

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA**  
**Notice of Proposed Class Action Settlement and Hearing**  
*Banks, et al. v. Booth, et al.*, Case No. 1:20-cv-00849 (CKK)  
**COVID-19 conditions in D.C. Dep’t of Corrections facilities (CDF and CTF)**

All residents of the Central Detention Facility and Correctional Treatment Facility of the District of Columbia Department of Corrections should please take note:

A proposed settlement agreement (the “Proposed Settlement”) has been reached in *Banks v. Booth*, a class action lawsuit about what steps the Jail is taking to protect residents from the COVID-19 pandemic. The court must now decide whether to approve the Proposed Settlement. This notice explains the Proposed Settlement, where you can find it, how to ask questions about it, and how you can tell the Court if you think it is not fair.

In this notice:

- “DOC” means the District of Columbia Department of Corrections
- “CDF” means the Central Detention Facility
- “CTF” means the Correctional Treatment Facility
- “The Jail” means both CDF and CTF together
- “The Court” means the United States District Court for the District of Columbia

*A court authorized this notice. This is not a solicitation from a lawyer.*

The goal of the lawsuit and the Settlement is not to win money for anyone. (The Public Defender Service (PDS) is not allowed to try and win money for anyone.) Instead, the goal is to make sure the Jail takes the proper steps to protect the health of residents—including providing prompt medical care, requiring masks and social distancing, keeping the facilities clean and providing cleaning supplies, and making sure that conditions on quarantine and isolation units do not punish residents for reporting COVID-19 symptoms.

## **1. WHAT IS THIS LAWSUIT ABOUT?**

Four residents of the Jail filed this lawsuit in March of 2020 in federal court. They are called “Plaintiffs.” They sued two people, DOC Director Tom Faust and Warden Wanda Patten. They are called “Defendants.”

In their lawsuit, the Plaintiffs allege that the Defendants violated the constitutional rights of all Jail residents by not doing enough to protect them from COVID-19, even though the Defendants knew that the virus was dangerous. The Plaintiffs claim that the Defendants violated the Fifth and Eighth Amendments of the United States Constitution by not taking adequate measures to stop COVID-19 from spreading in the Jail. The Defendants deny all of these allegations.

In their lawsuit, the Plaintiffs asked the Court to order several changes in the Jail to reduce the risk of COVID-19 spreading. The Plaintiffs also asked the Court to appoint an expert to help the Jail do that. The Plaintiffs did not ask for any money.

## **2. WHAT DOES IT MEAN THAT THIS IS A “CLASS ACTION” LAWSUIT?**

In a “class action” lawsuit, a few people called the Class Representatives sue on behalf of other people who they say have similar claims. The Class Representatives and the people with similar claims are together called a Class, and each person in the Class is called a Class Member. In a class action lawsuit, the judge decides the issues for all Class Members at once.

In this lawsuit, and in the Proposed Settlement, the Class consists of everyone confined in CDF and CTF for any amount of time since March 30, 2020. No resident can “opt out” (that is, choose not to be part of) the Class if the Proposed Settlement is finalized.

## **3. WHAT IS THE STATUS OF THE LAWSUIT?**

The Plaintiffs filed this lawsuit on March 30, 2020. After each side exchanged some potential evidence in the case, the Plaintiffs and Defendants agreed to pause the case and try to negotiate a settlement. After several months they agreed and have written down their agreement in a document called the “Settlement Agreement.” Because this is a Class Action, federal law requires the judge to approve any settlement agreement. Although, on February 18, 2022, the judge preliminarily approved the 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 do not like any part of it and you can ask the judge to let you speak at the fairness hearing. You will find information about the fairness hearing below.

The Class Representatives and their attorneys think the Proposed Settlement is fair and is best for everyone who had claims in this lawsuit. **Your rights could be affected by this Proposed Settlement. You should read this Notice carefully to decide whether you think the Proposed Settlement is fair.**

## **4. HOW DO I KNOW IF I AM PART OF THE CLASS?**

Everyone confined in CDF or CTF for any amount of time since March 30, 2020 until the Expiration Date of the Settlement Agreement is part of the proposed class.

## **5. WHO IS REPRESENTING THE CLASS?**

In a Class Action, the lawyers representing all Class Members are called Class Counsel. Class Counsel in this case are lawyers at the Public Defender Service (PDS) of the District of Columbia, the American Civil Liberties Union of the District of Columbia, and the law firm of Munger, Tolles, and Olson LLP. If you have questions, you will find contact information for Class Counsel below.

## **6. WHAT ARE THE TERMS OF THE PROPOSED SETTLEMENT?**

You can read all the terms of the Proposed Settlement by requesting a copy from your counselor or unit manager. You can also call Class Counsel at the phone number provided below.

If the judge approves it, the Proposed Settlement will require DOC to:

- Provide medical care within 24 hours to any resident who reports COVID-19 symptoms;
- Conduct contact tracing for residents and staff who test positive for COVID-19;
- Require all staff to wear face masks;
- Encourage social distancing and avoid unnecessarily crowding residents together;
- Ensure adequate sanitation and hygiene supplies for all residents, including instructions for their proper use, and regular access to showers;
- Make all reasonable efforts to give residents in general housing units four hours out of their cells each day and four hours outside each week for residents in general housing units, even though this might not always be possible;
- Make all reasonable efforts to ensure residents on quarantine and isolation units get daily showers, even though this might not always be possible;
- Ensure that residents on COVID-19 quarantine and isolation units are not punitive and are visited by medical staff at least once per day and have access to soap, cleaning supplies, showers, attorney phone calls, and any scheduled court appearances; and
- Provide Class Counsel with information related to COVID-19 at the Jail, including information about COVID-19 infection rates, vaccination rates, Jail policies, and educational materials about vaccines.

The Proposed Settlement is already in effect and the above rules apply to the Jail. During the term of the Proposed Settlement, the Court will retain jurisdiction over this matter.

As part of the Proposed Settlement, an inspector will visit the Jail over the next several months and report to Class Counsel on whether DOC is doing all the things the Proposed Settlement requires them to do.

The Proposed Settlement would end six months after the agreement is executed.

By being part of the Proposed Settlement, all Class Representatives and Class Members will be giving up their rights to separately sue DOC or any of its officials for not taking enough COVID-19 precautions from March 2020 until the Proposed Settlement expires. The Settlement does not limit your ability to file a lawsuit for damages based on how you were treated. There may be other requirements you must follow before you file an individual lawsuit, such as filing a grievance in a timely manner.

## **7. WILL I GET ANY MONEY FROM THE PROPOSED SETTLEMENT?**

No. The Proposed Settlement does not provide any money for anyone. Class Counsel are also not getting any money from this case.

## 8. REASONS TO SETTLE THE LAWSUIT

Class Counsel and lawyers for the Jail believe the Settlement is fair and reasonable. It is the result of long negotiations. Continuing to fight in court instead of settling has risks for the class. The three main risks are:

- The class could lose and get no benefit from the lawsuit.
- The class could win, but the court might order fewer protections than we're getting in the Settlement.
- The class could win, but the case could take so long that by the time the Jail is ordered to put more protections in place, the worst period of the pandemic could be over.

Based on these risks, the need for improvements in COVID-19 precautions right now given the rising number of cases, and the real benefits listed above, Class Counsel thinks the Settlement is the way to do the most good for the people who are confined in the CDF and CTF.

## 9. WHAT IF I THINK THE SETTLEMENT IS UNFAIR?

The Court will hold a hearing on the fairness of this Proposed Settlement on April 12, 2022 at 9 a.m. at the U.S. District Court for the District of Columbia, 333 Constitution Avenue, NW, Washington D.C. 20001. The hearing will be conducted remotely by Zoom. *(The link will be provided by the Court.)*

If you think the Proposed Settlement is not fair, you may tell the Court why you think so (this is called an "objection") and ask the court to reject the Proposed Settlement. You must take one of these two actions in order for your objection to be considered at the fairness hearing:

- In writing: Send a letter to: Clerk of the Court, U.S. District Court for the District of Columbia, 333 Constitution Avenue, N.W., Washington D.C. 20001. You must include: (1) your full name, (2) your DCDC number, (3) your current detention facility, (4) the case name and number (*Banks v. Booth*, No. 20-cv-849), and (5) an explanation of why you object. Objections must be postmarked no later than March 29, 2022. The court will not consider objections postmarked after that date.
- By phone: Call PDS at (202) 628-1200 and say that your call is in reference to the Banks class action settlement. If you are prompted to leave a voicemail, state (1) your full name, (2) your DCDC number, (3) your current detention facility (CDF or CTF), (4) the case name and number (*Banks v. Booth*, No. 20-cv-849), and (5) an explanation of why you object. Voicemails to this line must be received by March 29, 2022. PDS will put your message in writing and file it with the Court. The Court will not consider objections by phone message left after that date.

If you would like to participate in the Fairness Hearing, **you must indicate that you would like to participate in the Fairness Hearing** when submitting your objection in either your letter to the Court or by telephone to PDS.

The Court will consider all objections from Class Members before deciding whether to approve the Proposed Settlement, whether or not any Class Members appear at the Fairness Hearing.

**10. HOW DO I ASK QUESTIONS OR TALK TO CLASS COUNSEL?**

You may call Class Counsel at PDS at (202) 628-1200. Say that your call is in regards to the Banks class action settlement. **DO NOT CALL THE COURT ABOUT THIS SETTLEMENT.** Please communicate with the Court in writing only.