

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DARRELL ALLEN, ET AL.,

PLAINTIFFS,

V.

**RICHARD J. ROUSE, SHERIFF
AND INDIVIDUALLY, SUFFOLK
COUNTY SHERIFF'S DEPARTMENT,
ET AL.,**

DEFENDANTS.

**CIVIL ACTION
DOCKET NO. 00CV-10981-RWZ**

NOTICE OF PENDENCY OF CLASS ACTION

TO: ALL CURRENT AND FORMER INMATES WHO, SINCE NOVEMBER 15, 1996, HAVE BEEN SUBJECTED TO PHYSICAL INJURY AND EMOTIONAL HARM AS A RESULT OF THE USE OF EXCESSIVE FORCE BY CORRECTION OFFICERS OR OTHER PERSONNEL WHILE IN THE CUSTODY OF THE SUFFOLK COUNTY HOUSE OF CORRECTIONS ("SCHC").

PLEASE TAKE NOTICE that pursuant to a May 13, 2002 order of the United States District Court for the District of Massachusetts, as amended by order dated August 30, 2002 (the "Order"), certain of the claims asserted in the above-captioned action (the "Action") have been certified to proceed as a class action on behalf of the Class defined above pursuant to Rule 23 of the Federal Rules of Civil Procedure. The Court has directed that this Notice be given to Class members to inform them of the pendency of the Action, the Court's decision to certify the Class, the scheduled date for trial of the Class claims, and the rights of Class members in this Action.

**THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS.
PLEASE READ THE ENTIRE NOTICE CAREFULLY.**

Why Have I Received This Notice?

You have received this Notice because you have been identified from the defendants' records as a current or former inmate of SCHC, or because you requested a copy of this Notice.

If you are or were subjected to physical injury and emotional harm as a result of the use of excessive force by correction officers or other personnel while you are or were an inmate at SCHC, you may be eligible to participate as a member of the Class in this Action.

What Is This Case About?

This Action has been brought by current and former inmates of SCHC who claim that during their time at SCHC, they were the victims of physical injury or emotional harm resulting from the use of excessive force by correction officers or other personnel. The Action seeks to improve inmate conditions at SCHC, including changes to the policies, practices and procedures governing the use of force against inmates. The complaints in the Action request injunctive relief, as well as money damages, from the defendants.

Plaintiffs' Third Amended Complaint has two parts. Part I alleges claims on behalf of the Class against the Supervisory Defendants, which include Suffolk County, the Suffolk County Sheriff's Department, Sheriff Richard J. Rouse, Superintendent Richard Feeney and Deputy Superintendent Patrick Bradley. Part I of the Complaint alleges that these Supervisory Defendants failed to properly train and supervise corrections officers and to stop or prevent abusive conditions at the facility. The Complaint alleges that the Supervisory Defendants' deliberate indifference to abusive conditions at the facility and the substantial risk of physical and emotional harm to inmates violated the rights of Class members under the Massachusetts and United States constitutions and statutes and caused them harm and damages. Part I of the Complaint requests injunctive relief, including changes to policies, practices and procedures at the facility. It

also seeks money damages against the Supervisory Defendants for harm caused by their violations of the constitutional and statutory rights of Class members.

Part II of the Third Amended Complaint alleges claims on behalf of 55 individual current or former SCHC inmates, who are asserting claims for assault and battery, intentional infliction of emotional distress and violations of constitutional and statutory rights. The claims have been brought against the specific SCHC corrections officers and other personnel named as defendants in Part II of the Complaint, including the Supervisory Defendants. The Court has **NOT** certified for class treatment the claims alleged in Part II of the Third Amended Complaint.

Do I Need To File My Own Lawsuit?

The Court has only certified for class treatment the claims alleged in Part I of the Third Amended Complaint against the Supervisory Defendants. Therefore, if you wish to pursue claims against any persons or entities other than the Supervisory Defendants, or you wish to pursue claims against the Supervisory Defendants other than those for state and federal constitutional law and statutory violations that have been certified for class treatment by the Court, *you must take steps to preserve those claims.*

The law provides limits on the time by which you must file your individual claims with the appropriate court. If you do not file your claims with the appropriate court within the appropriate time, they may be time-barred and lost. Please contact an attorney for further legal advice on the steps necessary to preserve your individual claims.

THE COURT HAS SET JULY 7, 2003, OR AS SOON THEREAFTER AS PRACTICABLE, FOR THE TRIAL OF THE CLASS CLAIMS TO BEGIN.

This Notice is not to be construed as an expression of any opinion by the Court with respect to the merits of the parties' respective claims or defenses. It is being sent solely to advise you of the pendency of the Action, the claims the Court certified, and the rights that Class members have with respect to it.

What Should I Do Next?

If you are a member of the Class defined above and wish to remain in the Class, you do not need to do anything at this time. You **WILL** be eligible to participate in the Class claims seeking money damages from the Supervisory Defendants. However, if you remain in the Class, you **WILL ALSO** be bound by any adverse settlement, judgment, ruling or other resolution with respect to those claims.

If you choose, you may exclude yourself from, or opt out of, the Class. However, you can only exclude yourself from those portions of the Class claims seeking money damages from the Supervisory Defendants. You cannot exclude yourself from any Class claims for injunctive or similar relief from the Supervisory Defendants to improve conditions at SCHC or to change any of the policies, practices or procedures at the facility. If you exclude yourself from the Class, you will **NOT** be eligible to participate in any settlement, judgment, ruling or other resolution of the Class claims seeking money damages from the Supervisory Defendants. However, you will also **NOT** be bound by any adverse settlement, judgment, ruling or other resolution with respect to those claims.

If you wish to exclude yourself from the Class, you must mail a written request for exclusion to the address listed below. Your letter must be sent by first class mail, postage prepaid, *and postmarked no later than July 1, 2003.* Your letter requesting exclusion must include your name, your current address and phone number, the dates during which you were incarcerated at SCHC, and expressly say that you wish to be excluded from the Class.

Written requests for exclusion must be addressed to:

SCHC Class Action – Request For Exclusion
c/o Berman DeValerio Pease Tabacco Burt & Pucillo
One Liberty Square
Boston, MA 02109

Whether or not you choose to exclude yourself from the Class, you will still receive the benefit of any ultimate settlement, judgment, ruling or other resolution of the Class claims for injunctive or similar relief against the Supervisory Defendants to improve conditions at SCHC and to change the policies, practices or procedures at the facility.

Who Is Representing The Class In This Case?

The Court has certified Sherman Jones, a former inmate at SCHC, as the representative for the Class. It has also certified the following attorneys as Class counsel:

Theodore H. Goguen
Joseph M. Mahaney, Jr.
Sean T. Goguen
Goguen McLaughlin, Richards
& Mahaney LLP
2 Pleasant Street
South Natick, MA 01760
(508) 651-1000

Michael G. Lange
Julie A. Richmond
Steven D. Morris
Berman DeValerio Pease Tabacco Burt & Pucillo
One Liberty Square
Boston, MA 02109
(617) 542-8300

Unless you choose to retain your own counsel, Class counsel will represent your interests with respect to the Class claims that have been certified in the Action. They will not be representing you for any other claims. You will not be personally responsible for any attorney fees or costs from their representation of your interests in the Class case. Class counsel will be paid from any amounts awarded by the Court from the defendants, or from any amounts recovered on behalf of the Class.

If you choose, you may also hire your own attorney at your own expense to represent your interests in the Class action. You may also seek to intervene in the Class action.

How Does The Class Action Affect My Legal Rights?

If you are a Class member and do nothing, you **WILL** be entitled to share in the benefits of any monetary settlement, judgment, ruling or other resolution of the Class claims seeking money damages from the Supervisory Defendants. However, you also **WILL** be bound by any settlement, judgment, ruling or other resolution of those claims for money damages that is unfavorable to the Class. In the event that Plaintiffs prevail on the Class claims for money damages against the Supervisory Defendants, you will be sent further information on participating in any claims process.

If you choose to exclude yourself in the Class, you **WILL NOT** be entitled to share in the benefits of any monetary settlement, judgment, ruling or other resolution of the Class claims seeking money damages from the Supervisory Defendants. However, you also **WILL NOT** be bound by any settlement, judgment, ruling or other resolution of those claims for money damages against the Supervisory Defendants that is unfavorable to the Class.

Whether or not you choose to remain in the Class or exclude yourself from it, you will be included for purposes of any Class claims for injunctive or similar relief from the Supervisory Defendants to improve conditions at SCHC or to change any of the policies, practices or procedures at the facility.

Again, the Class claims are directed only at the Supervisory Defendants. If you wish to pursue claims for money damages or other relief against any other persons or entities for injuries or harm you suffered while incarcerated at SCHC, or against the Supervisory Defendants for any claims other than those that the Court has certified for class treatment, you should contact an attorney who will advise you of the steps necessary to protect your interests in those claims and to ensure that they are timely pursued. Class counsel will not be representing you for any claims other than those certified by the Court against the Supervisory Defendants.

What If I Have Further Questions Regarding The Action?

If you would like additional copies of this Notice, or have questions regarding its distribution, please direct your questions to the Notice Administrator:

Suffolk County House of Correction Class Action
c/o The Garden City Group, Inc.
Notice Administrator
P.O. Box 9000 #6008
Merrick, NY 11566-9000
(800) 526-4678

You will also find copies of the Notice, as well as pleadings from the Action, on the World Wide Web at <http://civilrights.bermanesq.com>.

If your address is different from the address stated on this Notice, or your address changes, please send your new contact information to the Notice Administrator at the address above. It is important that the Notice Administrator have your current mailing address and contact information.

This Notice contains only a summary of the claims in the Action. To obtain more information about the Action, or the specific claims that the Court has certified for class treatment, please visit the following website, which contains copies of the Third Amended Complaint, Parts I and II, as well as copies of other pleadings from the Action:

<http://civilrights.bermanesq.com>

You can also view the Court docket and pleadings for this Action at any time during regular business hours at the Clerk's Office, Federal District Court, District of Massachusetts, 1 Courthouse Way, Boston, MA 02210.

If you have questions regarding the Action, or have information that you believe would assist in the prosecution of the Class claims, please contact Class counsel listed above.

**PLEASE DO NOT CONTACT THE COURT
WITH QUESTIONS REGARDING THIS LAWSUIT.**