

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

QUENTIN HALL, SHAWN GONZALES,  
ROBERT MERRYMAN, DAWN SINGH,  
and BRIAN MURPHY, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

COUNTY OF FRESNO,

Defendant.

No. 1:11-cv-02047-LJO-BAM

ORDER ADOPTING IN FULL THE FINDINGS  
AND RECOMMENDATIONS GRANTING  
APPROVAL OF THE CLASS SETTLEMENT  
AND GRANTING IN FULL PLAINTIFF'S  
MOTION FOR ATTORNEY FEES

(Doc. 175)

On October 8, 2015, the magistrate judge assigned to this action issued a Findings and Recommendations recommending that the parties' joint motion for final approval of class action settlement and motion for attorneys' fees be granted. (Doc. 175). The Findings and Recommendations contained notice that any objections were to be filed within fourteen (14) days. Plaintiffs filed objections on October 12, 2015. (Doc. 176). In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a *de novo* review of this case.

Plaintiffs' objections do not contest the analysis and outcome set forth in the Findings and Recommendations. Plaintiff states, however, that although immaterial to the outcome, the parties object to the Court's finding that the hourly rate of \$211.50 that Plaintiff's used to calculate fees is "slightly higher than fees allowable under the PLRA." (Doc. 175 at 11). Specifically, in the

1 Findings and Recommendations, the magistrate judge noted that the \$900,000 fee request  
2 reasonably reflected the time and labor required to litigate this matter. However, based on the  
3 2015 CJA compensation rate of \$127/hour, the Court determined that an hourly rate of \$211.50  
4 “is slightly higher than fees allowable under the PLRA.”

5 Plaintiff objects that the statutorily authorized rate for non-capital court-appointed counsel  
6 is \$142;<sup>1</sup> and multiplying this figure by the statutorily authorized 150% multiplier results in an  
7 hourly rate of \$213. *See Perez v. Cate*, 632 F.3d 553, 558 (9th Cir. 2011); *Kelly v. Wengler*, 7  
8 F.Supp. 3d 1069, 1075 (D. Idaho 2014); *Balla v. Idaho State Bd. of Correction*, 2013 WL  
9 501646, at \*2 (D. Idaho 2013); *Lira v. Cate*, 2010 WL 727979, at \*4 (N.D. Cal. 2010).

10 Despite the parties’ objections, the Magistrate Judge did not err in her remarks about the  
11 requested hourly rate.<sup>2</sup>

12 Based on the foregoing, **IT IS HEREBY ORDERED** that:

- 13 1. The Findings and Recommendations dated October 8, 2015 are **ADOPTED IN**  
14 **FULL**;
- 15 2. Plaintiffs’ Motion for Final Approval of the Consent Decree is **GRANTED**;
- 16 3. The terms of the proposed Consent Decree is found to be fair, adequate and  
17 reasonable and complies with Rule 23(e) of the Federal Rules of Civil Procedure;
- 18 4. Plaintiffs’ request for certification of the Settlement Class is **GRANTED** and the  
19 class is defined as all prisoners who are now, or will in the future be, confined in the Fresno  
20 County Jail be certified for settlement purposes;
- 21 5. For purposes of the settlement, the above-defined settlement class is found to meet  
22 all of the requirements of Rule 23(a) and 23(b)(2).
- 23 6. The notice that has been provided to the settlement class members, as well as the  
24 means by which it was provided constitutes the best notice practicable under the circumstances

25  
26 <sup>1</sup> See The Judiciary, Fiscal Year 2015, Congressional Budget Justification at 6.14, available at  
<https://www.prisonlegalnews.org/media/publications/Judiciary%202015%20Congressional%20Budget%20Justification%20Excerpt%2C%202015.PDF> (last viewed on 10/12/15).

27 <sup>2</sup> The \$142 hourly rate authorized by the Judicial Conference on which the PLRA hourly rate is calculated is  
28 not made available in any published or generally-available online source. *See Gilman v. Brown*, 2014 U.S. Dist.  
LEXIS 102866 (E.D. Cal. July 25, 2014)

1 and is in full compliance with the United States Constitution and the requirements of Due Process  
2 and Rule 23 of the Federal Rules of Civil Procedure. Further, such notice fully and accurately  
3 informed settlement class members of all material elements of the lawsuit and proposed class  
4 action settlement, and each member's right and opportunity to object to the proposed class action  
5 settlement;

6 7. Reasonable attorney fees and expenses in the amount of \$900,000.00 and  
7 \$40,000.00 per year for compliance monitoring is awarded to Class Counsel the Prison Law  
8 Office;

9 8. The Court enters the proposed Consent Decree (Doc. 112-1) as follows:

10  
11 The Court recognizes that the Plaintiffs allege various violations of Federal law  
12 and the Defendant County of Fresno denies those allegations. Having reviewed the  
13 reports of the joint experts, the Court hereby finds that the remedy set forth herein  
14 is narrowly drawn, extends no further than necessary to correct the violation of  
15 Federal constitutional and statutory rights of the Plaintiffs' class, and is the least  
16 intrusive means necessary to correct the violation of federal rights. Therefore, and  
17 good cause appearing, the Court approves the Consent Decree, and orders the  
18 parties to comply with all its terms, and orders Defendant to implement the  
19 Remedial Plan pursuant to the schedule set forth therein.

20 9. This action is **DISMISSED** with prejudice in accordance with the terms of the  
21 agreement; however, the Court shall retain continuing jurisdiction to interpret, implement and  
22 enforce the settlement, and all orders and judgment entered in connection therewith.

23 3. The Clerk is directed to enter judgment consistent with this order and to close this  
24 action.

25 This terminates this action in its entirety.

26  
27  
28  
IT IS SO ORDERED.

Dated: October 30, 2015

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE