

Notice of Proposed Settlement

of Class Action Lawsuit Concerning the FDOC's Digital Music Player Program

Demler, et al. v. Inch, No. 4:19-cv-00094-RH-GRJ
U.S. District Court for the Northern District of Florida

Purpose of This Notice

This notice contains information about a proposed class action settlement of the above-named case involving digital music that prisoners in the Florida Department of Corrections (FDOC) purchased through the previous Digital Music Player Program. It summarizes the proposed settlement and provides instructions on how to comment on or object to the proposed settlement.

Background

This class action lawsuit was filed in February 2019 against Mark Inch, in his official capacity as the Secretary of the FDOC. The Plaintiffs alleged that the FDOC, when it ended the Digital Music Player Program and transitioned to the Multimedia Tablet Program, rescinded access to the music that prisoners had purchased in the Digital Music Player Program. The Plaintiffs alleged that this action violated the Takings Clause of the Fifth Amendment and the substantive Due Process Clause of the Fourteenth Amendment. The FDOC denies all liability, and further, that access was unconstitutionally rescinded, that Class members were denied their constitutional rights in any manner, that class members were deprived of their ownership of the purchased digital music, and that class members have standing to raise any claims.

Class Certification. The Court has certified this case as a class action with the following class definition:

All current (as of April 16, 2020) FDOC prisoners whose digital media files were taken, or will be taken, pursuant to the FDOC's termination of the Digital Music Player Program, and who purchased more than 75 songs through that program.

Summary of the Proposed Settlement

Under the proposed settlement, and in order to restore Class Members' ability to listen to an agreed upon number of songs that were previously purchased under the Digital Music Player Program, the FDOC will provide the Class with Settlement Credits (i.e. 3,900,000 Tablet Media Credits), for any approved use in the Multimedia Tablet Program.

The Settlement Credits will supplement the 100 Tablet Media Credits that have been previously issued, and one Tablet Media Credit will be issued from the Settlement Credits for each song in excess of 100 purchased under the Digital Music Player Program for a total Tablet Media Credits not to exceed 3,900,000. To the extent there are Settlement Credits remaining after the foregoing distribution, those Tablet Media Credits will be distributed on a *pro rata* basis to the Class. These remaining Settlement Credits will be distributed among all Class members on a *pro rata* basis based on the number of songs purchased under the Digital Music Player Program. The FDOC has also separately agreed to pay Class Counsel \$150,000 in attorneys' fees, costs, and expenses.

Options for Class Members—What You Can Do

1. Do Nothing. If you do nothing, you will remain a member of the class and receive the benefit of the settlement, if and when the Court finally approves it. This means that you will receive credits in the Multimedia Tablet Program as described above. You will also be bound by the settlement, and you will waive and release all claims against the FDOC arising out of the Digital Music Player Program. You cannot exclude yourself from or “opt-out” of the settlement.

2. Object to or Comment on the Proposed Settlement. If you are a class member, you can comment on or object to the proposed settlement. For example, you can tell the Court you do not like the proposed settlement or some part of it, or you can say you do not think the settlement is fair, reasonable, or adequate. The Court will consider your views, but may approve the settlement anyway or modify it with approval of the parties. If the Court approves the settlement, you will still receive the benefit of it and be bound by it, even if you filed an Objection.

To object to or comment on the proposed settlement, you must submit a written Statement of Objection or Comment that: (a) identifies the case, (b) contains your name and address; and (c) describes each objection or comment you have and explains the basis for it. You may submit copies of any documents that support your objections or comments. If a lawyer on your behalf wishes to appear and present such objection or comment at the Fairness Hearing (see below), you must also submit a Notice of Intention to Appear that identifies the case, contains your name and address, and explains the reason the appearance is desired. Note that you are not required to appear at the Fairness Hearing.

Your Statement of Objection or Comment and/or Notice of Intention to Appear must be filed with the Court by mailing it to: Clerk of the Court, U.S. District Court, Northern District of Florida, 111 N. Adams St., Tallahassee, Florida 32301-7730. It must be postmarked **no later than August 18, 2020**.

Although the Court has preliminarily approved the proposed settlement, the Court has not made a final determination on whether to approve it. The decision will come after the **Fairness Hearing**, which will be held telephonically on **August 25, 2020, at 1:00 p.m. ET**. To join the hearing, dial 888-684-8852, enter Access code: 3243416#, and Security code: 1234#. If there are timely objections filed, the Court will consider them, and the Court will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether or not to approve the settlement. If you choose, you are entitled to be represented by an attorney of your choice at the fairness hearing, at your own cost.

Further Information. For further information, you may write to Class Counsel at the Florida Justice Institute, 100 SE 2nd Street Suite 3750, Miami, FL 33131, or at the Social Justice Law Collective, 974 Howard Avenue, Dunedin, FL 34698. Please write “Media Player Class Action Settlement” on the envelope. Please allow several weeks for a response.