

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

<p>Twanda Marshinda Brown, <i>et al.</i>,</p> <p>Plaintiffs,</p> <p>v.</p> <p>Lexington County, South Carolina,</p> <p>Defendant.</p>	<p>Civil Action No. 3:17-cv-01426-SAL</p>
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ORDER GRANTING JOINT MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

THIS MATTER came before the Court on the Parties’ Joint Motion for Preliminary Approval of Class Action Settlement, ECF No. 348. The Court has read and considered the parties’ Settlement Agreement, ECF No. 348-2, and the motion submitted in support of preliminary approval and is fully advised.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Unless otherwise provided herein, all capitalized terms in this Order have the same meaning as set forth in the Settlement Agreement.
2. The Court previously certified the Class, ECF No. 227, and the parties’ Settlement is on behalf of that certified Class; thus, the Court need not separately assess whether class certification for purposes of settlement is appropriate.
3. The Settlement provides relief that will benefit Plaintiffs and members of the Class. Through the Settlement, Defendant Lexington County has agreed to provide prospective relief to the Class that requires the County to fund new public defender positions for the Lexington County magistrate courts as well as administrative support for those positions and pay increases.

Settlement Agreement § II.B.1. The injunctive relief directly addresses Plaintiffs' allegation that Lexington County's magistrate courts did not provide sufficient representation to indigent defendants to comply with the Sixth Amendment right to counsel.

4. The Court finds that the Settlement is fair, reasonable, and adequate. In reaching this conclusion, the Court finds as follows:

- a. Plaintiffs and their counsel have vigorously and adequately represented the Class.
- b. The Settlement is the result of arm's-length negotiations before experienced mediator and former Chief Justice of South Carolina Costa M. Pleicones.
- c. The Settlement provides injunctive relief that is intended to remedy the alleged Sixth Amendment violations in Lexington County Magistrate Court.
- d. Both parties faced risks by continuing to litigate, including the risk of an adverse ruling, the ongoing expense of litigation, and the likelihood of appeal by the losing party following trial court resolution of the case. Settlement was therefore appropriate.
- e. The parties were well-informed by the time they reached settlement, as discovery was complete and the parties were preparing for a hearing on the merits of the remaining claims. Thus, the parties' and their counsel's support for the Settlement weighs in favor of approval.

f. The Settlement treats all Class members equitably. There is no monetary recovery for Class members, nor any request for service awards by the named Plaintiffs. Thus, all members of the Class will receive the same prospective relief as part of the Settlement.

5. The Court finds that, under the circumstances, publication notice is the preferred form of notice for reaching the largest number of members of the Class and providing them with an opportunity to object to the Settlement or otherwise voice their opinion about it. Publication shall take place in The State and shall be substantially in the form of the draft notice attached as Exhibit 2 to the January 20, 2023, Marshall Declaration, ECF No. 348-3. The Court finds that the notice plan is reasonable, that it constitutes due, adequate, and sufficient notice to all persons entitled to receive notice, and that it meets the requirements of due process, Fed. R. Civ. P. 23(e), and any other applicable laws.

6. The Court directs the parties to proceed with placing notice in The State no later than February 13, 2023. The parties shall have the notice run on three separate days over a one-week period, including a Sunday.

7. Objections to the settlement shall be postmarked no later than February 27, 2023.

8. The Court sets a final fairness hearing in this matter for March 2, 2023, at 10am at the Matthew J. Perry Courthouse, 901 Richland Street, Columbia, South Carolina, Courtroom 3.

9. All proceedings before the Court are stayed pending final approval of the settlement, except as may be necessary to implement the settlement or comply with the terms of the Settlement and except as to briefing and ruling on Plaintiffs' motion for an award of attorneys' fees and costs.

IT IS SO ORDERED.

Dated: February 10, 2023
Columbia, South Carolina

s/ Sherri A. Lydon

Sherri A. Lydon
United States District Court Judge