

**NOTICE OF CLASS ACTION SETTLEMENT**  
**Federal Correctional Complex Lompoc**  
***Garries v. Milusnic*, C.D. Cal. Case No. CV 20-4450-CBM-PVCx**

In May 2020, individuals incarcerated at FCI Lompoc filed a class action lawsuit against prison officials alleging that they failed to take the necessary steps to protect the incarcerated population from COVID-19, including release to home confinement. The prison officials denied these allegations and filed a motion to dismiss the case. The Court, however, did not dismiss the case, but issued an order establishing a provisional class and requiring the BOP to take certain actions to make the process for seeking home confinement more effective. The Court also appointed a medical doctor to inspect the prison to find out if proper precautions for COVID were being followed. The prison officials then filed a motion asking the court to rule in their favor.

Instead of taking the case to a final judgment, the BOP and incarcerated men appointed to represent the provisional class reached an agreement to settle all the claims. The settlement is described in a document called the Settlement Agreement. That agreement requires prison officials at FCI Lompoc to follow for a limited time the procedures required by the Court for processing home confinement applications. It also requires the prison to comply with BOP procedures for keeping incarcerated individuals safe from COVID.

All the details of the settlement are contained in the Settlement Agreement. You can review the copy of the Settlement Agreement and the motion to approve the attorneys' fees posted on TRULINCS. Paper copies have also been placed in the law libraries. You may also contact counsel for Plaintiff-Petitioners at the address listed at the bottom of this notice if you are unable to access a copy of the Settlement Agreement.

**ABOUT THE SETTLEMENT**

The following is only a summary of the provisions of the settlement. The written agreement between the parties has the full terms of the proposed settlement that was preliminarily approved by the Court.

**The Settlement Class**

The class of individuals covered by the Settlement Agreement (the "Settlement Class") is defined as follows: all current and future people in post-conviction custody at FCI Lompoc and USP Lompoc over the age of 50, and all current and future people in post-conviction custody at FCI Lompoc and USP Lompoc of any age with underlying health conditions including chronic obstructive pulmonary disease; serious heart conditions such as heart failure, coronary artery disease, or cardiomyopathies; Type 2 diabetes; chronic kidney disease; sickle cell disease; immunocompromised state from a solid organ

transplant; obesity (body mass index of 30 or higher); asthma; cerebrovascular diseases; cystic fibrosis; hypertension or high blood pressure; immunocompromised state from blood or bone marrow transplant; immune deficiencies, HIV, or those who use corticosteroids, or use other immune weakening medicines; neurologic conditions such as dementia; liver diseases; pulmonary fibrosis; thalassemia; Type 1 diabetes; and smokers (“Underlying Health Conditions”).

### **Home Confinement**

The Settlement Agreement requires Lompoc to continue complying with the Court’s previous orders regarding home confinement, which require Lompoc to do the following, among other things:

- Make full and speedy use of BOP’s CARES Act authority to review members of the Settlement Class for transfer to home confinement;
- Assign substantial weight to the class member’s risk factors for severe illness and death from COVID-19 based on age (over 50) or Underlying Health Conditions;
- Refrain from denying a class member home confinement under the CARES Act on the sole basis of the amount of time served or some other variation of a time component without other good cause;
- Refrain from denying a class member home confinement under the CARES Act on the sole basis of a prior offense without other good cause;
- If home confinement is denied, provide a declaration to counsel for Plaintiff-Petitioners explaining in detail why the reasons for denial substantially outweigh the class member’s risk factors for severe illness and death from COVID-19.

### **Conditions Related to COVID-19**

The Settlement Agreement also requires Lompoc to comply with certain provisions of the BOP Pandemic Response Plan guidelines, including:

- Test for COVID-19 systematically, including re-testing of close contacts of positive patients during widespread institution transmissions.
- Perform daily symptoms checks for COVID-19 for all people who have been placed in quarantine.
- Screen workers assigned to health services units for symptoms of COVID-19.
- Make medical isolation in the SHU for COVID-19 “operationally distinct” from disciplinary or restricted housing by providing daily medical visits, access to mental health services, efforts to provide similar access to radio, clock/watch, reading materials, personal property, and commissary as in regular housing units, and consider increased telephone privileges to maintain mental health and connection during isolation.

Lompoc must provide written monthly reports to counsel for Plaintiff-Petitioners regarding its compliance with these requirements.

Because this case is a class action challenging policies and procedures, everyone who is a member of the class is bound by the terms of the settlement. This case does not, however, prevent members of the Settlement Class from seeking relief based on grounds other than those at issue in this action (e.g., motions for compassionate release). This case does not seek money damages and none will be awarded. Part of the settlement requires the BOP to pay lawyers for the individuals \$375,000 in attorney fees and expenses.

### **OBJECTIONS**

The federal court will consider written objections to the settlement agreement when deciding whether to approve the settlement. Any class member may object to the proposed settlement; the objection must state whether it applies only to the objector, to a specific subset of the class, or to the entire class, and also state with specificity the grounds for the objection. Objections must include at the top of the first page the case name (*Torres v. Milusnic*) and the case number (Case No. CV 20-4450-CBM-PVCx). Objections must be postmarked by **August 2, 2022**, and must be sent to the following address:

Clerk of the Court  
United States District Court  
Central District of California  
First Street Courthouse  
350 West 1st Street  
Los Angeles, California 90012

### **FAIRNESS HEARING**

The Court will hold a hearing on the fairness of the Settlement Agreement on **October 4, 2022**, 9:00 a.m., at 350 West 1st Street, Los Angeles, California 90012, Rm. 8D. Members of the Settlement Class may be represented at that hearing by their counsel. The hearing will be open to the public.

### **LOMPOC PLAINTIFFS' CLASS COUNSEL**

Members of the Settlement Class may contact counsel for Plaintiff-Petitioners about the Settlement Agreement by sending mail to the following address:

LOMPOC PLAINTIFFS' CLASS COUNSEL  
c/o Melissa Goodman and Peter Eliasberg  
American Civil Liberties Union of Southern California  
1313 W. 8<sup>th</sup> Street,  
Los Angeles, California 90017

Be sure to include your name and registration number, and state in your letter that you are writing about the Lompoc class action.