

## EXHIBIT 2

### **Notice of Proposed Settlement**

***Robbins v. MCILS*, Case No. KENSC-CV-22-54, Kennebec Superior Court**

Please Read this Notice Carefully.

This is a Notice of a Class Action and Proposed Settlement Regarding Criminal Defense Representation in Maine for People Who Cannot Afford an Attorney.

A Maine State Court approved this Notice and authorized its posting.

This is **NOT** a solicitation from a lawyer. You will **NOT** be asked to pay any money for this case under any circumstances.

#### **What is the purpose of this Notice?**

This notice contains information about a proposed settlement of a class action case challenging Maine's criminal defense system for people who cannot afford an attorney. It summarizes the case and the proposed settlement, provides instructions on how to comment on or object to the settlement, and explains what happens next.

#### **What is this case about?**

Plaintiffs claim that the Maine Commission that oversees criminal defense attorneys for poor people has failed to ensure that those attorneys provide effective assistance of counsel, because the agency has not properly trained, evaluated, supervised, and supported those attorneys. Plaintiffs claim that, as a result, the State cannot guarantee that those attorneys provide effective assistance to their clients, including meeting with clients, counseling them about legal options, and advocating for them in court. This case is not about overturning anyone's criminal convictions. Instead, this case seeks to reform the public defense system by advocating for structural changes and requiring the Commission to create and enforce rules about how lawyers do their job.

#### **Who are the Class Members?**

All individuals who are or will be eligible for the appointment of competent defense counsel by the Superior or District Court pursuant to 15 M.R.S. §810 because they have been indicted for a crime punishable by imprisonment, and they lack sufficient means to retain counsel.

#### **Who brought this case?**

Plaintiffs Andrew Robbins, Brandy Grover, Ray Mack, Malcolm Peirce, and Lanh Danh Huynh filed this case on March 1, 2022 on behalf of themselves and all others in similar situations across the State.

#### **Where is this lawsuit pending?**

This case is pending in Kennebec County Superior Court before Justice Michaela Murphy.

#### **Who is this lawsuit against?**

This case is against the Maine Commission on Indigent Legal Services, its commissioners, and its Executive Director.

#### **Who is settling?**

The Plaintiffs and Defendants have agreed to a proposed settlement and jointly asked the Court to approve it.

#### **Who are the lawyers for the Plaintiffs?**

The class is represented by lawyers at the American Civil Liberties Union of Maine Foundation, P.O. Box. 7860, Portland, ME 04112; Preti Flaherty, 1 City Center, Portland, ME 04101; and Goodwin Procter, 100 Northern Avenue, Boston, MA 02210.

#### **Can I get any money from this lawsuit?**

No. This lawsuit is not about money. It seeks a court order explaining the Commission's obligations and requiring the Commission to meet them.

**Does this settlement limit me from bringing claims for denial of counsel or ineffective assistance of counsel in my case?**

No. This settlement does not prevent you from bringing claims for actual denial of counsel (e.g. failure to appoint counsel) or ineffective assistance of counsel in your individual case. The settlement does limit Plaintiffs' ability to revive the claims brought in this case against the Commission and its Executive Director and Commissioners for constructive denial of counsel, but it does not limit your ability to bring claims against the State of Maine or any other state entities or officeholders.

**Do I have to pay any lawyers?**

No. The Plaintiffs' attorneys will be paid by the State in connection with this settlement. You do not have to pay anything.

**What are the key terms of the settlement?**

You can review the full proposed settlement agreement and the motion to the court to approve the settlement here:

<https://www.aclumaine.org/en/cases/sixth-amendment-class-action>. Key terms of the settlement include:

- The Commission will pay for attorneys to appear at hearings for Class Members who are not promptly appointed counsel after their initial appearance, and will issue guidance that those attorneys should assert all reasonable claims for emergency relief for denial of counsel on behalf of Class Members, including but not limited to: motions for bail review; habeas corpus relief; and dismissal of charges.
- The Commission will adopt new rules governing who can be a lawyer for people who cannot afford a lawyer.
- The Commission will monitor the number of cases those lawyers are handling to make sure that every client gets proper attention.
- The Commission will adopt rules for minimum qualifications and training for lawyers.
- The Commission will evaluate the performance of lawyers to make sure they

are doing everything they should do for their clients.

- The Parties in this case will ask the legislature to open public defender's offices where needed to provide enough lawyers.
- The Commission will provide regular reports so that Plaintiffs can monitor whether the State is doing what it promised.
- The State will pay \$295,000 for Plaintiffs' attorneys' fees and costs.
- In exchange, this case will be put on hold and in four years, if the State has done everything it promised to do, then the case will be dismissed.
- If the Commission does not do what it promises to do, then the case will continue.

**What are my options?**

Any Class Member who objects to the settlement can submit an objection and appear at a Fairness Hearing that will be held on \_\_\_\_\_ at \_\_\_ a.m. at the Capital Judicial Center in Augusta. To submit a written objection, you must send a letter titled "Objection to Class Settlement in *Robbins v. MCILS*, No. KENSC-CV-22-54" to ACLU of Maine, P.O. Box. 7860 Portland, ME 04112. You can also write in support of the settlement. Any written comment or objection must be postmarked by \_\_\_\_\_. Your objections will be provided to the Court, which will consider them in deciding whether to approve the settlement.

If you send a written objection, please include your 1) name and address, 2) the specific reasons for your objection, 3) whether you plan to appear at the Fairness Hearing, and 4) any legal support, evidence, or documents you want the court to consider.

**What happens next?**

A Maine Superior Court Justice will hold a Fairness Hearing on \_\_\_\_\_ at \_\_\_ a.m. After that hearing, the judge will decide whether the settlement should be approved as fair and reasonable. You are not required to attend any hearing, but you may if you wish.

**How do I get more information?**

Do not call or write any judge or court seeking more information. If you have any questions concerning this notice or the settlement agreement, please contact ACLU of Maine at (207) 774-5444 or P.O. Box. 7860 Portland, ME 04112. You may review the full settlement agreement and court documents at <https://www.aclumaine.org/en/cases/sixth-amendment-class-action>.