

whose disabilities relate solely to or arise from mental disease, illness, or defect.” *See* Ex. 1 (fully executed Settlement Agreement) at 2.¹

4. Federal Rule of Civil Procedure 23(a) permits a case to be maintained as a class action if:

(1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

5. The settlement class here meets the requirements under Rule 23(a) of numerosity, commonality, and typicality to justify certification, as well as the requirement that there is

collusive negotiations between experienced and knowledgeable counsel who have actively prosecuted and defended this litigation.

8. The Parties further request that the Court approve the Notice to the Class, attached hereto as Ex. 2, as it meets the requirements of Fed. R. Civ. P. 23(c)(2) and 23(e)(1), that “the court must direct notice in a reasonable manner to all class members who would be bound by the proposal.” The Notice will be posted in English and Spanish in prominent locations accessible to all prisoners in all ADOC facilities covered by the Settlement Agreement. It will also be made available in alternative formats. Additionally, full copies of the Settlement Agreement will be made available to inmates in all ADOC prison libraries.

9. Lastly, the Parties request that the Court enter

valuable time and resources, the Parties have not submitted such briefing with the instant motion. Should this Honorable Court require briefing on class certification, the Parties respectfully request that the Court enter a scheduling order setting forth a briefing schedule on the issue.

WHEREFORE, premises considered, the Parties jointly move this Honorable Court: (1) to certify the settlement class; (2) grant preliminary approval of the Settlement Agreement; (3) to approve the notice to the class; and (4) to enter an order scheduling a final fairness hearing.

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Respectfully Submitted,

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