

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

**FILED**  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

95 SEP -7 PM 12: 17

JIMMY (BILLY) MCCLENDON,  
et. al.,  
Plaintiffs,

*Robert M. Marshall*  
CLERK-SANTA FE

v.

CIV-95-0024 MV/DJS

CITY OF ALBUQUERQUE, et. al.,  
Defendants.

SETTLEMENT AGREEMENT

1. Parties stipulate to certification of the Plaintiff class to be bound by this agreement as the "present and future residents of BCDC."

1.A That the August 23, 1995 Order be converted to a permanent injunction;

1.B That the Court retains jurisdiction to enforce and/or modify the permanent injunction. The parties agree not to seek the appointment of a special master. BCDC will make the ACA Audit Report findings available to the Court with copies to Plaintiffs' counsel. Plaintiffs' counsel will work pro se in reviewing said reports. However, if the work involved becomes too time consuming, counsel reserves the right to seek attorney fees.

2. The permanent injunction is to include that BCDC agrees to follow its existing policy & procedures manual, and as amended in the future, re delivery of the following services:

- 1. medical;
- 2. dental;

115

3. psychological; and,

4. access to a law library which is to be kept reasonably current.

3. Defendants withdraw "prematurity" objection to Plaintiffs' Attorney Fee Application. Defendants will not raise issue of alleged untimeliness of monthly attorney fee filings.

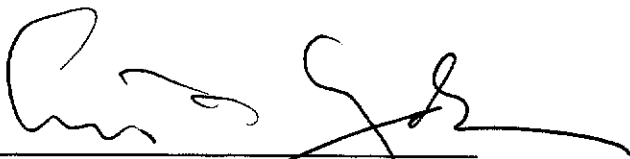
4. Defendants retain right to object to amount of fees requested by Plaintiffs.

5. Plaintiffs dismiss with prejudice all allegations in "Parts I and II" including each allegation that Defendants have violated the United States and/or New Mexico Constitutions.

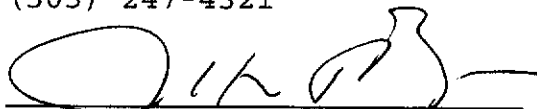
6. The Defendants acknowledge that the permanent injunction is a resolution of "Parts I & II" of the Complaint which materially alters the parties' legal relationship in a manner which Congress sought to promote in the fee statute. The parties stipulate that the Court, among other things, may look at the degree of the Plaintiffs' overall success in assessing the reasonableness of any award of attorney fees. Fees will be determined without an evidentiary hearing: the parties will submit written materials to the Court for its consideration.

7. Defendants will not raise as a bar to the Court's consideration of attorney fees the fact that there is no finding of any constitutional violations, and will not object to the Court being able to consider awarding attorney fees for the legal work in "Part III" (individual claims) as supporting "Part I" (overcrowding) and "Part II" (constitutional claims).

Agreed to by:



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