

Exhibit A

to Motion

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

X-----X		
ALLEN WOODS, et al.,	:	
	:	
Plaintiffs	:	
	:	
v.	:	CIVIL ACTION NO. 17-cv-4443
	:	
SEAN MARLER,	:	
	:	
Defendant	:	
X-----X		

STIPULATION OF CLASS ACTION COMPROMISE SETTLEMENT

I. INTRODUCTION

1. On October 5, 2017, plaintiffs Allen Woods and Keith Campbell, each individually and on behalf of others similarly situated (collectively “Plaintiffs”), filed a complaint challenging the Federal Detention Center in Philadelphia (“FDC Philadelphia”) pretrial detainee visitation policy that limited visitors to immediate family members and required child visitors under sixteen years old to be accompanied by an adult (“the Complaint”). Plaintiffs sought declaratory and injunctive relief only. Plaintiffs and Defendant Sean Marler (collectively “the Parties”), through their respective counsel identified on the signature page below, have exchanged information, both through voluntary and informal means and through formal discovery.

2. On March 22, 2018, the Honorable Mark A. Kearney, United States District Court Judge for the Eastern District of Pennsylvania, certified a class under Rule 23(b)(2) of the Federal Rules of Civil Procedure defined as:

All current and future pre-sentence inmates at the [FDC Philadelphia] who, beginning on October 5, 2017, are subject to the Defendant's visitation policies, practices, and patterns affecting their ability to visit with their child younger than sixteen years' old who is not accompanied by an immediate family member approved by the child's non-incarcerated parent or legal guardian." [Dkt. 33 at ¶1] ("the Class").

3. Defendant denies the allegations in the Complaint. The issue of liability has not been litigated. Defendant, before and since initiation of this litigation, reviewed its visitation policies and voluntarily amended those policies. The revised policy provides pretrial and holdover inmates with visits by immediate family members and one (1) additional adult visitor. The revised policy went into effect on April 30, 2018. Defendant does not concede that the United States Constitution required revisions to its visitation policies.

II. HISTORY OF THE SETTLEMENT AGREEMENT

4. This Settlement Agreement ("the Agreement") is the result of weeks of arm's length settlement negotiations by experienced counsel for the Parties and their respective clients, aided by an experienced United States Magistrate Judge, to resolve claims remaining after the visitation policy was changed. The Parties, without conceding any infirmity in their claims or defenses, engaged in extensive arm's length settlement negotiations concerning the validity of both the previous and the revised policies as they related to the constitutional violations alleged in the Complaint. Plaintiffs' counsel received sufficient discovery before and during settlement negotiations to enable them to make informed decisions.

5. On April 9, 2018, FDC Philadelphia announced it would change its visitation procedures, effective April 30, 2018. Defendant's voluntary initiative to revise the visitation policy and procedures provided every pretrial and holdover detainee with one (1) additional adult visitor. This change allows each of those detainees to receive visits from one individual outside

of their immediate family, which facilitates visits by minor children who may be accompanied by that individual.

6. The Parties believe the Agreement is fair, reasonable, and adequate to protect the interests of all parties.

7. Nothing in this Agreement prevents the Defendant from modifying its visitation policies and procedures. Defendant maintains its right to amend its visitation policy and procedures without approval of Plaintiffs. However, if the Bureau of Prisons modifies the pretrial and holdover detainee visitation policy and procedures at the FDC Philadelphia within two (2) years from the Effective Date, the Bureau of Prisons will provide advance notification of such change prior to it taking effect to:

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Mary M. McKenzie
PUBLIC INTEREST LAW CENTER
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bgeffen@pubintl.org
mmckenzie@pubintl.org

III. PRISON LITIGATION REFORM ACT (PLRA), 18 U.S.C. § 3626

8. The Parties agree that this Agreement will be submitted to the Court for approval as provided below, and that it will not be effective until approved by the Court, following a hearing and a finding that the Agreement is fair, reasonable, and adequate pursuant to Rule 23(e) of the Federal Rules of Civil Procedure.

9. The Parties agree that a finding by the Court that the Agreement is fair, reasonable, and adequate does not mean this Agreement is a “consent decree” under 18 U.S.C. § 3626(c)(1).

10. The relief provided in this Agreement is for the benefit of the Class.

IV. DEFINITIONS

11. The term “Effective Date” shall mean the date that the United States District Court for the Eastern District of Pennsylvania enters an Order pursuant to Rule 23(e) of the Federal Rules of Civil Procedure finding the Agreement fair, reasonable, and adequate, and thereby approves the Agreement.

V. CONSTRUCTION AND IMPLEMENTATION

12. Class Notice. Within one week after the date on which the Court preliminarily approves this Agreement, the Bureau of Prisons will provide a Notice of Proposed Class Action Settlement and Fairness Hearing, a copy of which is attached as Exhibit A (“the Notice”), to each pretrial and holdover inmate housed at FDC Philadelphia by posting the Notice on bulletin boards on each floor where presentence inmates are held, including the Special Housing Unit. The Bureau of Prisons also will place the Notice on the FDC Philadelphia’s TRULINCS, an electronic system that all FDC Philadelphia detainees and inmates in general population may access via a computer terminal. The Parties agree to the language of the Notice. The Notice contains a brief description of the claims advanced by Plaintiffs and the Defendant’s denial of liability for such claims, a summary of the terms of this Agreement, and information regarding the upcoming Fairness Hearing. The Bureau of Prisons shall bear the cost of distributing the Notice as required by this Section.

13. Admission, Waiver, and Sovereign Immunity. Neither this Agreement, nor any policies or procedures established by the Bureau of Prisons related to visitation at FDC

Philadelphia, shall define any federal constitutional rights, or be deemed an admission, or be deemed a waiver of sovereign immunity.

14. Governing Law. The Agreement shall be governed by federal law as enunciated by or applicable in the Third Circuit, and to the extent that state law applies to any issue arising under, the laws of the Commonwealth of Pennsylvania.

15. No Third-Party Beneficiaries. No person or entity is intended to be a third-party beneficiary of this Agreement for purposes of any civil, criminal, or administrative action. This Agreement is not intended to impair or expand the right of any person or entity to seek relief against Defendant or other Bureau of Prison officials, employees, or agents for their conduct, except as specifically provided in this Agreement. Moreover, the Parties will not contend that any of the provisions, policies, and procedures described herein define clearly established constitutional rights of inmates. This Agreement is not intended to alter legal standards governing any such claims. Accordingly, this Agreement is not intended to have any preclusive effect except between Plaintiffs and the Class on the one hand, and Defendant and the Bureau of Prisons on the other hand, with respect to the relief provided for in this Agreement, other than as provided in paragraph 16 below.

16. Legal Release. Plaintiffs, the members of the Class, and their heirs, administrators, representatives, successors, and assigns, and each of them, hereby release, waive, acquit, and forever discharge the United States, the Federal Bureau of Prisons, and its employees in their official capacities, including Defendant, from, and are hereby forever barred and precluded from prosecuting any and all claims, causes of action, or requests for any injunctive or declaratory relief, including costs, attorneys' fees, expenses, and/or interest, whether presently

known or unknown, that have been asserted in this litigation or that could have been asserted in this litigation based on the facts alleged in the complaint, and that accrued on or before the Effective Date.

17. Inmates Must Comply with Policies and Procedures. This Agreement in no way waives or otherwise affects, limits, or modifies the obligations of inmates to comply with Bureau of Prisons regulations, Program Statements, and Institutional Supplements; or any current or future federal law governing the rights and obligations of incarcerated persons.

18. Possible Conflict with Legal Obligations or Collective Bargaining Agreements. Nothing in this Agreement shall be deemed to require or permit Defendant to violate the laws of the United States, or to violate any terms or conditions of any collective bargaining agreement to which Defendant is a party. Defendant is not aware of any conflict between any of the provisions of this Agreement and any such law or collective bargaining agreement referred to in this section.

19. Entire Agreement. This Agreement shall constitute the entire integrated agreement of the Parties; provided that the Parties may enter into one or more separate agreements concerning any subject, which shall be enforceable according to their terms. No prior contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes in this litigation or in any other proceedings.

20. Successors and Assigns. This Agreement shall be applicable to, and binding upon, all Parties, their officers, agents, employees, assigns, and their successors in office.

21. Partial Invalidity. If any provision of this Agreement is declared invalid for any reason by a court of competent jurisdiction, said finding shall not affect the remaining provisions of this Agreement.

22. Use of Agreement in Other Proceedings. Neither this Agreement nor any statements contained herein may be used at criminal sentencings by a Class member other than the named Plaintiffs. The Bureau of Prisons and its employees, however, reserve the right to use this Agreement and the language herein to assert issue preclusion, res judicata, satisfaction, and release in other litigation matters seeking class or systemic relief regarding FDC Philadelphia visitation policies and procedures.

23. Counterparts. The Agreement may be executed in several counterparts. All such counterparts and signature pages, together, shall be deemed one document.

VI. ENFORCEMENT

24. The Parties stipulate and agree that this Agreement complies in all respects with the requirements for prospective relief under the Prison Litigation Reform Act, 18 U.S.C. § 3626(a), and that Act shall govern the terms of this Agreement. Except to enforce, modify, or terminate this Agreement, this Agreement, and any findings made to effect this Agreement, will not be admissible against the Bureau of Prisons or its current or former employees in any court for any purpose. Moreover, this Agreement is not an admission of any liability on the part of the United States and/or its employees, agents, former employees, former agents, or any other person, and will not constitute evidence of any pattern or practice of wrongdoing.

25. This Agreement will be filed in the United States District Court as part of an unopposed motion by Plaintiffs and the Class pursuant to Rules 23(e) and 41(a)(2) of the Federal

Rules of Civil Procedure to approve this Agreement and to dismiss the Complaint subject to the Parties' compliance with the terms of this Agreement, as contemplated by *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375 (1994). The Court will retain jurisdiction only to enforce the terms of the Agreement. The Court shall be the sole forum for enforcement of this Agreement.

VII. MODIFICATION

26. If, at any time, any party to this Agreement desires to modify this Agreement for any reason, that party will notify the other party in writing of the proposed modification and the reasons for it thirty (30) days before filing any motion seeking a modification. No modification will occur unless there is written agreement by the parties and unless the Court approves modification under Rule 23 of the Federal Rules of Civil Procedure.

VIII. ATTORNEY'S FEES AND COSTS

27. The Parties do not agree as to the prevailing party in this matter. Defendant maintains its position was substantially justified.

28. Nevertheless, upon the Effective Date of this Agreement, Defendant will pay to class counsel the sum of \$20,000.00 to reimburse them for out-of-pocket expenses that they incurred and paid in connection with the Lawsuit and to defray the attorneys' fees that they incurred in connection with this Lawsuit. Defendant shall make payment of this full amount to the Public Interest Law Center and to be divided amongst class counsel as they see fit.

29. Plaintiffs and their counsel agree not to seek further fees and costs with respect to work incurred prior to the Effective Date of this Agreement.

30. On request, Plaintiffs' attorneys will provide all information necessary to effectuate such payments.

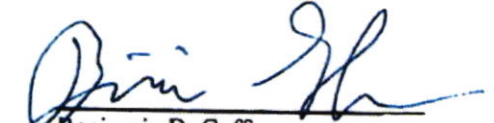
31. The Parties shall bear their own costs and attorneys' fees for any subsequent proceedings following the Effective Date, other than that Plaintiffs reserve their rights to seek fees and costs in only two circumstances: (1) if Defendant files a motion to terminate this Agreement before the second anniversary of the Effective Date; or (2) Plaintiffs file and prevail on a motion to enforce this Agreement based on substantial non-compliance.

32. The Parties agree that neither the United States nor the Department of Justice are deducting any taxes or other amounts from the settlement sums, and Plaintiffs' counsel acknowledges and agrees that any federal, state, local, or other tax liabilities, and any other financial liabilities, including any loans, liens, withholding, offsets, or deductions owed or resulting from Plaintiffs' counsel's receipt of the settlement sum will be Plaintiffs' counsel's sole responsibility.

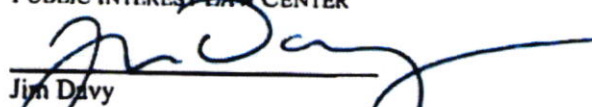
IT IS SO STIPULATED AND AGREED.

For Plaintiffs:

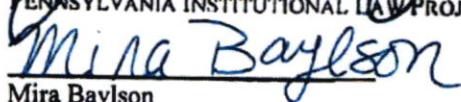
DATED: 7/11/2018


Benjamin D. Geffen
Mary M. McKenzie
PUBLIC INTEREST LAW CENTER

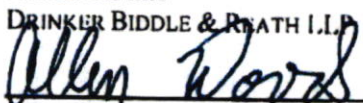
DATED: 7/11/18


Jim Davy
PENNSYLVANIA INSTITUTIONAL LAW PROJECT


DATED: 7/11/18


Mira Baylson
Amanda Pasquini
Jordan DiPinto
DRINKER BIDDLE & RYATH LLP

DATED: 7/11/2018



Allen Woods
Plaintiff

DATED: 7/11/2018

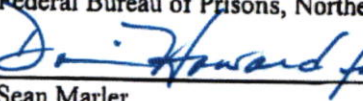

Keith Campbell
Plaintiff

For Defendant:

DATED: 7/11/18


Darrin Howard
Regional Counsel
Federal Bureau of Prisons, Northeast Regional Office

DATED: 7/11/18

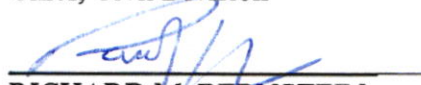

Sean Marler
Warden
Federal Detention Center of Philadelphia

JENNIFER A. WILLIAMS
First Assistant United States Attorney



GREGORY B. DAVID
Assistant United States Attorney
Chief, Civil Division

DATED: 7/11/2018



RICHARD M. BERNSTEIN
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Assistant United States Attorneys
U.S. Attorney's Office, Eastern District of Pennsylvania

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ALLEN WOODS, <i>et al.</i>	:	
Plaintiffs,	:	
v.	:	Case No. 2:17-cv-4443
SEAN MARLER,	:	
Defendant.	:	

NOTICE TO THE CLASS OF SETTLEMENT AGREEMENT

On March 22, 2018, the Honorable Mark A. Kearney of the U.S. District Court for the Eastern District of Pennsylvania certified a class consisting of:

All current and future pre-sentence inmates at the Federal Detention Center in Philadelphia who, beginning on October 5, 2017, are subject to the Defendant’s visitation policies, practices, and patterns affecting their ability to visit with their child younger than sixteen years’ old who is not accompanied by an immediate family member approved by the child’s non-incarcerated parent or legal guardian.

On July 11, 2018, the Plaintiffs and the Defendant, Warden Sean Marler of the Federal Detention Center of Philadelphia (“FDC”), signed a settlement agreement to resolve this lawsuit. The FDC revised the visitation policy for pre-sentence inmates, which will give greater opportunity for class members to receive their children as visitors. These revisions were announced to the FDC’s pre-sentence inmates on April 9, 2018 and took effect on April 30, 2018. The settlement agreement provides that the lawsuit will be dismissed; that the FDC will not make any further changes to its visitation policy for the next two years without first notifying class counsel; and that the FDC will reimburse class counsel for a portion of their fees and costs. The lawsuit did not seek any monetary payments for class members. The Defendant denies the allegations in the Complaint and the Court has not decided the issue of liability.

If you wish to review the settlement agreement, copies will be available for review in each of the units where this notice is posted, as well as in the FDC’s law library.

The settlement agreement is under review by the Court, and it will not take effect until and unless it is approved by the Court. If you wish to submit any objections to the settlement agreement or to file any comments in support of the settlement agreement, you should submit an explanation in writing why you do or do not believe that the settlement agreement is fair, reasonable, and adequate. These written objections or supportive comments must be submitted to one or more of the attorneys for the class, who are identified below, no later than [30 days from posting of notice]. Class counsel will forward them to the Court and to counsel for the Defendant. A hearing will be held on [date and time] in the United States Courthouse at 601 Market Street in Philadelphia, in Courtroom 6B. During this hearing, the Court will consider any written objections or supportive comments that have been submitted as described above.

No action is required to be a member of this class. You are not required to submit any objections or supportive comments. If the Court approves the settlement agreement, it will apply to all pre-sentence inmates in the FDC. After settlement is finalized, inmates with concerns about the implementation of the settlement agreement may continue to contact the Pennsylvania Institutional Law Project or other counsel listed below.

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Posted: [insert date]