

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOINT STATUS REPORT

The parties submit this joint status report pursuant to the Court's order of June 18, 2025:

1. The Seventh Circuit vacated and remanded this case, 99 F.4th 10786 (7th Cir. 2024), with instructions to “address whether the proposed class meets Rule 23(a) requirements of numerosity and adequacy of representation” and “to revise the class definition as it sees fit upon remand.” *Id.* at 1093.

2. On remand, the district court allowed the addition of additional plaintiffs. Plaintiff filed an amended complaint (adding allegations about the additional plaintiffs) on June 17, 2025. (ECF No. 247.) The second amended complaint added four additional plaintiffs, although only three had been specified in the motion for leave to additional plaintiffs. Defendants contend

that the fourth added plaintiff (Darius Scott) was improperly added to the case.

3. Defendants made Rule 68 offers of judgment to all plaintiffs (including Darius Scott) on June 30, 2025. Plaintiffs view this tactic as an attempt to pick off named plaintiffs to avoid class certification. Defendants object to Plaintiff's characterization of the offers of judgment.

4. Plaintiffs propose that the Court allow the addition of plaintiffs up to the date of entry of judgment. Defendants object to this request. The positions of the parties on this issue are as follows:

a. **Plaintiffs' Position:** Plaintiffs' counsel believes that defendants will continue to attempt to "pick off" named plaintiffs to avoid class certification. The rule in the Seventh Circuit is that "[s]ubstitution of unnamed class members for named plaintiffs who fall out of the case because of settlement or other reason is a common and normally an unexceptional ('routine') feature of class action litigation." *Phillips v. Ford Motor Co.*, 434 F.3d 785, 787 (7th Cir. 2006).

b. **Defendants' Position:** On July 13, 2018, the Court set a deadline of September 7, 2018, to amend pleadings.

(Minute Entry, ECF No. 31.) On October 16, 2024, Plaintiff moved to add three additional plaintiffs. (Mot., ECF No. 202.) On June 17, 2025, the Court granted Plaintiff's motion. (Minute Entry, ECF No. 245.) This case has been pending for almost eight years. Plaintiff has had more than ample opportunity to amend the pleadings. Defendants object to Plaintiff's request to continue amending the pleadings "up to the date of entry of judgment."

5. Defendants seek to undertake the following discovery concerning any of the newly added plaintiffs who do not accept the offer of judgment: (1) written discovery (interrogatories, requests to produce, and potentially, requests to admit); and (2) oral discovery (depositions). Defendants request until December 15, 2025, to complete this discovery. Plaintiffs do not oppose this additional discovery and suggest that this discovery be completed within 63 days.

6. Plaintiffs seek the following supplemental discovery relevant to numerosity and the class definition:

- a. Dental grievances submitted after December 31, 2017, the date last produced.
- b. Dental appointment record after August 31, 2018, the date last produced.
- c. Oral Surgery Referrals after August 31, 2018, the date last produced.

d. Transport logs after August 31, 2018, the date last produced.

Defense counsel will discuss Plaintiff's request with his clients and then meet and confer with Plaintiffs' counsel. Plaintiffs do not oppose this request and suggest that the Court allow 14 days for the parties to confer and submit an agreed proposal on their conflicting positions.

Respectfully submitted,

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