UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
Big Stone Gap Division

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| WILLIAM THORPE, *et al.*,<br><br>Plaintiffs,<br><br>v.<br><br>VIRGINIA DEPARTMENT OF CORRECTIONS, *et al.*,<br><br>Defendants. | ) | Civil Action No. 2:20-CV-00007-JPJ-PMS |

**DEFENDANTS' MOTION IN LIMINE, AND MEMORANDUM IN SUPPORT OF MOTION IN LIMINE, TO EXCLUDE EVIDENCE OR ARGUMENT REFERENCING THE MECKLENBURG SETTLEMENT**

Individual Defendants Harold Clarke, Randall Mathena, H. Scott Richeson, David Robinson, Henry Ponton, Marcus Elam, Denise Malone, Tori Raiford, Jeffrey Kiser, and Carl Manis (collectively, "Defendants")[1] move in limine for entry of an Order excluding from trial any and all evidence or argument referencing a settlement agreement arising out of a lawsuit related to the long ago-demolished Mecklenburg Correctional Center that was filed by a different group of plaintiffs than those currently before the Court. Any such evidence or argument is irrelevant to the remaining issues in this case and should be excluded under Federal Rule of Evidence 401. To the extent the Court finds such evidence minimally relevant, any probative value is substantially outweighed by the risk of undue delay and waste of time that will be occasioned by the introduction of such evidence or argument and should be excluded under Federal Rule of Evidence 403. And

[1] The Virginia Department of Corrections (VDOC) is not a party to Plaintiffs' Eighth Amendment and Due Process claims.

evidence and argument of the Mecklenburg Settlement Agreement also should be excluded under Federal Rule of Evidence 408.

## BACKGROUND

In since-dismissed Count I of Plaintiffs' Complaint, Plaintiffs alleged that VDOC breached the 1985 settlement agreement entered in *Brown v. Landon* ("Mecklenburg Settlement Agreement" or "Agreement"). Complaint (ECF No. 1) at ¶ 228. The Court in that matter entered a consent decree approving the underlying Mecklenburg Settlement Agreement. ECF No. 70 at 65–66. In Count I, Plaintiffs asserted that "VDOC and the individual Defendants have breached their obligations under the court-ordered Settlement Agreement, and that breach is continuing today." Complaint (ECF No. 1) at ¶ 228. In dismissing the Count, the Court explained that the consent decree was vacated in 1997, so it "could not have been violated in 2012 as the plaintiffs' claim alleges." Opinion and Order (ECF No. 101) at 8.

## ARGUMENT

Any evidence or argument referencing the Mecklenburg Settlement Agreement should be excluded at trial for lack of relevance. Evidence is relevant if: 1) "it has any tendency to make a fact more or less probable than it would be without the evidence" and 2) "the fact is of consequence in determining the action." Fed. R. Evid. 401.

Courts have excluded evidence of settlement agreements in similar circumstances. For example, in *In re Outsidewall Tire Litigation*, the Court held that evidence of a settlement agreement was properly excluded at trial "because the settlement pertained to a wholly separate litigation" and as such made "no material fact in the present case more or less likely." 748 F. Supp. 2d 543, 555 (E.D. Va. 2010); *see also Hotels of Deerfield, LLC v. Studio 78, LLC*, No. 21-60980-CIV-SINGHAL, 2022 WL 20033793, at *2 (S.D Fla. Nov. 29, 2022) (granting plaintiff's motion

in limine to exclude a previous settlement agreement between the defendant and a third party due to lack of relevance).

Similarly here, evidence related to the Mecklenburg Settlement Agreement is irrelevant to any material fact in the present action. While Plaintiffs alleged in their Complaint that Defendants breached the Agreement, the Court dismissed that claim because the consent decree was vacated more than 20 years before the filing of this litigation. Evidence of the Agreement – which was reached with a different group of plaintiffs in an entirely different dispute almost 40 years ago – has absolutely no bearing on any of Plaintiffs' remaining constitutional claims. Indeed, the facility at the center of that previous litigation, the Mecklenburg Correctional Center, was demolished over a decade ago in 2013. Answer and Affirmative Defenses of VDOC (ECF No. 126) at ¶ 13. Accordingly, the Court should exclude evidence and argument referencing the Mecklenburg Settlement Agreement for lack of relevance under Rule 401.

Admitting evidence and argument related to the Mecklenburg Settlement Agreement also would create an impermissible risk of undue delay and waste of time under Rule 403. As evidenced by the Answers filed by Defendants, the parties disagree about the factual underpinnings of the litigation involving the Mecklenburg Correctional Center, the circumstances that prompted the settlement agreement, and who it binds. *See, e.g.*, Defendants' Answer and Affirmative Defenses (ECF No. 24) at ¶¶ 72–79. Accordingly, introducing evidence and argument related to the Agreement would confuse the issues and unnecessarily lengthen the case by creating "a trial within a trial." *Fry v. Rand Const. Co.*, 964 F.3d 239, 249 (4th Cir. 2020) (affirming district court's decision under Rule 403 to exclude evidence regarding dispute between defendant and defendant's former employee who was not party to the suit). Even in cases involving identical parties (which is not the case here), courts have admitted evidence of prior lawsuits between the same parties but

excluded "specific evidence regarding the settlements in the cases" because of Rule 403 concerns. *See PBM Prods., LLC v. Mead Johnson & Co.*, 639 F.3d 111, 125 (4th Cir. 2011). Here, where none of the current plaintiffs were parties to the Mecklenburg Settlement Agreement, the risks of undue delay and wasting time are further heightened. The Court should exclude evidence and argument of the Agreement under Rule 403.

Reference to the Mecklenburg Settlement Agreement also should be excluded under Rule 408, which prohibits evidence of settlement agreements to prove the validity of a disputed claim. Fed. R. Evid. 408. "[B]roadly speaking, [Rule 408] limits the admission of statements or conduct intended to be part of compromise or settlement negotiations." *Drummond Coal Sales, Inc. v. Norfolk Southern Ry. Co.*, Civ. No. 7:16-cv-489, 2019 WL 3307850, at *6 (W.D. Va. Jul. 22, 2019). The logic undergirding Rule 408 is that "the potential impact of evidence regarding a settlement agreement with regard to a determination of liability is profound." *United States v. Hays*, 872 F.2d 582, 589 (5th Cir. 1989). In *United States v. Quality Built Const.*, the court granted a plaintiff's motion in limine to exclude at trial evidence of a consent decree confirming a settlement agreement reached in an unrelated case under the rule making offers of settlement inadmissible. 358 F.Supp.2d 487, 490 (E.D.N.C. 2005) ("[U]nder [Rule] 408, evidence of offers of settlement is inadmissible, even those settlements between a party and a non-party."). So too here, the Mecklenburg Settlement Agreement was reached in an unrelated case decades before the current litigation. Allowing evidence or argument referencing the Agreement would contravene the logic of Rule 408 because its admission would be offered to "prove [the] validity [] of a claim." Fed. R. Evid. 408. Therefore, reference to the Mecklenburg Settlement Agreement should be prohibited on this ground, as well.

## CONCLUSION

For these reasons, Defendants respectfully requests that the Court prohibit Plaintiffs from introducing any evidence or argument referencing the Mecklenburg Settlement Agreement.

Dated: August 24, 2026

Respectfully submitted,

/s/ *Maya M. Eckstein*

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 24, 2026, I caused a copy of the foregoing to be electronically filed using the CM/ECF system, which will send notification to counsel of record of such filing by operation of the Court's electronic system. Parties may access this filing via the Court's electronic system.

By: /s/ *Maya M. Eckstein*
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