, under which it is reasonable to conclude that there is any actual or presumptive threat to (a) either the security and order of CCIS or any portion thereof, or to (b) the safety of the staff, inmates or other persons within CCIS. If a "genuine emergency" lasts longer than twelve hours or recurs once or more in a one week period, defendants shall report to plaintiffs' counsel, and the Mediation Panel, within forty-eight hours except for good cause, the date of the emergency, the nature of the emergency, and what provisions of this Consent Judgment were suspended and/or modified and how they were suspended and/or modified. Population increases alone and overcrowding shall not constitute a "genuine emergency."

5. The provisions of this Consent Judgment can be temporarily suspended or modified for a specific inmate by

defendants when, in the opinion of prison authorities, disciplinary or security reasons require such action. Any permanent suspension or modification of the provisions of this Consent Judgment for a specific inmate must be approved by the Mediation Panel.

6. A plaintiff, a member of plaintiffs' class, or plaintiffs' counsel may file a claim of noncompliance with any provision of this Consent Judgment with the Mediation Panel. The Mediation Panel shall resolve any such claim as soon as practicable pursuant to the Monitoring provisions of this Consent Judgment.

7. As used in this Consent Judgment, the following terms shall have the following meaning unless specifically stated otherwise:

a. The "Commissioner of Correction" shall mean the Commissioner of Correction or his designee.

b. The "Warden" shall mean the Warden of CCIS or his designee.

c. "Inmate" shall mean the plaintiff class composed of men who are or in the future will be confined in the Connecticut Correctional Institution at Somers sentenced status.

d. "CCIS" shall mean Connecticut Correctional Institution at Somers as it exists on October 1, 1989.

e. "Sentenced inmate" shall be defined as any inmate who is serving a sentence regardless of whether he has other charges pending, unless otherwise specified.

8. Notice to the Plaintiffs' class shall issue pursuant to the notice provisions approved by the Court.

9. The approval of this Consent Judgment by the Court constitutes the full and complete satisfaction by the defendants of any and all state law or federal civil rights claims of the plaintiffs and the class as of the date of the Judgment, including those applicable to individual members which were made or could have been made, as long as appropriate notice is given to all class members.

10. Any of the staff which is required by this Consent Judgment may be assigned duties by the Warden of CCIS, or his designee, other than those provided for in this Judgment provided such assignment is consistent with the level of Programs and Services provided for in the provisions of this Judgment.

II. HOUSING

1. Defendants shall eliminate the following areas as inmate housing:

Cell Block G Dormitory 1 (G-Dorm 1)

Barbershop

Card Room

2. Defendants shall eliminate housing inmates in the hospital except for medical and mental health purposes.

3. Defendants will use only single bunks in the following areas:

Cell Block G Dormitory II (G-Dorm 2)

J Basement Dormitory

J One Dormitory

J Two Dormitory

4. Defendants have approval of the Mediation Panel to operate CCIS at a level of 1587 inmates in housing areas designed for inmate housing.

5. Space shall be made available to serve as the physical plant for programming for protective custody inmates to include the construction of a new program area. (See Appendix A, PC Support Building.)

6. Within six (6) months of the signing of this judgment, the function of all units within CCIS shall include:

- a. A cell block, or portion thereof, to be designated to house only inmates classified as in need of protective custody.
- b. A cell block, or portion thereof, to be designated to house only inmates classified as in need of segregation.
- c. Hospital II shall house only inmates classified as in need of continual psychiatric care.

- d. Hospital III shall house inmates classified as in need of continual medical care.
- e. A new admissions block, or portion thereof, to house inmates in the process of being classified.
- f. Changes in the function of housing units consistent with sound correctional practice shall be permitted without prior panel approval so long as the panel is notified within 15 days of the change. The panel shall thereafter review such change for approval or disapproval.

7. No housing at CCIS shall be intentionally assigned solely on the basis of race.

8. Inmates housed in segregation cells shall be monitored at least hourly by Correction Officers or medical personnel.

9. The defendants may reconfigure inmate housing utilizing the 1587 beds referred to in paragraph 4 by utilizing areas in CCIS which are not presently being used for inmate housing without prior panel approval. In such event the defendants shall, as soon as practicable but not later than 15 days thereafter, notify the Mediation Panel of the action. The panel shall thereafter review such changes for approval or disapproval.

III. CLASSIFICATION SYSTEM

A. New Admissions

1. Defendants shall design and implement a classification system so that newly-admitted inmates at CCIS shall be classified within thirty days from the time they arrive at the institution.

2. During the period of initial classification for new inmates at CCIS, these inmates shall be housed separately from general population. No inmate shall be allowed to remain in classification status in the new admission area longer than 30 days. Newly-admitted and unclassified inmates shall not be placed in any other housing units in CCIS barring a legitimate correctional purpose.

3. Defendants shall screen each newly-admitted inmate within three hours to determine if the inmate is in need of immediate medical or psychiatric care. Such care, if necessary, shall be provided while the classification process is completed.

4. Defendants shall screen each newly-admitted inmate within three hours to determine if special security measures need to be taken with regard to a particular inmate to assure the safety of other inmates and staff.

5. As soon as the classification process for a newly-admitted inmate is complete, but not later than thirty days after admission to CCIS, the inmate shall be placed in the appropriate housing unit at CCIS or in another appropriate correctional facility. He shall be allowed to participate in

all programs as soon as reasonably possible as determined by classification.

B. Internal CCIS Classification System

1. Defendants shall design and implement a classification system for inmates within CCIS that responds promptly and effectively to inmates' changing needs within the institution.

2. The reclassification system shall ensure that inmates do not continue to reside in inappropriate units at CCIS. Specifically, when an inmate is reclassified in accordance with the procedures developed pursuant to the provisions of paragraph B.1. as in need of placement in administrative segregation, protective custody, or other special management status, the inmate shall be placed in the appropriate unit. When an inmate is reclassified in accordance with the procedures developed pursuant to the provisions of paragraph B.1. as appropriately residing in the general population, the inmate shall be placed in a housing unit in the general population.

3. Inmates who have received a medical discharge from the hospital will not remain confined in the hospital awaiting a placement into protective custody or general population.

4. When inmates have been classified for transfer to other correctional facilities, they shall be transferred to such institutions as soon as reasonably possible.

IV. STAFFING

A. General Provisions

1. There shall be at all times a staff of qualified personnel on duty, sufficient in number and training, to provide for adequate security, recreation, access to programs, medical care and transport within and outside the facility, and visitation (both legal and personal) for the inmates such that inmate access will not be unnecessarily impeded.

2. Defendants shall furnish staff, capital projects and equipment as defined in Appendix A. Within 30 days of signing of this order an appropriate hiring plan shall be submitted to the Mediation Panel for its approval.

3. Defendants shall make every reasonable effort to promptly fill all vacancies.

4. Any vacancy which exists for two continuous months or longer shall be reported to the Mediaton Panel.

Notwithstanding any other provision of this Judgment, Appendix A represents the total resource allocation obligation of the defendants, except for the unanimous recommendations of the Medical and Mental Health Panels as unanimously approved by the Mediation Panel.

B. Counseling

1. Defendants shall establish a Unit Management system for delivering counseling services and managing inmate decision making. This program will be provided to the Mediation Panel for approval in three months.

2. Housing unit officers shall be included in the team.
3. Space will be provided in the housing units for office space for the counselors (CRSO) and treatment officers (CTO).
4. Counselor and counselor supervisor duties shall be limited to professional counseling responsibilities.
 - a. Counselors duties shall be limited to those outlined in their job descriptions.
 - b. Counselors shall perform individual and group counseling, including vocational/career, discharge planning and family outreach.
 - c. In-service training shall be provided in basic counseling theory, effective interviewing skills, counseling in involuntary and resistant client service, effective counseling of minorities, discharge planning procedures and counseling for special populations.
 - d. The Assistant Warden for Treatment shall develop a plan to insure and improve communications among the counseling staff.
 - e. Defendants shall provide additional personnel for counseling and support services for counseling personnel. (See Appendix A.)
 - f. Defendants shall provide a computer based recordkeeping system in order to maintain inmate based counseling records.

V. PROGRAMMING

A. Weekday Activity

1. Defendants shall afford substantially full-time work, educational, vocational and/or on-the-job training opportunities to general population inmates who are both medically and mentally capable of participating in these activities.

2. In addition to these programs, each general population inmate shall be given an opportunity to be involved in recreational and other non-programmatic activity no fewer than four hours a day on each non-holiday weekday, out of his cell or sleeping area, and he shall be given an opportunity to spend at least two of those four hours in a gymnasium, an outdoor recreation yard, or in some form of in-shop hobby activity if the inmate is enrolled in such activity; provided, however, that each such inmate shall be given an opportunity to spend at least one of those two hours in a gymnasium or an outdoor recreation yard. The balance of the inmate's non-programmatic time may be spent in a dayroom, library, chapel or other recreational facility or activity; provided, however, that the inmate must have alternatives to the dayroom for a substantial portion of that time. Time spent by an inmate in a dayroom during population counts or awaiting access to a dining room or to commissary shall not be regarded as non-programmatic or recreational activity for the purpose of this paragraph. Any

medically capable, general population inmate who is not afforded substantially full-time work, educational, vocational and/or on-the-job training opportunities shall be provided additional non-programmatic and recreational opportunities commensurate with any shortfall in his opportunity for programmatic activities.

3. No general population inmate shall be locked in his cell longer than 12 hours per day until a unit management system is functioning or 12 months from the signing of this Order, whichever occurs first. At that time a program will be developed to insure that no inmate in general population may be locked in the cell more than 10 hours per day. That program will be submitted to the Mediation Panel for evaluation.

B. Weekend and Holiday Activity

1. On each scheduled non-work day (Saturday, Sunday and holidays), each general population inmate shall be given an opportunity to spend at least three hours in a gymnasium or an outdoor recreation yard, or in some form of in-shop hobby activity if the inmate is enrolled in such activity; provided, however, that each such inmate shall be given an opportunity to spend at least two of those three hours in a gymnasium or an outdoor recreation yard. In addition, he shall be given the opportunity to spend at least four hours in a dayroom, library, chapel, or other recreational facility or activity; provided, however, that the inmate must have alternatives to the dayroom

for a substantial portion of that time. Time spent by an inmate in a dayroom during population counts or awaiting access to a dining room or to commissary shall not be regarded as non-programmatic or recreational activity for the purpose of this paragraph.

C. General Programming

1. Education, recreational, vocational and work programs will be established so that at all times a minimum of 80% of the total inmate population in general population is assigned to and participating in educational, vocational or work programs, recreation for six hours per day, five days per week.

D. Protective Custody

1. Protective custody inmates shall not be punished because of their status.

2. Protective custody inmates shall have, consistent with their personal safety, an opportunity for recreational, treatment programs, law library, education, drug and alcohol, medical, psychiatric, religious programs, and other programs.

3. A survey will be taken and kept up to date for the educational and vocational needs and preferences of those in the full program of protective custody. This survey will be available to the Mediation Panel during the period of monitoring of the remedial order. The needs of those in the full protective custody program will be met on a similar basis

to those of the general population consistent with sound correctional practice. The delivery mechanisms and the principles on which training is made available will be the same, consistent with the safety and security needs of the protective custody inmates and staff.

4. There shall be developed within sixty (60) days new policies and procedures for admission and release of inmates from protective custody housing. The procedures shall include but not be limited to:

- a. Reasons for protective custody.
- b. Methods to be used for investigation into the reason for admission or discharge from protective custody.
- c. Standards of proof necessary for admission to or discharge from protective custody.
- d. Time span for regular review of protective custody status.

5. Inmates who are classified as in need of protective custody shall be immediately placed in appropriate housing.

E. Vocational Education Advisory Council

1. The Commissioner of the Department of Correction shall establish a Vocational Education Advisory Council to serve the Connecticut Correctional Institution, Somers. Council members will be subject to the authority of the Commissioner.

2. Representation

Representation shall be composed of not less than five members of the general public with training in business, industry, and construction.

3. Term of Appointment

Members shall be appointed for terms to be determined by the Commissioner.

4. Meetings

The Council will meet a minimum of four sessions each academic year. Further meetings may be called as circumstances require. The Council shall file an annual report with the Commissioner.

5. Rights

a. The Commissioner will appoint a chairperson and a secretary. Minutes of all meetings will be published and circulated to council members, institution administration, the Commissioner of Correction, and the Director of Education.

b. Members of the Council may visit CCIS to observe programs with the permission of the warden.

6. Responsibilities

a. Council members will make recommendations to the Commissioner as to vocational offerings with respect to current labor market needs in Connecticut.

b. Council members will provide information updates regarding technological changes in their respective fields.

c. Council members will provide guidance in placement of program participants following release.

7. Within sixty days after approval of this Consent Judgment, the Mediation Panel shall assess or appoint designated experts to assess the staff and programs to meet the needs of all inmates.

VI. USE OF DOGS

1. The canine unit should not be used for routine inmate control in general population. Dogs can be used to detect contraband and to track escapees.

2. Dogs shall not be allowed to accompany correctional officers while they are routinely patrolling the housing units or delivering food to any inmates.

3. Inmates shall not receive any disciplinary report for talking to or pointing fingers at the dogs.

4. Inmates shall not harass canines.

VII. ENVIRONMENTAL HEALTH AND SAFETY

A. Fire Safety

1. Defendants shall implement all recommendations made by the Connecticut Fire Marshal, as per the Connecticut State Fire Code.

B. Lighting System

1. It will be a goal to upgrade exiting incandescent fixtures in sleeping rooms and replace them as needed to ensure twenty foot candles to comply with ACA recommendations.

2. It will be a goal in multiple occupancy sleeping rooms to have receptacles and desk lamps except at high risk security areas. Use of such lamps shall be permitted.

3. It shall be a goal in dorm sleeping rooms, existing incandescent fixtures shall be replaced as needed to provide twenty foot candles to comply with ACA recommendations. Controls of night and emergency lights should be provided to limit interference with sleeping.

4. It will be a goal of CCIS to provide receptacles and desk lamps or individual light fixtures for each bed position. Use of such lamps where possible will be permitted.

5. A program of maintenance, repair, and relamping of fixtures in inmates living and toilet areas and rooms shall be initiated and maintained.

C. Ventilation

1. Defendants shall provide adequate ventilation for all living units. It shall be a goal to meet the ACA Standards of 10 cfm outside or recirculated, filtered air per resident.

2. Defendants shall either institute a preventive maintenance program for all ventilation equipment program that includes schedules for inspection and maintenance, and a spare parts inventory, or defendants shall contract with a licensed, independent, outside firm to provide said services.

D. Painting

1. A painting schedule shall be maintained. Priority areas should be toilet rooms, toilet areas, shower areas, and shadow areas of multi-occupancy dorms.

E. Plumbing fixtures

1. It shall be a goal that where counted as showers, shower heads shall be installed in bathtubs to achieve proper ratio in accordance with ACA Standards.

2. It shall be a goal to install a pressure type mixing valve on all showers.

F. Toilets

1. Defendants shall provide sufficient staff so that inmates will have reasonable access to go to the bathroom and/or get a drink of water.

G. Heating-Ventilating System

1. Defendants shall repair existing inoperative fans, motors, drives, and controls. Priority should be given to shower areas.

2. Defendants shall implement a preventive maintenance program. This plan should include equipment inventory, scheduled inspection/maintenance, and a regularly needed parts inventory.

3. Defendants shall establish and maintain a regular replacement and/or cleaning program for filters and grilles, and establish a policy of monitoring filters free of blockage.

4. Defendants shall establish procedures for maintaining proper winter and summer systems operation to assure minimum ventilation, especially in winter.

5. Mechanical ventilation shall be added to all janitors' closets if used for wet storage.

6. Defendants shall install ventilation or supplement existing ventilation in all shower/toilet rooms where necessary.

H. Lights

1. It shall be a goal to provide at least twenty foot candles of light in all dishwashing and food preparation areas and at the lavatories used by food service workers, and provide at least ten foot candles of light in all food storage rooms.

2. It shall be a goal to provide additional lighting in the living units to assure that areas where visual activities and personal hygiene take place have at least twenty foot candles of light.

I. Preventive Maintenance and Repair

1. All existing fixtures shall be maintained or replaced, as needed.

2. A preventive maintenance and repair program to maintain fixtures in operating condition shall be maintained. This plan should include equipment inventory, action procedures, signed maintenance checklists, and an inventory of regularly needed parts.

J. State Health Code

The defendants shall meet all Connecticut State Health Code requirements with respect to:

1. Backflow Protection
2. Dishwashing
3. Domestic Water
4. Food Service
 - a. Kitchen
 - (1) Equipment
 - (2) Maintenance
 - (3) Personnel
 - (4) Sanitation
 - b. Refrigeration
 - (1) Temperature
 - (2) Equipment
 - c. Serving Temperature
 - d. Storage
 - e. Transportation
5. Refuse Handling
6. Vermin Control
7. Copies of the Health Department inspection reports

will be made available to the Mediation Panel.

K. Mattresses

1. Defendants shall discard dirty mattresses that cannot be cleaned or repaired.

2. Defendants shall clean, or repair, all soiled or torn mattresses that are not excessively dirty or torn.

3. Defendants shall replace mattresses that do not fit the bunks with mattresses of the correct size.

4. Defendants shall store all mattresses off the floor in clean storage areas.

5. Defendants shall use fire retardant mattresses.

6. Defendants shall sanitize all mattresses between users with an approved sanitizing agent.

7. Defendants shall repair all badly sagging bed springs.

8. Defendants shall provide a bed and a mattress for every inmate.

L. Ratio of Sanitary Fixtures to Inmates

1. It shall be a goal of the defendants to provide:

a. at least one, fully functional lavatory equipped with hot and cold water for every six inmates.

b. at least one operating toilet for every eight inmates.

c. at least one operating shower, equipped with mixing faucets for hot and cold water, for every eight inmates.

M. Building Sanitation

Defendants shall maintain a sanitary maintenance program in accordance with the Connecticut State Health Code.

N. Laundry

1. Defendants shall maintain a laundry according to the Connecticut State Health Code.

O. Plant Facilities Engineer

The Plant Facilities Engineer at Somers shall assure that maintenance requests are categorized and prioritized regularly. Unusual delays in completing essential repairs shall be reported to the warden who will decide if any additional steps should be taken beyond what has already been initiated.

VIII. MEDICAL AND MENTAL HEALTH PANELS

1. Medical and Mental Health Panels have been established by the Court to advise the Mediation Panel concerning medical and mental health provisions of this Consent Judgment. (See Orders of February 13, 1989 which are incorporated herein by reference.)

2. The Medical Panel shall consider and resolve all issues between the parties relating to medical, drug and alcohol care, and the Mental Health Panel shall consider and resolve all issues between the parties relating to mental health care.

3. The Mental Health Panel and Medical Panel shall resolve expeditiously all issues presented to them, and shall thereafter submit to the Mediation Panel their Settlement Reports.

4. The reports shall contain:

- a. a definitive list of issues to be resolved.
- b. fair, reasonable and just settlement terms with respect to each issue.
- c. a definitive list of other appropriate actions deemed necessary to consider and resolve the issues between the parties relating to medical and mental health care.

5. If the issues presented to the Mental Health Panel and Medical Panel are resolved unanimously, their reports shall be accepted and adopted by the Mediation Panel without change except for good cause, and shall be incorporated in this Consent Judgment.

6. If any one or more issues are not resolved by unanimous vote of the Mental Health and Medical Panels, then the unresolved issues shall be presented to the Mediation Panel for resolution. If the Mediation Panel unanimously resolves such issue, its decision shall be deemed final and binding. If the Mediation Panel cannot resolve such issue by unanimous vote, then the procedures set forth in Section 1E of the Mediation Panel Order dated February 6, 1989, shall control.

7. Defendants also agree to represent and hold harmless to the same extent as state employees the members of the Medical Panel and Mental Health Panel in any litigation involving the Medical Panel and Mental Health Panel in its performance of their duties under this Consent Judgment.

8. The Medical Panel and Mental Health Panel shall provide the Mediation Panel biannual reports during the first year of this Consent Judgment and shall provide yearly reports thereafter unless directed otherwise during the year by the Mediation Panel.

9. In monitoring this Consent Judgment, the Medical Panel and Mental Health Panel shall focus on patterns of compliance with standards set out in this Consent Judgment.

10. Upon due notice the Medical Panel and Mental Health Panel shall have access to all policies, records, procedures and files at CCIS relevant to medical and drug and alcohol treatment and access to all staff and consulting physicians with respect to such treatment.

IX. MONITORING OF CONSENT JUDGMENT

The Mediation Panel is empowered to monitor all provisions of this Consent Judgment, to periodically inspect conditions at the CCIS to ensure compliance with this Consent Judgment, and to resolve all disputes, issues and matters relating to this Consent Judgment.

All disputes, issues and matters resolved by the unanimous vote of all members of the Mediation Panel shall be deemed final and binding upon the parties, and shall not be subject to appeal.

If any dispute, issue or matter is not resolved by the unanimous vote of the members of the Mediation Panel, the

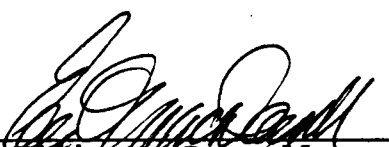
dispute, issue or matter shall be referred to a Settlement Judge appointed by the Chief Judge for resolution pursuant to proceedings deemed acceptable by the parties.

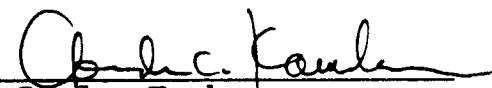
If any issue or matter remains unresolved despite all efforts of the Mediation Panel and Settlement Judge, the issue or matter shall be referred to a Trial Judge for adjudication pursuant to any proceeding which the Trial Judge shall deem feasible. At any such proceeding, the members of the Mediation Panel may be called as witnesses by a party or the Trial Judge.

Dated at New York, New York this 9th day of October, 1989.

Recommended and approved by Mediation Panel.


Jacqueline McMickens
Chairperson


Ellis MacDougall
(For the Defendants)


Gordon Kamka
(For the Plaintiffs)