

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

TREVOR RICHARDSON, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 1:08-cv-174 RLY-JMS
)	
MONROE COUNTY SHERIFF, <i>et al.</i> ,)	
)	
Defendants.)	

**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 December 3, 2009, 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 and the Report of Class Counsel Following Notice to the Class, 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 February 13, 2008 and alleged that conditions of confinement at the Monroe County Jail violated Indiana law and the United States Constitution.
2. On August 4, 2008, this Court certified this case as a class action with the class defined as "any and all persons currently confined, or who will in the future be confined, in the Monroe County Jail."

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 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 1, 2009, Order of this Court.
6. 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.
9. Following the standards established by *Synfuel Technologies, Inc. v. DHL Express, Inc.*, 463 F.3d 646, 653 (7th Cir. 2006), the Court finds that the Private Settlement Agreement and the planned dismissal of this action with prejudice on October 1, 2011, is fair, reasonable, and adequate for the following reasons.

A. The purpose of this litigation was to remedy the alleged unconstitutional conditions in the Monroe County Jail. At the time that the litigation was filed the Jail population consistently exceeded its rated capacity. The overcrowding appears to be the primary impetus to the filing of this case as it allegedly lead to numerous safety, environmental and other serious problems in the Jail. The parties agree that the population of the Jail has now been

reduced so that the Jail's population is below its rated capacity of 278. This appears to have led to an amelioration of a number of the alleged problems that gave rise to this litigation. The Private Settlement Agreement provides for measures to be taken to attempt to prevent the Jail from exceeding its rated capacity and also provides for measures to assist in keeping the Jail's population at or below capacity. Inasmuch as federal law, 18 U.S.C. § 3626(a)(3) prohibits any order from this Court that places a population cap on the Jail absent less intrusive orders and the convening of a three-judge court in accordance with 28 U.S.C. § 2284, it is unlikely that this Court would grant significantly different relief even if plaintiffs prevailed after trial. Given the marked change in factual circumstance since the filing of this case – the reduction in the Jail's population – 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 23 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' estimation, successful in remedying the alleged problems at the Jail.

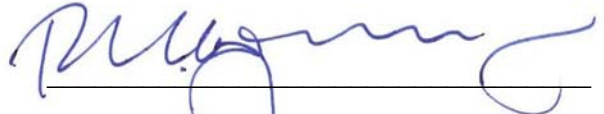
- C. As indicated, the Court has reviewed the reports filed by plaintiffs' counsel concerning comments received by the class. In response to the concerns that counsel had expressed defendants' counsel has indicated that the population of the Jail continues to be below the cap levels and that food is served at the appropriate temperatures. 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 jails 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 and plaintiffs had an expert tour the Jail 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 deemed dismissed without prejudice. The parties shall move for dismissal with prejudice on October 1, 2011. The dismissal will be with prejudice as to this action only, preventing this action from being revived

by any class member. However, after the dismissal, nothing will preclude a future class action from being brought by a prisoner of the Monroe County Jail.

IT IS SO FOUND AND ORDERED 12/03/2009



RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

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