

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

BILL SNIDER, *et al.*, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 SUPERINTENDENT, WABASH )  
 VALLEY CORRECTIONAL FACILITY, )  
 *et al.*, )  
 )  
 Defendants. )

No. 1:11-cv-00731-MJD-WTL

**ORDER FINDING PRIVATE SETTLEMENT AGREEMENT TO BE FAIR,  
REASONABLE AND ADEQUATE PURSUANT TO RULE 23(e) OF THE FEDERAL  
RULES OF CIVIL PROCEDURE**

This cause comes before the Court after the filing of the Stipulation of Parties to Enter Into Private Settlement After Plaintiffs’ Counsel Gives Notice to the Class. On November 4, 2013, this Court held a fairness hearing pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, to determine whether the proposed settlement is a fair, reasonable, and adequate resolution of this matter. The parties appeared by counsel at the hearing.

Having considered the Private Settlement Agreement (ECF No. 88), the Report of Class Counsel Following Notice to the Class (ECF No. 98), the Supplemental Report of Class Counsel (ECF No. 99), as well as the arguments of counsel at the fairness hearing, and the record in this matter,

IT IS HEREBY FOUND that:

1. This action was filed on May 31, 2011 and a [redacted] alleged that prisoners within the Special Confinement Unit at Wabash Valley Correctional Facility were not being provided with the minimally adequate diet required by the Eighth Amendment to the United States

Constitution.

2. On January 23, 2012, this Court certified this case as a class action with the class 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 Private Settlement Agreement is designed to settle all pending matters in this litigation.
4. This Court has jurisdiction over the subject matter of this cause and over all the parties, including the members of the certified class.
5. The parties have consented to the referral of this case to Magistrate Judge Dinsmore and this referral has been so ordered. (ECF No. 90).
6. The class has been given proper and adequate notice of the proposed resolution of this case through the Private Settlement Agreement. This notice was given as required by the September 9, 2013 Order of the Magistrate Judge in this cause. (ECF No. 94). The notice invited class members to notify class counsel as to any objections to, or comments on, the proposed dismissal. The notice provided valid, due, and sufficient notice of these proceedings and the matters set forth therein and included information regarding the procedures for making any objections to the Private Settlement Agreement.
7. The notice given to the class fully satisfied the requirements of Rule 23, Federal Rules of Civil Procedure, and the requirements of due process.
8. The Court has reviewed the comments of the class members as reported by class counsel.
9. Following the standards established by *Synfuel Technologies, Inc. v. DHL Express, Inc.*, 463 F.3d 646, 653 (7<sup>th</sup> Cir. 2006), the Court finds that the Private Settlement Agreement and the planned dismissal of this action six months from this date is fair, reasonable, and adequate for the following reasons.

- A. The purpose of this litigation was to remedy the allegedly inadequate food portions in the Special Confinement Unit at the Wabash Valley Correctional Facility. Because of steps that have been introduced subsequent to the litigation being filed in this case, the problems that gave rise to this case appear to have been ameliorated to a great extent. The Private Settlement Agreement provides for monitoring measures by the Department of Correction to continue and also allows for monitoring by class counsel. This should help ensure that there will not be future problems. Given the current status of the case the Court finds that the comparison of the strength of this case with the settlement presented favors dismissal in this case.
- B. The complexity, length, and expense of continued litigation weigh in favor of finding the proposed dismissal to be fair, reasonable, and adequate. Continued litigation would require a lengthy trial and extensive trial preparation including extensive further discovery. Further delay and costs would not be in the best interests of the parties. Paragraph 17 of the Private Settlement Agreement allows either party to revive this litigation and seek further hearings in this Court. This will allow plaintiffs to seek further and immediate legal redress if the Private Settlement Agreement is not, in the class counsel's estimation, successful in remedying the alleged problems that gave rise to this litigation.
- C. As indicated, the Court has reviewed the reports filed by plaintiffs' counsel concerning comments received by the class. In response to the concerns that counsel had expressed defendants' counsel has stated that steps are in place


to ensure that any problems with food portions are immediately rectified. The Court has no opinion concerning the factual or legal merit of the comments of the class members or defendants' response. However, the Court does not find that the level of opposition is sufficient for the Court to question the Private Settlement Agreement.

- D. There is no evidence of any collusion between the parties in entering into the Private Settlement Agreement. The Court is satisfied that the Private Settlement Agreement is the result of an arms-length negotiation.
- E. Class counsel is experienced in class action litigation generally and class action litigation concerning prisons in particular.
- F. The stage of the proceedings and amount of discovery weigh in favor of finding that the Private Settlement Agreement is fair, reasonable, and adequate. Discovery was conducted prior to entering into the Private Settlement Agreement.

For the foregoing reasons, the Court finds that the Private Settlement Agreement is a fair, reasonable, and adequate resolution of this matter.

IT IS THEREFORE ORDERED that pursuant to the Private Settlement Agreement, this case is now listed as inactive on this Court's docket and, absent an order from this Court or a subsequent written agreement by the parties, this case will be dismissed on May 5, 2014, without further notice. The dismissal will be without prejudice.

IT IS SO FOUND AND ORDERED on this 4th day of November, 2013



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Mark J. Dinsmore  
United States Magistrate Judge  
Southern District of Indiana

cc:

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