

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

OCT - 4 2007

Stephan Harris, Clerk
Cheyenne

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

STEPHEN L. PEVAR, on behalf)
of all other persons similarly situated)
on behalf of Ryan Forney, et al.,)

Plaintiffs,)

vs.)

Civil Action No. 07-CV-193 B

ROBERT LAMPERT, in his official)
capacity, et al.,)

Defendants.)

ORDER

INTRODUCTION

The parties in this litigation have agreed to settle this case. Appropriate settlement documents were filed with the Court. Given that this case was filed as a class action, the Court will address the question of whether notice should be given to the putative class pursuant to Rule 23(e) of the Federal Rules of Civil Procedure. Notice to the putative class is not required.

FINDINGS

This lawsuit was commenced on August 28, 2007. The parties have reached a fair settlement, even before Defendants were required to file their Answer.

Plaintiffs' First Amended Complaint sought certification of this case as a class action pursuant to Rule 23(b)(2). The class was defined as "all persons presently incarcerated at WSP, and all persons who in the future may become incarcerated at WSP." Consistent with subsection (b)(2), class certification was sought in this case for the purposes of granting systemic declaratory and injunctive relief. No individual relief was sought.

Rule 23(e) provides: "The court must approve any settlement, voluntary dismissal, or compromise of the claims, issues, or defenses of a *certified* class." (Emphasis added). Rule 23(e) requires the court, prior to approving the settlement of a certified class action, to direct that reasonable notice be sent to the members of the class so that they will be afforded an opportunity to comment on the settlement and, if need be, object to it.

This case has not been certified as a class action. Therefore, providing notice to the putative class is not mandatory. *See Deposit Guar. Nat'l Bank v. Roper*, 445 U.S. 326, 332 n.5 (1980); *Sosna v. Iowa*, 419 U.S. 393, 399 (1975).

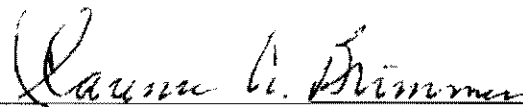
The named plaintiffs will receive no special benefit from the settlement. The benefit inuring to the two named plaintiffs will be fully shared by the uncertified class; that is, the settlement is objectively reasonable from the perspective of the putative class members. The named plaintiffs *and* the class will achieve everything they sought to accomplish in this lawsuit.

There is no cause to delay implementation of the settlement by affording members of the putative class with notice and an opportunity to be heard, given that there is no reasonable basis on which members of the class could object to the terms of this settlement. The parties have stipulated that they are entering into the settlement in good faith, and know of no prejudice that members of the putative class might suffer as a result of this settlement.

The Court finds that notice to the putative class under Rule 23(e), is not required, and would only delay the process of settlement, resulting in additional time and expense for no legitimate reason.

THEREFORE, the Court orders that notice to the putative class shall not be required, and the Court hereby approves the settlement submitted by the parties.

DATED this 4th day of October, 2007.


Clarence A. Brimmer
United States District Court Judge