

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTHONY MEDINA, KELVIN CURRAN, JAMES COLANTUONO, WARREN DAVIS, KEVIN JONES, PETER LOPEZ, CHRISTOPHER MORRISHAW AND MICHAEL SMITH,
individually and on behalf of others similarly situated,

Plaintiffs,

-against-

THE NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SERVICES; BRIAN FISCHER, COMMISSIONER OF THE NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SERVICES; LUCY BUTHER, ADA COORDINATOR OF THE NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SERVICES; PATRICK J. GRIFFIN, SUPERINTENDENT OF SULLIVAN CORRECTIONAL FACILITY; DARROW CUNNINGHAM, DEPUTY SUPERINTENDENT OF PROGRAMS FOR SULLIVAN CORRECTIONAL FACILITY; CHRISTOPHER KARSON, ASSISTANT DEPUTY SUPERINTENDENT OF PROGRAMS FOR SULLIVAN CORRECTIONAL FACILITY; DALE ARTUS, SUPERINTENDENT OF WENDE CORRECTIONAL FACILITY; AND KAREN CROWLEY, DEPUTY SUPERINTENDENT OF PROGRAMS FOR WENDE CORRECTIONAL FACILITY,

Defendants.

11 Civ. 176 (LAP) (JLC)

ECF Case

NOTICE OF JOINT MOTION FOR CLASS CERTIFICATION IN CONNECTION WITH SETTLEMENT, APPOINTMENT OF CLASS REPRESENTATIVES AND CLASS COUNSEL, PRELIMINARY APPROVAL OF THE PARTIES' PRIVATE SETTLEMENT AGREEMENT, AND APPROVAL OF NOTICE TO CLASS MEMBERS

PLEASE TAKE NOTICE that, upon the attached Declarations of Daniel J.

Kramer, Eric Alan Stone, and John Boston, each dated February 28, 2014, the exhibits

thereto, the accompanying memoranda of law, and all papers herein, Plaintiffs Kelvin Curran, Warren Davis, Kevin Jones, Peter Lopez and Michael Smith (collectively, “Class Representatives”), along with Anthony Medina (collectively with the Class Representatives, “Named Plaintiffs”), and Defendants the New York State Department of Corrections and Community Supervision (“DOCCS”), Acting DOCCS Commissioner Anthony J. Annucci, DOCCS ADA Coordinator Lucy Buther, Sullivan Correctional Facility (“Sullivan”) Superintendent Patrick J. Griffin, Sullivan Deputy Superintendent of Programs Darrow Cunningham, Sullivan Assistant Deputy Superintendent of Programs Christopher Karson, Acting Superintendent of Wende Correctional Facility (“Wende”) Thomas Sticht, and Wende Deputy Superintendent of Programs Karen Crowley, in their official capacities (collectively, “Defendants”)¹, hereby jointly move this Court, pursuant to Rules 23(a), 23(b)(3) and 23(g) of the Federal Rules of Civil Procedure, for an Order:

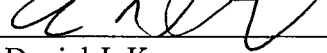
1. certifying the Action as a class action on behalf of members of the Class pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure solely for the purposes of the settlement set forth in this Agreement and for no other purpose;
2. appointing the proposed Class Representatives;
3. appointing Paul, Weiss, Rifkind, Wharton & Garrison LLP and The Legal Aid Society as counsel for the Class pursuant to Rule 23(g) of the Federal Rules of Civil Procedure;
4. preliminarily approving the settlement, set forth in the proposed Private Settlement Agreement, as fair, reasonable, adequate and in the best interests of Named Plaintiffs and the members of the Class, subject to further consideration at a Fairness Hearing;
5. scheduling a Fairness Hearing for April 21, 2014 at 10:00 am or such other date as the Court shall specify;

¹ Acting Commissioner Annucci was automatically substituted for former Commissioner Fischer and Acting Superintendent Thomas Sticht for former Superintendent Dale Artus, pursuant to Fed. R. Civ. P. 25(d).

6. approving the parties' proposed Notice of Settlement of Class Action; and
7. directing that notice of the proposed Private Settlement Agreement and the Fairness Hearing be provided to all members of the Class as set forth in the parties' joint motion papers.

**PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP**

Dated: New York, New York
February 28, 2014

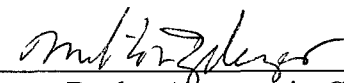
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**THE LEGAL AID SOCIETY
Prisoners' Rights Project**

Dated: New York, New York
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ERIC T. SCHNEIDERMAN

Attorney General of the State of New York

Dated: New York, New York
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