

AMENDED NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

You have previously been given Notice of a proposed settlement of claims made under 42 U.S.C. § 1983 and the due process clause of the Fourteenth Amendment to the United States Constitution (among other claims) in the lawsuit styled *Briggs, et al. v. Friesen, et al.*, Case No. 4:23-cv-00081-GKF-JFJ, pending in the United States District Court for the Northern District of Oklahoma. After the original Notice was given, the Parties agreed to modify certain terms of the settlement. This Amended Notice summarizes the changes to the original settlement agreement and describes your rights under the proposed settlement. A copy of the “Amended Consent Decree,” which includes the changes to the original settlement agreement, and other case documents, are available at <https://www.okcompetencyrestoration.com>. If you are unable to access the Amended Consent Decree online, or if you can’t read or understand the Amended Consent Decree, you can contact Class Counsel referred to in Question 6 below.

1. What is the issue in the lawsuit?

Whether the Commissioner of the Oklahoma Department of Mental Health and Substance Abuse Services (“Department”) and the Executive Director of the Oklahoma Forensic Center (“OFC”), located in Vinita, Oklahoma, failed to provide timely court-ordered competency restoration treatment to persons charged with a crime in Oklahoma state court and who are incarcerated in county jails, or similar detention facilities, throughout the State.

2. Who is affected by the settlement? Who is a “Class Member”?

A Class Member is any person who has been, or will be, charged with a crime in Oklahoma state court, declared incompetent to stand trial by the state court, and is incarcerated in a county jail or similar detention facility awaiting court-ordered competency restoration services to be provided by the Department. If you have any question as to whether you are affected by this settlement, contact the Class Counsel referred to in Question 6 on Page 3 of this Notice.

3. What are the changes to the proposed settlement?

As described in the original Notice, the proposed settlement agreement, if accepted by the Court, would result in a “Consent Decree” being entered by the Court that will resolve all claims in the case. The purpose of the Consent Decree is to reform and improve the Department’s delivery of competency evaluations and timely restoration treatment to Class Members, including significantly reducing the amount of time Class Members wait to receive competency restoration treatment while locked up in jail. The Parties have negotiated certain changes to the Consent Decree, resulting in an “Amended Consent Decree.” The primary changes to the Consent Decree that may impact a Class Member’s rights are summarized as follows:

- Definition of “Best Efforts” (Paragraph 18). This definition is modified to allow Defendants, under limited circumstances, to cite a lack of legislative funding to excuse a failure to use Best Efforts. To claim a lack of legislative funding the Defendants must first demonstrate that: (i) the Department used

good faith efforts to obtain the needed legislative funding; (ii) separate and apart from the claimed funding deficiency, the Department otherwise took reasonable steps, actions, and measures, consistent with best professional standards, practices and guidelines to accomplish or bring about the intended and described result; and (iii) the lack of legislative funding must outweigh collectively all other causes of a failure of Best Efforts.

- Class Counsel’s Consulting role. Paragraph 30 was modified to clarify that Class Counsel’s consultation role throughout the Consent Decree “shall not include their participation in clinical decision-making, yet instead is a means for Class Counsel to fulfill ethical obligation to the Class and to the Court.”
- Consultants’ compensation. Paragraph 53 was modified to require the Department and the Consultants to develop an annual budget for the Consultants’ activities. Any disputes regarding the Consultants’ budgets or invoicing are resolved through the same dispute resolution process contained in the original Consent Decree.
- Cessation of alleged statewide jail-based restoration program. Modifications to Paragraphs 58, 59, 60 and 61 were made to clarify that the Department may continue to provide restoration treatment to Class Members in jail, with the Consultants’ monitoring and approval, notwithstanding the requirement to cease operating the Department’s alleged statewide jail-based restoration program.
- Term of the Consent Decree. Paragraph 106 is amended to permit the Department to apply to the Court for early termination of the Amended Consent Decree if the Consultants determine, no earlier than three years after entry of the Amended Consent Decree, that the Department has achieved substantial compliance with the Plan for nine consecutive months.

4. Who represents the individuals affected by the settlement?

The lawyers representing the Class Members (“Class Counsel”) are Paul DeMuro, David Leimbach, and Frederic Dorwart, of Frederic Dorwart, Lawyers PLLC, Old City Hall, 124 East 4th Street, Tulsa, Oklahoma 74103, (918) 583-9957; and Nick Southerland and Brian Wilkerson of the Oklahoma Disability Law Center, Inc., 2816 E. 51st Street, Suite 300, Tulsa, Oklahoma 74105, (918) 743-6220.

5. What are your options?

On November 20, 2024, the United States District Court for the Northern District of Oklahoma preliminarily approved the Amended Consent Decree. But the Court must hold a hearing to determine whether final approval should be granted. At the hearing, the Court will determine if the Amended Consent Decree is fair, reasonable, and adequate. **The Final Approval and Fairness Hearing will be held on January 15, 2025 at 9:30 a.m., in Courtroom 3 of the**

federal courthouse at 224 S. Boulder Ave., Tulsa, Oklahoma 74103. You may, but are not required to, request to appear at the hearing if you submit a written objection or comment regarding the settlement, using the attached “Response to Proposed Class Action Settlement” form or your own paper, or if you submit an objection or comment online. The Court will decide which class members will testify. Class members who do not appear at the final fairness hearing will be represented by Class Counsel.

If you have objections, comments, or statements about the proposed Amended Consent Decree, you can submit them in one of two ways:

First, you can submit comments, questions or objections on the attached “Response to Proposed Class Action Settlement” form or your own paper. If you choose to send an objection, comment, or statement, you must include your full name, all objections or comments and the reasons for them, any and all supporting papers (including all briefs, written evidence, and declarations), and your signature. If you are sending supporting papers, do not send originals because they will not be returned to you. **Written objections, comments, and statements should be sent to the following address: Paul DeMuro, Frederic Dorwart, Lawyers PLLC, Old City Hall, 124 East 4th Street, Tulsa, Oklahoma 74103.**

Second, you can submit comments, questions or objections on the case’s website at <https://www.okcompetencyrestoration.com>. You must include your full name, all objections or comments and the reasons for them.

All comments, questions, or objections must be submitted or postmarked by **December 30, 2024**. Properly and timely submitted objections and comments will be consolidated and submitted to the Court by Plaintiffs’ counsel on **January 8, 2025**, in advance of the Final Approval and Fairness Hearing, which the Court will hold on **January 15, 2025 at 9:30 a.m.**

Any objections, comments, or questions that do not comply with the above procedures and timeline will not be heard or considered by the Court.

6. How can you get more information?

If you have any questions about the matters contained in this notice, or any questions regarding the proposed Consent Decree, you may write or call Class Counsel’s office below:

Chantel Wilson, Paralegal
Frederic Dorwart, Lawyers PLLC
Old City Hall
124 East 4th Street
Tulsa, OK 74103
(918) 583-0429 – telephone
okcompetencyrestoration@fdlaw.com

