UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 99-109-CIV-GARBER

ACCESS NOW, INC., et. al,	)
Plaintiffs,	)
v.	)
AMBULATORY SURGERY CENTER GROUP, LTD., et al.,	)
Defendants.	)

OBJECTIONS OF AMICUS CURIAE UNITED STATES TO PROPOSED CLASS ACTION PARTIAL SETTLEMENT AGREEMENTS OF NORTHWEST MEDICAL CENTER INC. AND LARGO MEDICAL CENTER, INC.

I. INTRODUCTION

In December 2001, plaintiffs Access Now, Inc. ("Access Now" or "Plaintiffs") filed a fourth amended class action complaint alleging violations of the Americans with Disabilities Act ("ADA") by Defendants. The fourth amended complaint alleges that Defendants, nationwide providers of health care services operating over 450 medical facilities throughout the United States, have denied the class the full and equal enjoyment of their goods, services, program,

facilities, privileges, advantages, or accommodations, and full and equal access to their facilities in violation of the ADA.

The plaintiff class in this matter, which this Court conditionally certified on May 18, 2000, includes "[a]ll people in the United States with disabilities as that term has been defined by U.S.C. § 12102(2) [title III of the ADA] . . . ." As the Plaintiffs stated in their motion for class certification, the "proposed Class is gigantic in size" and "is as geographically diverse as the United States."[1]

On January 2, 2002, Plaintiffs and Settling Defendants, Northwest Medical Center, Inc. and Largo Medical Center Inc. ("Northwest," "Largo," or "Settling Defendants"), filed partial class action settlement agreements (the "Agreements") that purport to settle all accessibility claims -- both ADA-based claims as well as claims arising under state and local accessibility laws -- on behalf of a nationwide class of persons with respect to Northwest and Largo.[2] In the

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[1] See Plaintiff's Motion for Class Certification and Memorandum of Law Thereof (filed January 14, 2000)(Docket # 41 p. 7-8).

[2] Settling Defendant Northwest is an owner of the following properties: (1) Northwest Medical Center, 2801 N. State Road, 7, Margate, Florida; and (2) Northwest Medical Plaza Condominium located at 5800 Colonial Drive, Margate, Florida. Northwest owns and operates healthcare provider services at Units 106, 107, 108, 200, 201, and 202 of the Northwest Medical Plaza Condominium. In addition, Northwest leases and operates healthcare provider services at the following properties: (1) the first floor of the Medical Office Building, West 2825 North State Road, Margate, Florida; (2) Suites 101, 103, 311 of the Medical Office Building, 5901 Colonial Drive, Margate, Florida.

Settling Defendant Largo is an owner of the following properties: (1) Largo Medical Center, 201 14th Street SW, Largo, Florida. In addition, Largo leases and operates healthcare provider services at the following properties: (1) Medical Arts Building, 1345 West Bay Avenue in Largo, Florida (Suites 204, 205, and 401); (2) Second floor of 1300 S. Fort Harrison Avenue, Clearwater, Florida.

Both Settling Defendants are affiliated with HCA - The Healthcare Co.

Agreements, the parties state their intent to forever resolve and bar all claims concerning physical, communication, or program access barriers arising under the ADA or relevant state law. Further indicia of the parties' intent is the language of the public notice of settlement, which advises that:

> the general release in this action will be effective to forever discharge any claims relating to physical, communication, structural and program access barriers, if any, at the Medical Center by a class member whether known or unknown to the class member at the time of the settlement agreement.

(Docket ## 132, 133, Exhibit B) (emphasis added).

Where, as here, settlements of a private enforcement action purport to bind all individuals covered by title III of the ADA from hereafter asserting rights under those provisions, it is appropriate for the Attorney General to assist the Court in determining whether such agreements are, in reality, in the public interest. The instant Agreements simply are not. These settlements so favor the defendants – Northwest and Largo – and so limit future ADA enforcement actions on behalf of persons with disabilities, that the United States must object to their approval.

Amicus curiae United States of America urges the Court to reject these Agreements on numerous grounds. The Northwest and Largo Agreements are so procedurally flawed that their endorsement would compromise the legal interests of both the greater disability community and the United States. These flaws include (1) constitutionally defective class notice; (2) an overly broad release provision that waives claims that are not addressed and/or remedied by the Agreements; and (3) an onerous mechanism for resolving disputes about access or compliance with the terms of the Agreements that is heavily weighted in favor of Settling Defendants. While

voluntary settlement of litigation is always a laudable goal, the procedural flaws of these Agreements require this court to reject these partial settlement Agreements.

II. BACKGROUND AND PROCEDURAL HISTORY

In January 1999, Access Now filed a complaint against Cedars Health Care Group, Ltd. ("Cedars"), a Florida corporation operating healthcare service facilities in Miami, Florida, alleging that Cedars intentionally discriminated against plaintiffs and individuals with disabilities in violation of the ADA, by denying them access to, and full and equal enjoyment of, the goods, services, facilities, privileges, advantages and/or accommodations of the hospital. (Docket #1, at ¶ 8). Since the initial complaint was filed in this matter, four amended complaints have been filed, each time adding more defendants. (Docket ## 1, 24, 43, 68, 130).

On May 18, 2000, this Court, pursuant to Rule 23 of the Federal Rules, conditionally granted certification of a class that includes "all persons in the United States" covered by the ADA. (Docket # 63). In its fourth amended class action complaint, filed in December 2001, Plaintiffs allege that the class, which "consist[s] of well over Ten Million (10,000,000) members" has been denied full and equal access to public accommodations owned or operated by Defendants, nationwide providers of health care services operating over 450 medical facilities throughout the United States, in violation of the ADA. (Docket # 130, ¶¶ 13, 15).

On January 2, 2002, Plaintiffs and Settling Defendants Northwest and Largo filed Partial Settlement Agreements that purport to settle any accessibility claims concerning physical, communications, structural, and program access barriers on behalf of a nationwide class of persons with respect to Northwest and Largo. (Docket ## 132, 133.) By Orders dated January 2, 2002, this Court scheduled the fairness hearings for March 11, 2002, directed the parties to

provide notice to the Class, and set February 15, 2002, as the cut-off date for objections to the Northwest Agreement and Largo Agreement. See Orders as to the Notice of Partial Settlement Agreements (Docket ##134, 135).

The Court also Ordered the Parties to provide notice of the agreement to the class members via one of the following methods: (i) newsletter or (ii) announcement on the Internet website of Access Now, Inc. (Docket # 80). This Court's Order also provided that summary notices are to be posted at one or two public locations in the facility or facilities affected by the proposed Agreements. Id.

The summary notice advises that Settling Defendants will improve access to and usability of their facilities for persons with disabilities in exchange for a "general release...effective to forever discharge any claims relating to physical, communication, structural and program access barriers . . . ." (Docket ## 132, 133, Exhibit B).

III. ARGUMENT

1. Introduction

Access Now and Settling Defendants, as proponents of the class settlements, bear the burden of demonstrating that these Agreements represent a fair and reasonable resolution of class members' discrimination claims. See, e.g., In re General Motors Corp. Pick-Up Fuel Tank Products Liability Litigation, 55 F.3d 768, 785 (3rd Cir. 1995), cert. denied, 516 U.S. 824 (1995); Holmes, 706 F.2d 1144, 1147 (11th Cir. 1983). As discussed below, these Agreements are so flawed that the parties do not come close to satisfying this burden and the Court must, therefore, reject these Settlement Agreements.

Determining the propriety of a settlement is committed to the sound discretion of the district court. See, e.g., Sterling v. Stewart, 158 F.3d 1199, 1201 (11th Cir. 1998); Bennett v. Behring Corp., 737 F.2d 982, 986 (11th Cir. 1984). Because "the [class action] settlement process is more susceptible than adversarial adjudications to certain types of abuse," Pettway v. American Cast Iron Pipe Co., 576 F.2d 1157, 1214 (5th Cir. 1978), cert. denied, 439 U.S. 1115 (1979),[3] the Court has a "heavy duty to ensure that any agreement is 'fair, adequate, and reasonable.'" Piambino v. Bailey, 757 F.2d 1112, 1139 (11th Cir. 1985) (internal citation omitted), cert. denied, 476 U.S. 1169 (1986); see also Holmes, 706 F.2d at 1147; United States v. City of Hialeah, 899 F. Supp. 603, 606 (S.D. Fla. 1994), aff'd, 140 F.3d 968 (11th Cir. 1998).[4]

When assessing the propriety of a class action settlement agreement, the court's discretion is also limited in two other respects. First, the court cannot sanction a proposed settlement that is either collusive or contrary to public policy. See, e.g., United States v. City of Alexandria, 614 F.2d 1358, 1362 (5th Cir. 1980). Second, the Court does not have the authority to modify the terms of a class action settlement agreement; the agreement must be approved or rejected as a whole. See, e.g., Brooks v. Georgia State Bd. of Elections, 59 F.3d 1114, 1119-20 (11th Cir. 1995); Holmes, 706 F.2d at 1160 ("Courts are not permitted to modify settlement terms or in any manner to rewrite the agreement reached by the parties.").

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[3] In Bonner v. City of Prichard, 661 F.2d 1206 (5th Cir. 1981) (*en banc*), the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit decided prior to October 31, 1981.

The Court must ensure the fairness of a negotiated settlement agreement and may not modify it. Accordingly, because of the myriad of procedural defects of the Agreements before this Court, the Court must reject the Agreements.

2. The Class Notices Are Defective and Will Reach Only A Minuscule Portion of Class Members

The primary flaw underlying the class notice in these Agreements concerns their limited means of distribution. The class notices violate due process and fail to meet Rule 23's notice requirements. Because class action litigation under Rule 23 has a preclusive effect on class members -- most of whom are not even aware of the litigation -- both procedural due process and statutory considerations require that notice of a proposed settlement be disseminated to the class prior to final judicial approval. See Eisen v. Carlisle & Jacquelin, 417 U.S. 156, 172-77 (1974); Fed. R. Civ. P. 23(c)(2), 23(e). At a minimum, due process demands that notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950).

Beyond this basic due process standard, the nature and degree of notice required largely depend on the types of claims covered by the settlement and the identity of interests among class members. In class actions where individual interests are stronger and class interests less cohesive -- typically, claims for monetary relief certified under Rule 23(b)(3) -- both Rule 23(c) and due process demand stronger procedural protections for absent class members. See, e.g., Holmes v. Continental Can Co., 706 F.2d at 1155-59. Both due process and Rule 23(c)(2) mandate that absent class members be given both (i) "the best notice practicable under the circumstances, including individual notice to all members that can be identified through

reasonable efforts," and (ii) an opportunity to exclude themselves or "opt-out" of the class and lawsuit. Fed R. Civ. P. 23(c)(2); see also Eisen, 417 U.S. at 173-76 (individual notice must be sent to identifiable class members under Rule 23(c)(2) regardless of expense).

Viewed through the lens of these statutory and due process requirements, the Northwest and Largo class notices cannot withstand scrutiny. The release provisions in these Agreements are exceedingly broad, barring class members from litigating not only ADA title III claims arising after the date of the settlement agreement, but also claims for compensatory or punitive damages under state or local accessibility laws. Northwest and Largo Agreements, Section IX.B. As the summary notice of the Agreements advises, class members:

> are deemed to have waived the protection provided by any state statutes or codes with respect to unknown claims at the time of a general release, and the general release in this action will be effective to forever discharge any claims relating to physical, communication, structural and program access barriers, if any, at the Medical Center by a class member whether known or unknown to the class member at the time of the settlement agreement.

(Docket ##132, 133, Exhibit B) (emphasis added). Because the Agreements purport to waive monetary claims, due process requires actual notice and an opportunity to opt out irrespective of whether the class has been conditionally certified. The Class Members were afforded neither of these procedural protections.[5]

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[5] Even publication of a class notice in the largest circulation newspapers or magazines is rarely a constitutionally acceptable substitute for individual, mailed notice. See, e.g., Eisen, 417 U.S. at 175 ("'[N]otice by publication ha[s] long been recognized as a poor substitute for actual notice and . . . its justification [is] 'difficult at best.'") (quoting Schroeder v. City of New York, 371 U.S. 208, 213 (1962)); Mullane, 339 U.S. at 313-15 (holding publication of notice in local newspaper constitutionally insufficient, and noting "[i]t would be idle to pretend that publication alone . . . is a reliable means of acquainting interested parties of the fact that their rights are before the courts").

Even assuming arguendo that the Agreements' expansive release provisions do not necessitate these constitutionally-enhanced procedural measures, the class notices are nonetheless defective under the more lenient "reasonableness" standard governing class notice under Rule 23(e). For class actions seeking to compromise claims for injunctive or declaratory relief, federal courts have generally upheld published notices so long as the notices adequately inform interested parties of the pendency of the lawsuit, provide a summary of the agreement's general terms, and inform parties of their respective rights thereunder. See, e.g., Mendoza v. United States, 623 F.2d 1338, 1350-51 (9th Cir. 1980), cert. denied, 450 U.S. 912 (1981); Allen v. Alabama State Bd. of Educ., 190 F.R.D. 602, 606-07 (M.D. Ala. 2000); Stanley v. Darlington County School Dist., 879 F. Supp. 1341, 1372-73 (D.S.C. 1995), rev'd in part on other grounds, 84 F.3d 707 (4th Cir. 1996).

The means of distribution mandated by these Agreements are too inadequate to be deemed reasonable. By this Court's Amended Class Order, dated January 8, 2002, the parties' proposed publication scheme provides that notice need only be published in Access Now's Inc. newsletter, or be posted on Access Now's website.[6] (Docket ## 80, 139). Further, the parties are only required to post a summary notice in one or two public locations in each of the facility or facilities affected by the proposed settlements.

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[6] On January 8, 2002, this Court amended the Class Orders. Pursuant to the Amended Class Order, if Plaintiffs reach future settlement Agreements with multiple Defendants, the parties may aggregate the fairness hearing "to reduce the need for separate hearings." (Docket #139). The parties' desire to avoid separate hearings on future settlement agreements is yet an other example of how the parties are depriving class members of a fair and full opportunity to present their objections. The parties apparently intend to use these Agreements as a model for the remaining hospital settlements that makes the rejection of them even *more* critical to the rights of disabled individuals.

Plaintiffs acknowledge the class is gigantic and the class numbers over ten million individuals. [7] (Docket # 41.) By contrast, membership in Access Now is approximately 643 persons. See www.adaaccessnow.org/jan02. As such, a minuscule percentage of the ten million member class will receive notification of these Settlement Agreements in Access Now's newsletter. While it is unknown how frequently the members of the disability community visit the Access Now's website, it is highly unlikely that this web site – or the notices to be posted thereon – will be viewed with sufficient frequency to reasonably apprise class members of the pendency of these Agreements.

Similarly, posting a summary of the settlement terms in one or two public locations at each Settling Defendants' facilities cannot reasonably apprise the vast number of individuals affected by these Settlement Agreements. There are seven different buildings covered by the Agreements with various floors and suites – merely posting the notice in one or two places in a large hospital will not ensure notification to a large number of current or potential disabled patients and visitors.

In summary, the Agreement's notice provisions violate class members' due process rights and fail to meet Rule 23 notice requirements of actual notice and an opportunity to opt-out of the settlement agreement. Moreover, even under the more lenient "reasonableness" standard governing class action notices, the notice is flawed because of the limited distribution.

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[7] In enacting the ADA, Congress found that "some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing..." 42 U.S.C. § 12102.

3. The Release Provisions are Overbroad

The Agreements' release provisions suffer from both overbreadth and ambiguity. The release provisions are ambiguous and it is difficult to determine, with any precision, what rights and claims the class members are waiving. The release provisions are overbroad in three significant respects, they: a) appear to waive access claims arising after the date of the settlement agreement; b) bar state and local law claims which may provide remedies not available under the ADA; and c) bar claims not addressed and/or remedied in the Agreements.

In the release provisions, Named Plaintiffs and all class members release and waive all "Released Claims" as defined in the Agreements. See Section IX.A(1). The definition of "Released Claims" includes accessibility claims based on the ADA as well as state and local disability-related statutes, rules and regulations. See Section IX.B. In the release, the

> Named Plaintiffs and all Class Members... fully and finally release and forever discharge the Settling Defendants . . . from any and all past and/or present claims, rights, demands, charges, complaints, actions, causes of action, obligations, or liabilities of every kind that were or could have been brought, known or unknown, for individual and/or class relief based on any and all claims arising under or related to Title III of the ADA or its implementing regulations [or under more stringent state or local statute, rules, or regulations, if applicable] concerning any of the Settling Defendant's Facility (ies) that have been or could have been brought or asserted in this action, in any action in any court of competent jurisdiction, or in any arbitration of federal, state, or local agency administrative proceeding.

See Section IX.B(5). Indeed, when the release provisions are interpreted in light of the recital provisions and the summary notice, they plainly are so all encompassing that they should not be countenanced by this Court.[8]

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[8] The summary notice explains that, the Agreements will "bar all class members from

A. *The Release Provisions Appear To Waive Access Claims Arising After The Date Of The Settlement Agreement*s

The Agreements purport to forever waive the rights of all class members to bring access claims, even egregious claims, that arise after the date of the Agreements. Courts have viewed prospective waivers of individuals' civil rights – whether arising out of the ADA or other anti-discrimination statutes – with great disfavor. See, e.g., Alexander v. Gardner-Denver Co., 415 U.S. 36, 51-52 (1974) ("[There can be no prospective waiver of an [individual's] rights under Title VII."); Adams v. Philip Morris, Inc., 67 F.3d 580, 584 (6th Cir. 1995) ("A[] [party] cannot purchase a license to discriminate"); Uherek v. Houston Light and Power Co., 997 F. Supp. 789, 792 (S.D. Tex. 1998) ("A party may validly waive [Title VII] claims that exist on the day she signs a release, but not future claims."); see also Rivera-Flores v. Bristol-Myers Squibb Caribbean, 112 F.3d 9, 10-12 (1st Cir. 1997) (holding past ADA claims subject to waiver so long as release was knowing, voluntary, and "given in exchange for additional benefit"). This Court should not issue Settling Defendants a license to discriminate by approving this Agreement. See, e.g., City of Alexandria, 614 F.2d at 1362 (noting judicial duty to ensure class action settlement

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asserting any claims against the Medical Center concerning physical, communication, structural and program access barrier." (Docket ##132, 133, Exhibit B). The "Recital" language, Section I. H(6), expresses the parties intent to forever bar access claims and to:

> Bind Settling Defendant, Named Plaintiffs, and the Class, so that, *inter alia*, neither the Named Plaintiffs nor any Class member will hereafter assert or claim that Settling Defendant is required to make additional or different modifications ...or ... follow different standards for Future Construction or Renovation, beyond what is agreed to herein in order to comply with federal or applicable state laws regarding access for Persons with Disabilities, and no Class member will hereafter assert a legal claim against Settling defendant under the ADA...or any federal, state or local laws ....arising form or relating to a physical, communication, or operational access feature (or lack thereof) covered under this Agreement."

Agreements are neither illegal nor contrary to public policy); Shurford, 897 F. Supp. at 1547 (same). In the interest of fairness and public policy, these Agreements must be rejected.

The prospective release is especially troubling because it will substantially compromise the Department of Justice's ADA enforcement efforts to protect the rights of individuals with disabilities and the public interest. The Department of Justice is the federal agency with primary responsibility for enforcing Title III of the ADA and its implementing regulations against public accommodations. See 42 U.S.C. §§ 12181 - 12189; 28 C.F.R. pt. 36 (1994). In keeping with this responsibility, the Department has the statutory authority to conduct compliance reviews of entities covered by Title III, investigate alleged violations – sometimes based upon individual complaints -- and, when necessary and appropriate, commence a civil action in district court for equitable relief, civil penalties, and/or monetary damages for the aggrieved party or parties. 42 U.S.C. § 12188(b).

The Agreements prohibit class members from "ever asserting a Released Claim, and from commencing, joining in or voluntarily assisting in a lawsuit or adversary proceeding, against the Released Parties arising out of, regarding, or *relating to* the Released Claims ... ." against the Settling Defendants. Section IX.B(3) (emphasis added). This release provision may inhibit disabled persons from filing complaints with the Department of Justice or assisting the Department with an investigation of future ADA violations at Settling Defendants' facilities. This provision could also deter individuals from recovering compensatory damages for future Title III violations pursuant to the Department's enforcement activities. In sum, the prospective release provision is unfair, contrary to public policy, and would undermine the Department of Justice's ADA enforcement efforts.

B. *The Release Includes State and Local Law Claims Which Are Not Addressed By The Agreements*

The Agreements are also overbroad in that they bar class members from bringing claims under state and local accessibility laws which may provide remedies not available under the ADA. Section IX.B; see also Section I.H(6); Exhibit B. For example, Florida law provides that disability discrimination by places of public accommodation gives rise to cause of action for "compensatory damages, including . . . mental anguish, loss of dignity, and any other intangible injuries, and punitive damages." Fla. Stat. Ann. §§ 413.08, 760.07, 760.11(5) (West 1998). The ADA does not provide for such a range of compensatory damages.

C. *The Release Provisions Bar Claims Not Addressed And/Or Remedied In These Agreements*

The release provisions are also overbroad because they bar litigation concerning access issues that the Agreements do not address and/or remedy. Furthermore, it is unclear whether these Agreements even address all of the ADA violations that were at issue in this case. Without reviewing and verifying a detailed expert report about access at each facility, and reviewing every written or unwritten hospital policy, a class member cannot, at this time determine, if the Agreements resolve (or even identify) all accessibility issues that may affect him.

4. The Agreements' Dispute Resolution Mechanism is Burdensome and Unlikely to Afford Complete Relief to Class Members

In lieu of encouraging fast resolutions of small problems which arise under the Agreements, and the remedying of lack of compliance with these Agreements, the "Dispute Resolution Procedures" purport to provide a mechanism whereby class members may bring complaints to the attention of Settling Defendants and, subsequently, the district court. However, as with other aspects of these Agreements, the "benefits" conferred by this dispute

resolution scheme are largely illusory and, in any event, heavily weighted in favor of Settling Defendants. While the United States favors dispute resolution before involving the Court, the proposed dispute resolution procedures are burdensome, expensive, and ineffective, and are thus another ground for this Court's rejection of these Settlement Agreements.

The dispute resolution mechanism set forth in these Agreements is wholly deficient for various reasons. First, the procedures are burdensome. In order to invoke the dispute resolution procedures, a class member must provide written notice to the Settling Defendants. Section V.A(1)&(2). Such notice must describe in great detail the facts and circumstances of the dispute, including references to all specific provisions of the Agreement, the remedial action sought, and any arguments supporting the class member's position. Section V.A(2)(a), (b). The Settling Defendants has 20 days after receipt of the class member's notice to respond. Moreover, the class members must engage in negotiations, for an indefinite period of time before seeking mediation with the assigned Magistrate Judge. Section V.A(2)(d). This onerous process substantially interferes with prospects of informal resolutions and could substantially delay supplemental relief.

Second, the dispute resolution provisions set forth "Standards" that the Parties must follow in any dispute resolution procedure. Section V.B(1). According to these "Standards," if the Settling Defendant merely asserts that it is unable to implement the terms of the Agreement, or is unable to meet the deadlines set forth in the Agreement, then the Parties must negotiate a "substitute modification" in lieu of compliance with the Agreement. Id. "Substitute modification" means "an alternative access improvement that will not be more expensive or otherwise burdensome for Settling Defendant than the one that Settling Defendant is unable to

implement, and one that is consistent with the purpose of this Agreement." Id. Settling Defendant can simply contend, without any supporting evidence, that they can not comply with the Agreement. The class members are subsequently forced to negotiate a "substitute modification," which may result in even less access.

In sum, the dispute resolution scheme is highly weighted in favor of Settling Defendants and are designed to delay effective relief under the terms of the Agreements.

5. The Agreements Lacks Any Mechanism for Monitoring Compliance

There is no mechanism for monitoring compliance with the Agreements. While the absence of an effective monitoring program may not alone be a reason to reject the Agreements, the lack of such a program – when coupled with the Agreements' other significant procedural problems – underscores the manifest injustice class members will likely suffer if the district court endorses the Agreements. Cf. Van Horn v. Trickey, 840 F.2d 604, 608 (8th Cir. 1988) (affirming district court's approval of prisoners' class action challenging conditions at correctional center when settlement agreement provided, inter alia, strong compliance monitoring program by court-appointed committee of penal experts).

IV. CONCLUSION

Because the Agreements proposed by the Parties are procedurally defective, the United States Objects to their approval and urges the Court to deny entry of these Agreements.

DATED: March ___, 2002

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this __ day of March, 2002, true and correct copies of "UNITED STATE'S MOTION FOR LEAVE TO PARTICIPATE AS AMICUS CURIAE" and "OBJECTIONS OF AMICUS CURIAE UNITED STATES TO PROPOSED CLASS ACTION PARTIAL SETTLEMENT AGREEMENTS OF NORTHWEST MEDICAL CENTER INC. AND LARGO MEDICAL CENTER, INC.," and "PROPOSED ORDER" were served by Federal Express, postage pre-paid, on the following parties:

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