

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

JERRY M., *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Civil Action No: 1519-85

J. Dixon

**[PROPOSED] NOTICE TO CLASS MEMBERS OF PROPOSED SETTLEMENT
AGREEMENT**

PLEASE READ THIS NOTICE CAREFULLY AND COMPLETELY. A SETTLEMENT HAS BEEN PROPOSED IN THE *JERRY M.* CASE THAT MAY AFFECT THE RIGHTS OF CERTAIN YOUTH IN DEPARTMENT OF YOUTH REHABILITATION SERVICES CUSTODY.

Why did you get this notice?

1. The purpose of this notice is to inform you about a proposed settlement in the *Jerry M.* lawsuit. The settlement may affect the rights of certain youth who are in the custody of the Department of Youth Rehabilitation Services (“DYRS”) and are housed at the Youth Services Center (“YSC”) or at New Beginnings Youth Development Center (“New Beginnings”). The settlement is not final. In order for the settlement to be final, the judge in this case, the Honorable Judge Herbert B. Dixon, Jr., will hear from different people and decide if the settlement is fair, reasonable, and adequate. If this notice applies to you, you will have an opportunity to tell the judge what you think about the settlement before the judge decides whether to approve it.

The rest of this notice explains the *Jerry M.* lawsuit, how to determine whether this lawsuit applies to you, the key terms of the proposed settlement, and how you can give the judge your opinion about the proposed settlement.

Does this notice apply to you?

2. This notice may apply to you if you are a youth who is or has been housed in the YSC or at New Beginnings. This notice also contains important information if you are the parent or guardian of a youth who is or has been housed at YSC or New Beginnings.

What is this lawsuit about?

3. The *Jerry M.* lawsuit was brought in 1985 by a group of juveniles who were housed at the facilities used by the District of Columbia to hold detained and committed youth. The

people who brought the lawsuit, including Jerry M. and other youth in the facilities, were called the “named plaintiffs.” The named plaintiffs filed the lawsuit on their own behalf and on behalf of all other youth in the facilities. The people on whose behalf the lawsuit was brought are called the “Plaintiffs.”

4. Plaintiffs sued the District and officials responsible for running the facilities. The people who were sued are called “Defendants.”
5. In 1986, the judge who was assigned to this case decided that the named plaintiffs and their lawyers would fairly represent all youth who were held in juvenile facilities in the District of Columbia, making this case a “class action.” Because this is a class action, the people to whom this notice applies are also called “class members.”
6. In 1986, in an order called the “Consent Decree,” the judge directed Defendants to make changes to programming, education, mental health care, medical care and other policies and practices. The Consent Decree has the force of law.
7. In December of 2007, the judge approved an agreement between the parties. This Agreement was called the “Work Plan.” The Work Plan concerns Defendants’ performance in 12 different areas, or “Goals.” These Goals require Defendants to:
 - operate facilities that are safe and humane (Goal I);
 - operate facilities that separate detained from committed youth (Goal II);
 - house youth in the least restrictive setting (Goal III);
 - provide youth a free and appropriate education (Goal IV);
 - provide youth mental health and health services (Goals V and VIII);
 - provide youth exercise and recreational activities, as well as access to a confidential grievance process (Goal VI);
 - meet environmental health, safety, and fire requirements (Goal VII);
 - construct new facility for committed youth to replace Oak Hill Youth Center (Goal IX);
 - employ adequately trained staff (Goal X);
 - not use Oak Hill Youth Center for housing youth except in certain special circumstances (Goal XI); and
 - maintain a quality improvement program (Goal XII).

According to the Work Plan, each goal or part of a goal could generally be eliminated by the Court once compliance with specific requirements had been reached and maintained.

8. Starting in 2004, an expert was approved by the Court to ensure that Defendants did what they agreed to do. This expert, called the Special Arbiter, makes reports to the judge about Defendants' progress in meeting the requirements of the Work Plan and the court's other orders.
9. As of today, Defendants have not satisfied the following Work Plan goals:
 - Goal I.A.1 (Critical Incidents and Assaults),
 - Goal V (Behavioral Health Services),
 - Goal VII.B (Fire Safety) and
 - Goal VIII (Health Services).
10. Plaintiffs' lawyers and Defendants' lawyers, with the Special Arbiter's encouragement and approval, discussed whether there was a way to resolve promptly the remaining issues and provide assurance that the reforms achieved to date will last and any reforms not yet achieved will be achieved and last.
11. Plaintiffs' lawyers and Defendants have reached an agreement and have written down their agreement in a document called a "Settlement Agreement." The settlement is NOT FINAL. The settlement will be final only after the judge approves it after holding a public hearing called a "fairness hearing." Before the judge decides to approve it, you can tell the judge if you like the Settlement Agreement or if you do not like any part of it. You can also ask the judge to let you speak at the fairness hearing.

What are the key terms in the Settlement Agreement?

12. The Special Arbiter, at various times through April 30, 2020, will conduct reviews of Defendants' progress and file brief reports on the remaining goals under the Court's supervision:
 - Goal I.A.1 (Critical Incidents and Assaults);
 - Goal V (Behavioral Health Services);
 - Goal VII.B (Fire Safety); and
 - Goal VIII (Health Services) (The Special Arbiter has filed a full report on Goal VIII, which she will supplement with a brief submission).
13. The Settlement Agreement requires Defendants, by Mayor's Order, to establish an independent office for three years to investigate complaints, and monitor and publicly report on the health and safety of the youth housed in DYRS facilities after this lawsuit is terminated. Should the lawsuit terminate, the independent office would monitor and

report publicly on any remaining critical issues, making sure that they are addressed after the end of the lawsuit. The Mayor has a choice to issue another order to continue the office after three years. The Defendants will also issue a second Mayor's Order to appoint Mark Jordan as the head of this independent office. Mark Jordan is currently a staff of the Special Arbitrator's office and has substantial experience and knowledge of the Work Plan, the Consent Decree, and DYRS facilities and operations. If the Mayor fails to issue the order, the lawsuit may not be terminated.

14. If (i) the Mayor has issued the order to establish the independent office and to appoint Mark Jordan as the head of the independent office; (ii) Plaintiffs' lawyers have not provided notice that there are any unresolved substantial risks of harm to the health, safety or security, or rehabilitation of the class members; (iii) the Special Arbitrator has filed all of the brief reports in Paragraph 12 above, and (iv) the Special Arbitrator, through her reviews and reports, finds that the lawsuit can be terminated and any remaining issues can be resolved by DYRS with oversight by the independent office, the Plaintiffs' lawyers and Defendants' lawyers will file a motion asking the Judge to terminate the Lawsuit.

Other Key Provisions

15. You may obtain a copy of the Settlement Agreement on the Department of Youth Rehabilitation Services' website at www.dyrs.dc.gov, from the principal's office at the school at New Beginnings or the principal's office at the school at YSC, or by asking a Supervisory Youth Development Representative ("SYDR") for a copy. You may also obtain a copy of the Settlement Agreement on the Public Defender Service's website at www.pdsdc.org.
16. Lawyers representing Plaintiffs believe that the Settlement Agreement is fair, reasonable, and adequate.

The lawyers for the plaintiff class are: Alan Pemberton, Felicia Albano, and Silvia Wu of the law firm Covington & Burling LLP; Craig Hickein of The Public Defender Service for the District of Columbia; and Elizabeth Alexander of the Law Offices of Elizabeth Alexander. Class members do not pay any fees to these lawyers. If you have questions for lawyers representing Plaintiffs, you can write to them or call them at:

Jerry M. Settlement Inquiry
Attention: Alan Pemberton (apemberton@cov.com)

Covington & Burling LLP
One CityCenter, 850 Tenth Street, NW
Washington, DC 20001-4956
Telephone: (202) 662-5391

Now that you know the key terms of the Settlement Agreement, what can you do next?

17. If you agree with the Settlement Agreement, you do not have to do anything. However, if you want to tell the judge that you agree or why you agree, you can follow the steps under paragraph 18, below.

18. If you agree or disagree with any part of the Settlement Agreement and you want to tell the Judge, you have to do these things:

- You must write a letter to the judge telling him what you like or do not like about the Settlement Agreement. Include your name, address, and signature in the letter.
- On the first page of your letter write in large or underlined letters: “Objections to Settlement Agreement in Jerry M.” (if you object to the Settlement Agreement) or “Support for Settlement Agreement in Jerry M.” (if you support the Settlement Agreement).
- Mail your letter to:

The Honorable Herbert B. Dixon, Jr.
Superior Court of the District of Columbia
500 Indiana Ave., N.W.
Washington, D.C. 20001

RE: *Jerry M.* Settlement Agreement

- If you want help writing your letter, you may ask someone to write on your behalf. That person must state in the letter that he or she is writing on your behalf and with your permission, and must provide your name and address, as well as his or her name, address, and signature.
- Additionally, if you are under the age of 18, your parent, guardian or court-appointed representative may separately write a letter on your behalf. This person must state in the letter that he or she is writing on your behalf and must explain his or her relationship to you (including, if the individual is a court-appointed representative, the details of the appointment by the court). This person must also provide their name, address, and signature. These letters can be mailed to the same address provided above.

19. You must do all of this to be sure that the judge will read your letter. You must send your letter before March 26, 2020.

20. PLEASE DO NOT CALL THE COURT. THE COURT WILL NOT ACCEPT PHONE CALLS ABOUT THIS. YOU MUST SUBMIT YOUR OBJECTIONS OR SUPPORT FOR THE AGREEMENT IN WRITING.

When and where will the judge decide whether to approve the Settlement Agreement?

21. A fairness hearing will be held on April 29, 2020, at 10:00 a.m. before the Honorable Judge Herbert B. Dixon, Jr., of the Superior Court for the District of Columbia. The courthouse is located at 500 Indiana Ave., N.W., Washington, D.C. 20001. On the morning of the April 29, 2020 fairness hearing, the staff at the information desk in the main lobby on the first floor of the court building will direct you to the courtroom where the hearing will be held.
22. At the fairness hearing, the judge will consider whether the settlement is fair, reasonable, and adequate. The judge will consider all comments, including any objections that were made according to the rules described above. Plaintiffs' lawyers and Defendants' lawyers will be available to answer any questions that the judge may have.
23. If you would like to speak at the hearing, you must send a letter asking the judge for permission to speak. It is up to the judge to allow you to speak at the hearing. This letter must include your name, address, signature, a statement that you would like to speak at the hearing, and a statement explaining why you support or object to the settlement. On the first page of the letter, in large or underlined letters, you must also write: "Notice of Intention to Appear at Final Fairness Hearing – *Jerry M.*" This letter can be sent to the same address provided above. **THIS LETTER CAN BE SENT INSTEAD OF A LETTER DESCRIBED IN PARAGRAPHS 18.** You do not need to send two letters if you want to speak at the hearing.
24. If the judge does not approve the settlement, the Consent Decree and Work Plan will continue in effect.

Dated: February 19, 2020