

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
LAURIE KELLOGG,

Plaintiff,

07 Civ. 2804 (BSJ)(GWG)

- against -

**STIPULATION OF SETTLEMENT  
AND ORDER OF DISMISSAL**

NYS DEPT. OF CORRECTIONAL SERVICES,  
et al.,

Defendants.

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WHEREAS, plaintiff, Laurie Kellogg, filed a Complaint ("Complaint") dated April 2, 2007, alleging that defendants had violated plaintiff's rights during plaintiff's incarceration in the New York State Correctional Services system; and

WHEREAS, defendants moved to dismiss the Complaint, pursuant to Fed. R. Civ. Proc. 12(b)(1) and 12(b)(6) and denied all allegations that their conduct violated plaintiff's constitutional or other rights; and

WHEREAS, by order dated July 15, 2009, defendants' motion was granted in part and denied in part; and

WHEREAS, pursuant to Federal Rule of Civil Procedure 41(a)(2), plaintiff Laurie Kellogg, has stipulated to the withdrawal and dismissal, with prejudice, of all claims against defendants Ada Perez, Brandon Smith and Robert Ball, in the above-captioned action; and

WHEREAS, the parties are interested in resolving the remaining issues alleged in the Complaint in the above-captioned action ("Action"), and have negotiated in good faith for that purpose; and

WHEREAS, none of the parties to the Action is an infant or incompetent person; and

WHEREAS the parties to the Action wish to discontinue this litigation without the need for trial and without admitting any wrongdoing on the part of defendants; and

WHEREAS plaintiff represents and warrants that, other than this Action, she has no action or proceeding pending in any court, state or federal, arising out of or relating to the subject matter of this lawsuit.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the parties and/or their respective counsel as follows:

1. The parties hereby agree that the Action is dismissed and discontinued with prejudice.
2. Defendants shall pay to plaintiff the sum of Seventy Five Thousand Dollars (\$75,000.00) in full satisfaction of any and all claims for relief in this Action.
3. Payment shall be made by check, in the amount of Seventy Five Thousand Dollars (\$75,000.00) which shall be made payable to plaintiff Laurie Kellogg and plaintiff's attorney, Anthony M. Giordano, Esq. and mailed to Anthony M. Giordano, Esq., 100 Executive Blvd, Suite 205, Ossining, New York 10562. Upon receipt thereof, the plaintiff's attorney shall deduct therefrom any and all sums due and owing for costs, disbursements and legal fees. The remaining balance shall then be promptly forwarded to the plaintiff, Laurie Kellogg, at her correctional facility for deposit in her inmate facility/departmental account.
4. In consideration of the payment of the sum recited in paragraph #2 above, the plaintiff, Laurie Kellogg, hereby releases and discharges each of the defendants and any and all current or former employees or agents of New York State or the New York State Department of Correctional Services, in their individual and official capacities, and their heirs, executors, administrators and assigns, and the State of New York and its agencies, including, without limitation,


as evidence or for any other purpose, except in an action or proceeding to enforce this Stipulation of Settlement.

9. This Stipulation of Settlement and Order of Dismissal embodies the entire agreement of the parties in this matter and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceedings, shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
January 9, 2011

*February*

ERIC T. SCHNEIDERMAN  
Attorney General of the State of New York  
Attorney for Defendants

  
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MARIA B. HARTOFILIS  
Assistant Attorney General  
120 Broadway - 24<sup>th</sup> Floor  
New York, New York 10271  
(212) 416-6295

Dated: Ossining, New York  
January 24, 2011

ANTHONY M. GIORDANO, ESQ.  
Attorney for Plaintiff

  
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ANTHONY M. GIORDANO, ESQ.  
100 Executive Blvd. Suite 205  
Ossining, New York 10562  
(914) 923-7746



Dated: Bedford Hills Correctional Facility  
Bedford Hills, New York  
January 24th, 2011

By:   
LAURIE KELLOGG

**ACKNOWLEDGMENT**

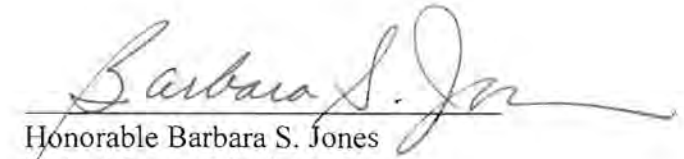
On the 24th day of January, 2011, before me came Laurie Kellogg,  
known to me or proved to me on the basis of satisfactory evidence to be the person whose name is  
subscribed on the within instrument, and acknowledged to me that she executed the same.

  
Notary Public

HELEN T. KINSLOW  
Notary Public, State of New York  
Qual. in New York Co. No. 01K16175449  
My Commission Expires Oct-9, 2011

SO ORDERED.

Dated: New York, New York  
~~January~~ Feb. 14, 2011

  
Honorable Barbara S. Jones  
United States District Judge