

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KENNY A., by his next friend, Linda :
Winn, et al., :

Plaintiffs, :

v. :

CIVIL ACTION FILE NO.
1:02-CV-1686-MHS

SONNY PERDUE, in his official :
capacity as Governor of the State of :
Georgia, et al., :

Defendants. :

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**JOINT MOTION FOR FINAL APPROVAL OF
SETTLEMENT AGREEMENT AND CONSENT DECREE**

The Plaintiff Class and the Settling Defendants, by and through their respective counsel, jointly move for final approval pursuant to Fed. R. Civ. P. 23(e) of the proposed settlement which is the subject of the Court’s July 5, 2005 Order. A true and correct copy of the proposed Settlement Agreement is attached as Exhibit A.

1. On July 18, 2003, the Court certified this case seeking declaratory and injunctive relief for class action treatment pursuant to Fed.R.Civ.P. 23(b)(2). The proposed settlement contemplates comprehensive class-wide injunctive relief and explicitly preserves the rights of individual

class members to pursue individualized claims for damages or equitable relief. (Proposed Consent Decree, § 19(C), (D) & (E)). Accordingly, Rule 23(e)(1)(A) requires the Court's approval of the proposed settlement if, after hearing, the Court concludes that the terms of the settlement are "fair, reasonable and adequate" in accordance with Fed.R.Civ.P. 23(e)(1)(C) from the perspective of absent class members. *See generally*, Manual For Complex Litigation (Fourth) § 21.634-635 (2004).

2. On July 5, the Court granted preliminary approval of the proposed settlement and directed the Settling Defendants to provide notice to class members and other interested persons. The parties show that, as evidenced by the certification filed with the Court on July 29, 2005 (R-440), Settling Defendants have complied with the Court's direction. The distribution of notice is further evidenced by the various comments and objections filed on behalf of particular class members and other interested parties filed at or near the deadline expressed in the class notice, a compilation of which is attached to this Joint Motion as Exhibit B. None of the comments or objections attacked or addressed the form of notice or the reasonableness of the

manner of notification and, accordingly, the requirements of Fed.R.Civ.P. 23(e)(1)(B) have been satisfied.

3. Dorothy T. Beasley, the Court's appointed mediator, oversaw the months of negotiations that produced this proposed settlement. The existence of this court-ordered mediation process conducted by the court's appointed mediator evidences and establishes the absence of fraud or collusion in this settlement.
4. Attached to this Motion as Exhibit C is the Declaration of Marcia R. Lowry, co-lead counsel for the Plaintiff Class. This declaration proves that the proposed settlement is fair, reasonable and adequate.
5. The comments and/or objections submitted in response to the class notice focus on particular aspects of the settlement that the various commentators/objectors would like to see revised. However, the submissions are generally complimentary of the settlement as a whole. Moreover, no class member or other interested party has asserted that the proposed settlement, taken as a whole, fails to satisfy the requirements for approval specified in Rule 23(e)(1).

WHEREFORE, the settling parties jointly move that the Court, after conducting the hearing required by Fed.R.Civ.P. 23 (e)(1)(C), enter its findings

and conclusions supporting approval of the proposed settlement and grant its approval.

This 19th day of September, 2005.

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CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2005, I electronically filed JOINT MOTION FOR FINAL APPROVAL OF SETTLEMENT AGREEMENT AND CONSENT DECREE with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorneys of record:

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