

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

CHRISTINE COMAS, et al.,)	
)	
Plaintiff,)	
)	
v.)	No. 10-4085-CV-C-MJW
)	
KEITH SCHAEFER,)	
in his Official Capacity as Director of)	
Missouri Department of Mental Health, et al.,)	
)	
Defendants.)	

ORDER

Plaintiffs have filed a motion, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure for: tentative approval of the Settlement Agreement filed with the court on February 10, 2012, ("Agreement") as providing for a fair, reasonable and adequate settlement of the claims of the plaintiff class; approval of a notice of the settlement and of a fairness hearing to the plaintiff class; and an order directing posting, publication, and distribution of such notice. Defendants have agreed to this motion (the "Rule 23(e) Motion"), including a proposed notice to the plaintiff class and a (draft) order that, if entered, would effectuate the relief plaintiffs seek.

On February 29, 2012, this court entered an order certifying a defined plaintiff class in this case, under Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure.

On consideration of the Rule 23(e) Motion, it is hereby ORDERED, ADJUDGED, AND DECREED as follows.

1. The Agreement is tentatively approved as providing for a fair, reasonable and adequate settlement of plaintiffs' claims within the meaning of Rule 23(e)(1). The court finds that two of the three principal factors determinative of whether the Agreement should be tentatively approved (the merits of the plaintiffs' case, weighed against the terms of the settlement and the complexity and expense of further litigation) weigh heavily in favor of tentative approval. The court finds further that the third such factor (the extent and nature of the opposition to the Agreement) is impossible to gauge at this stage of the Rule 23(e) proceedings, but that, as there is

no reason to expect broad or concerted opposition to the Agreement, this third factor offers no reason not to tentatively approve the Agreement.

2. The notice to the plaintiff class, attached hereto as “Exhibit A,” is approved as the “reasonable” notice that Rule 23(e)(1) requires.

3. Defendants are directed to ensure the posting or publication or distribution of the Exhibit A notice not later than March 5, 2012, as follows: the notice provided for pursuant to subparagraphs (a) and (b) shall remain posted or published until the date of the fairness hearing and the notice mailed to the Leadership Through Education Advocacy for the Deaf Institute, pursuant to subparagraph (d), to be accompanied by defendants’ request that it post and publish the notice sent it until the date of the fairness hearing.

(a) The posting of two copies of this notice, prominently, in public places of the following facilities and venues: every DMH facility, every administrative agent, every community placement, and the St. Louis Center, all as defined in the Agreement, provided that “affiliated centers” of administrative agents must each have a copy of this notice posted in a public place there (in addition to having two copies of this notice posted in the public places of the parent administrative agent).

(b) The publication of this notice on the websites of defendants Missouri Department of Mental Health and Missouri Department of Social Services, MO Health Net Division.

(c) The mailing of this notice to every residential placement as defined in the Agreement for which defendants have a ready mailing address.

(d) The mailing of this notice to the Leadership Through Education Advocacy for the Deaf Institute, with a request that it promptly post it in public places at any of its facilities and publish it on its website.

(e) The inclusion of this notice (or a summary description of this notice, with a link to it on the World Wide Web or a statement that it can be found on the websites of defendants Missouri Department of Mental Health and Missouri Department of Social Services, MO Health Net Division, with the addresses of those websites) in any and all Provider Bulletins issued between March 5 and 26, 2012, inclusive.

4. Defendant Missouri Department of Mental Health is also directed to provide, not later than March 5, 2012, and on its website at www.dmh.mo.gov, a link to a copy of the Agreement.

5. The Rule 23(e) fairness hearing in this case is set for 9:00 a.m. on Monday, May 7, 2012, in Courtroom 3-A of the United States Courthouse, 80 Lafayette Street, Jefferson City, Missouri 65101. (The court may, depending on several factors, choose to conduct the hearing telephonically).

Dated this 1st day of March, 2012, at Jefferson City, Missouri.

/s/ *Matt J. Whitworth*

MATT J. WHITWORTH
United States Magistrate Judge