

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

MICHAEL POSTAWKO, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 2:16-CV-4219-NKL-P
)	
MISSOURI DEPARTMENT OF)	
CORRECTIONS, <i>et al.</i> ,)	
)	
Defendants.)	

**JOINT MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

The parties seek preliminary approval of a settlement in this case. Plaintiffs filed this lawsuit on behalf of themselves and other similarly situated individuals in the custody of the Missouri Department of Corrections (“MDOC”), alleging that MDOC and its private medical services provider, Corizon, LLC (“Corizon”) violated their constitutional right to adequate medical care. MDOC and Corizon (collectively, the “Defendants”) have denied, and continue to deny, the allegations and contend their provision of medical care is, and has been, adequate and appropriate. Nevertheless, and without any admission of liability, the parties have reached an amicable resolution.

The parties engaged in lengthy arms-length settlement negotiations. The parties first negotiated in May 2019, pursuant to an ADR order entered in this case. At the Court’s encouragement, the parties resumed those negotiations in October 2019, following a hearing on Plaintiffs’ Motion for Preliminary Injunction. After further discovery efforts, the parties engaged in additional in-person negotiations in February 2020. The parties have continued to negotiate since that time, all while proceeding with some additional discovery matters.

As set forth in the Suggestions in Support of this Joint Motion, the parties believe the terms of the Agreement are fair, reasonable, and adequate within the meaning of Fed. R. Civ. P. 23, thus warranting the Court's preliminary approval.

The proposed Agreement is attached as **Exhibit 1** to the Suggestions in Support. The proposed Notice to the Class of the proposed Agreement, which would inform Class members of their right to submit objections to the Agreement, the procedure for doing so, and the availability of copies of the Agreement, is attached as **Exhibit 2** to the Suggestions in Support. The Order Granting Preliminary Approval of Agreement, Setting Hearing, and Directing Class Notice is attached as **Exhibit 3** to the Suggestions in Support.

WHEREFORE, the parties respectfully request that the Court:

- (a) preliminarily approve the Agreement;
- (b) order MDOC's posting and distributing (as outlined in the Suggestions in Support of this Joint Motion) the Notice to the Class within or before two weeks of the date of any order of the Court granting preliminary approval of the Settlement Agreement, and including a requirement that Defendants: (i) provide Class Counsel with a copy of the August 2020 HCV Master List marked as "Attorneys' Eyes Only" pursuant to the Joint Stipulated Protective Order (Dkt. 168) upon commencing distribution of the Notice; and (ii) file with the Court within 16 days after the date of such order a certification that they complied with the posting and distribution requirement;
- (c) require objections or comments to the Settlement Agreement be mailed to the Court as set forth in the Notice, postmarked by 30 days after completion of the Notice distribution procedures outlined above;
- (d) order that briefs in support of approval of the Settlement Agreement be due two weeks after objections and comments are due;

(e) schedule a fairness hearing two weeks or later after the deadline for objections and comments; and

(f) finally approve the proposed Agreement, after considering the terms of the Agreement and any objections interposed to the Agreement, and conducting whatever proceedings the Court feels are necessary.

Dated: August 21, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of August, 2020, a true and correct copy of the foregoing document was electronically filed using the Court's online case filing system, which will send notice to all counsel of record.

By: /s/ Amy E. Breihan