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DATE FILED: <u>4/15/14</u>

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

~~ORDER REGARDING SUPPLEMENTAL NOTICE TO CLASS~~ **ORDER REGARDING SUPPLEMENTAL NOTICE TO CLASS**

WHEREAS, the parties in the above-captioned action ("the Action") have reached an agreement to settle the Action on a class-wide basis and, in connection therewith, on February 28, 2014 submitted to the Court for preliminary approval a Private

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Settlement Agreement, a joint motion for class certification in connection with settlement, and a proposed notice of settlement of class action;

WHEREAS, on March 4, 2014 the Court issued an Order certifying a settlement class, appointing class representatives and class counsel, preliminarily approving the parties' Private Settlement Agreement and providing for notice to class members ("March 4 Order");

WHEREAS, pursuant to the March 4 Order, each class member had the opportunity to object to the proposed Private Settlement Agreement by letter to the Court postmarked not later than April 8, 2014;

WHEREAS, the Court has received letters suggesting that some class members at Wende Correctional Facility ("Wende") may have had difficulty meeting the deadline to object to the proposed Private Settlement Agreement;

WHEREAS, the parties and the Court recognize the importance of allowing all class members adequate time to object to the proposed Private Settlement Agreement; and

WHEREAS, the parties have jointly requested that the Court provide class members at Wende who were unable to meet the deadline of April 8, 2014 for objections with a brief extension to that April 8 deadline to submit their objections;

NOW THEREFORE, IT IS HEREBY ORDERED:

1. As promptly as possible and in any event not later than seven (7) calendar days after the entry of this Order, the New York State Department of Corrections and Community Supervision ("DOCCS") shall provide each class member

housed at Wende with a copy of Exhibit A to this Order, outlining the procedure for requesting an extension of the April 8 deadline and submitting their objection.

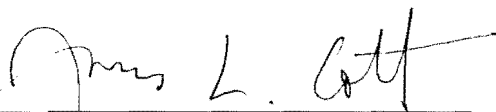
2. Any class member at Wende who was not able to meet the deadline of April 8, 2014 for sending objections to the Private Settlement Agreement shall send a letter to the Court in accordance with the procedures outlined in Exhibit A (a) explaining why he could not contact the Court within the prescribed time period set forth in the Court's March 4 Order and (b) setting forth any such objections. Such class member shall postmark that letter not later than the date entered by the Court in Exhibit A, which shall be fourteen (14) calendar days after the entry of this Order.

3. If any class Member at Wende needs assistance reading Exhibit A because of his visual disability, DOCCS shall provide such class member with reasonable accommodations sufficient to allow that class member to understand the document not later than eight (8) calendar days after the entry of this Order.

4. The Court shall consider the reason(s) set forth in any such letter as to why the class member was not able <sup>to</sup> <sub>^</sub> contact the Court within the prescribed period of time and if the Court determines, in its discretion, that an extension to the April 8, 2014 deadline is warranted as to that class member, the Court shall consider such class member's objection to the Private Settlement Agreement.

**SO ORDERED.**

Dated: New York, New York  
April 15, 2014

  
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JAMES L. COTT  
United States Magistrate Judge

# Exhibit A

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

**SUPPLEMENTAL NOTICE REGARDING  
PROPOSED CLASS ACTION SETTLEMENT**

**To: All Legally Blind and Severely Visually Impaired  
prisoners incarcerated at Wende Correctional Facility**

Around March 20, 2014 you received a notice of settlement (the "Class Notice") and the proposed Private Settlement Agreement in the above-captioned matter. The

Class in this matter includes all Legally Blind and Severely Visually Impaired (“LB/SVI”) prisoners who are or become incarcerated at Sullivan Correctional Facility or Wende Correctional Facility during the duration of the proposed Private Settlement Agreement. The Class Notice informed you that, “[i]f you are a member of the Class, you have the right to object to the proposed settlement or specific parts of it and to submit any documents that support your objection” and that such “objections have to be postmarked by the United States Postal Service by April 8, 2014.” *See* Class Notice at 4. The Class Notice further states that “[if] you have no objections to the proposed settlement, you do not have to do anything.” *See* Class Notice at 4.

It has come to the attention of counsel for the parties in this matter that some LB/SVI prisoners at Wende have stated that they had trouble contacting the Court by the April 8 deadline. If you intended to contact the Court by the initial deadline of April 8, but you were unable to do so, you may write the Court and (1) explain the reason(s) why you were unable to submit your objection by April 8 and (2) describe the objections that you have to the proposed Private Settlement Agreement. This letter must be postmarked by the United States Postal Service not later than April 29, 2014.

If you send such a letter, the Court will first consider your explanation as to why you did not meet the April 8 deadline. If the Court determines, in its discretion, that you have a reasonable explanation for why you were unable to meet the April 8 deadline, the Court will

thereafter consider your stated objections in evaluating whether the proposed private settlement agreement is fair, adequate and reasonable. Please note that this is not a general extension of the April 8 deadline: if you did not have objections or did not intend to object to the settlement prior to April 8, your opportunity to object to the proposed settlement has passed. The Court will only consider objections if it determines that you have a reasonable explanation for why you were not able to send in your objection by April 8.

If you send a letter to the Court pursuant to this notice, please include all of the following information:

1. The reason(s) why you were not able to meet the initial deadline of April 8, 2014 for submitting objections.
2. Your objection(s) with the reason(s) for each objection.
3. The case name and number: *Medina et al. v. Fischer et al.*, 11 Civ. 176 (S.D.N.Y.) (LAP) (JLC).
4. Your full name, DIN and signature.

The letter should be postmarked no later than April 29, 2014 and should be sent to:

The Honorable James L. Cott  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007-1312