

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF KENTUCKY AT OWENSBORO

_____)	
Edward Sutton, et al., Plaintiffs)	
v.)	CIVIL NO. 4:03-CV-3-M
Hopkins County, KY, et al., Defendants.)	
_____)	

The Federal Court for the Western District of Kentucky authorized this notice. This is not a solicitation from a lawyer.

NOTICE OF HEARING AND PROPOSED CLASS ACTION SETTLEMENT

Your legal rights are affected whether you act or do not act. Please Read this Notice Carefully.

There will be a hearing in the United States District Court, Western District of Kentucky at Owensboro, 423 Frederica St, Owensboro, KY 42301, before the Honorable Joseph McKinley on October 20, 2008, at 9:00 a.m. CDT to determine whether to approve a proposed \$3 million settlement as full, final, and complete settlement of any and all claims that were made or could have been made by the class. **If approved by the Court, you could get a payment from a \$3 million class action settlement if you meet ALL of the following conditions:**

1. **Between January 9, 2002 and June 2, 2008 (inclusive), you were strip-searched *on admission* to the Hopkins County Detention Center (“the Jail”) after your arrest for a qualifying non-violent, non-drug related misdemeanor offense and without regard to whether there existed a reasonable, individualized suspicion that you might be carrying or concealing weapons or contraband; and/or**
2. **Between January 9, 2002 and June 2, 2008 (inclusive), after your arrest for a minor offense, you were strip-searched *after you became entitled to be released* from the Jail pursuant to an order of the court, payment of bond, or any other reason.**

*****NOTE: You were “strip-searched” if you were required to remove all or part of your clothing for visual inspection of your buttocks, breasts and/or genitalia.**

Many reasons exist as to why you might not be a member of the class. Those reasons are too numerous to list in detail here. If you submit a claim and are not deemed to be a class member, the class administrator will inform you as to the reason(s) for that decision.

A \$3 million settlement has been proposed in a class action lawsuit about alleged illegal strip-searches that took place when persons were admitted to, or became eligible for release from, the Jail at any time from January 9, 2002, to June 2, 2008 (inclusive). The settlement fund may pay cash to those who submit valid claims after deducting attorneys’ fees, the costs and expenses of administering this settlement, and the payouts to the class representatives and deponents.

You are receiving this notice because records show that you may be a class member. To see if you qualify, you must submit a complete Settlement Claim Form, **postmarked by December 31, 2008**, to:

Turner Claims Administrator
P.O. Box 2002
Chanhasen, MN 55317-2002

If you submit a claim form and qualify as a class member, you will be eligible to share in this settlement. The amount of money you receive depends on the following:

1. The money remaining after payment of the attorneys’ fees, the costs of this litigation, the costs of administering this settlement, and the payouts to the class representatives; and
2. The number of timely, valid claims submitted.

THESE ARE YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

SUBMIT A CLAIM FORM	This is the only way to get a payment. Remember: Claim Forms postmarked after December 31, 2008 will not be considered for payment.
EXCLUDE YOURSELF	If you exclude yourself, you will not be bound by the Settlement or judgment. You will not get a cash payment in this case. You will be free to pursue your claims against the defendants at your own expense. This is the only option that allows you to bring your own lawsuit for the claims raised in this case. You must exclude yourself from the Settlement by October 10, 2008. If you exclude yourself, however, you will not be allowed to rejoin this class action and your individual claim may be barred by the statute of limitations and you may get nothing.
OBJECT	If you want to object to the settlement but you do not exclude yourself, you may object by writing to the Claims Administrator explaining why you believe the settlement is not fair, postmarked no later than October 10, 2008 , or you may appear in Court at the Fairness Hearing on October 20, 2008 at 9 a.m. If you have not checked in at the court by 9 a.m. CDT, your appeal will not be heard. You must also submit a claim form to preserve your right to receive payment.
DO NOTHING	You get no payment. You will still be bound by the settlement and you give up your right to sue the defendants or employees of the state on these claims later.

THE SETTLEMENT BENEFITS

How much will my payment be?

We do not yet know the amount of the payments. The tentative settlement agreement reached between the parties and preliminarily approved by the Court dictates that a person who is a member of one class will receive payment not to exceed \$1,500 and a person who is a member of both classes will receive payment not to exceed \$2,500, even if the person was strip searched more than once for each class. Payments will not exceed \$2,500.00 to any claimant, except for the named or deposed plaintiffs as described below.

Attorneys' fees and expenses will first be paid from the settlement fund. The named plaintiffs believe that Plaintiffs' Counsel are entitled to recoup their actual hourly fees and costs up to and including June 9, 2008, not to exceed \$1.5 million, and any actual costs and attorney's fees after that date. The named plaintiffs will also be paid from the settlement fund. Class counsel requests, and Defendants have agreed to, payment of \$250,000.00 to be divided among the class representatives in full and final settlement of their claims against Defendants, as well as for several years of service as named class representatives, including, but not limited to surrendering their anonymity, bringing suit, submitting to depositions, and participating in and authorizing the settlement of this class action. Further, certain class members have been deposed in this action, and the parties have agreed that those deponents who have valid claims are entitled to \$4,000 each.

The remaining amount will be divided among the claimants who submit valid and timely claims. The amount for each individual claimant will depend on how many people submit valid claim forms and whether they are members of each of the two classes. The amount per person will decrease as the number of forms submitted increases.

How can I get a payment?

You must fill out the Settlement Claim Form completely and mail it to the Claims Administrator. A Claim Form is included with this notice. You can also obtain a Claim Form from the Website www.turnersettlement.com. **The envelope must be postmarked no later than December 31, 2008; if it is not, your claim will be denied.**

The settlement check will be written in your name with your social security number. Your check will be sent to your mailing address. If you move, you must notify the Claims Administrator in writing of your new address or the check will be sent to your old address. If you are incarcerated, your check will be deposited in your Inmate Trust Fund Account.

When will I get my payment?

You will not be paid until the settlement is approved by the Court and any appeals are complete. The Court will hold a hearing on **October 20, 2008**, to decide whether to approve the settlement as fair, reasonable, and adequate. Settlement checks will be issued after the Court approves the settlement and all appeals are completed. You may visit the website or contact the Claims Administrator for updates.

Will I have to pay taxes on my payment?

You may have to pay taxes on your payment. You should consult your tax preparer when you file your tax returns. The Claims Administrator will send you a 1099 Form. (If you have questions about backup withholding, Form W-9 or Form 1099, call your tax preparer or the IRS Information Reporting Program Customer Service Section, toll free at (866) 455-7438, 8:30 am to 4:30 p.m., Monday through Friday.)

WHO IS IN THE SETTLEMENT

What is a Class Action and who are Class Members?

In a class action, one or more people, called Class Representatives (in this case, Edward Lee Sutton, Lester Hank Turner, Robin Littlepage, Tim May, Tabitha Nance, Ladonia Nelson, Linda Ford, Robert Teague, Daniel Todd and Tony Ward), sue on behalf of all people who have similar claims. All of the people who were similarly treated are known as a Class or Class Members. One court resolves the issues for all Class Members.

What claims will be released by this Settlement?

This settlement resolves all claims alleging illegal strip-searches that took place when persons were admitted to or released from the Jail from January 9, 2002, to June 2, 2008 (inclusive). The settlement releases all of these claims against the Jail and its employees. The settlement does not release any other claims, for example claims of wrongful arrest or excessive force. If you wish to pursue claims that are not covered by the settlement, you must file an individual lawsuit on your own behalf. These claims may be barred by the statute of limitations.

How do I know if I am a Class Member and part of the Settlement?

You are a Class Member if you meet ALL factors below:

- 1. Between January 9, 2002 and June 2, 2008 (inclusive), you were strip-searched *on admission* to the Hopkins County Detention Center (“the Jail”) after your arrest for a qualifying non-violent, non-drug related misdemeanor offense and without regard to whether there existed a reasonable, individualized suspicion that you might be carrying or concealing weapons or contraband; and/or**
- 2. Between January 9, 2002 and June 2, 2008 (inclusive), after your arrest for a minor offense, you were strip-searched *after you became entitled to be released* from the Jail pursuant to an order of the court, payment of bond, or any other reason.**

*****NOTE: You were “strip-searched” if you were required to remove all or part of your clothing for visual inspection of your buttocks, breasts and/or genitalia.**

NOTE: You are **not** a class member if you were either (1) strip-searched while you were serving a sentence or after a judge had ordered that you be kept in jail while awaiting trial, (2) you were strip-searched because a correctional officer had a reasonable suspicion to believe that you were carrying or concealing weapons or contraband, (3) you were arrested for and/or charged with a crime involving a felony or other non-qualifying offense, or (4) your prior incarceration record justified a strip search. This list is not exhaustive. There could be other reasons why you are not a member of the class.

What if I was arrested for more than one crime?

The most serious charge for an arrest will determine your class membership. If any one of the charges was a crime involving weapons or drugs, or a felony, you are not a class member for that arrest.

What if I was found not guilty of the crime for which I was arrested?

You are entitled to the same settlement amount whether you were found guilty or not guilty of the crime. However, if you were strip searched after your arrest for a crime involving weapons or drugs, or a felony, you are not a class member regardless of whether you were subsequently found not guilty of the charge.

What if I was arrested and strip searched more than once; can I still participate?

Yes. As stated above, the tentative settlement agreement reached between the parties and preliminarily approved by the Court dictates that a person who is a member of one class will receive payment not to exceed \$1,500, and a person who is a member of both classes will receive payment not to exceed \$2,500, even if that person were strip searched more than once for each class. Payments will not exceed \$2,500 to any claimant, except for the named or deposed plaintiffs as described below.

What if I was at the jail before January 9, 2002?

The time period for being a class member is based on the legal requirement that a case must be filed within a certain time period; this is called the statute of limitations. The law in Kentucky only allows a person to bring a claim within one year after his or her rights were violated. Because this case was filed on January 9, 2003, class members include only those who were strip searched in the year before that date and thereafter. If you were strip searched at the Jail before January 9, 2002, it may be too late to bring a lawsuit.

What if I am still unsure about whether I am part of the Settlement?

If you are unsure whether you are a member of the class, fill out and return the Settlement Claim Form. If the settlement is approved, you will be notified if you do not qualify. If you qualify you may receive a check. You may also visit the settlement website on the Internet at www.turnersettlement.com, or call (866) 308-7614 to speak to a Settlement Administrator or Class Counsel to answer your questions.

Who makes the final decision about who qualifies as a Class Member?

The Claims Administrator makes the decision about who qualifies as a Class Member. However, this decision is subject to review by the Court. The records kept by the Jail will determine if you are a Class Member. If the records do not show that you fit the class definition, or do not show that you have a qualifying claim, your claim will be denied. You can appeal your denial to the Claims Administrator by sending documentation and information regarding the dates you believe you were held and strip searched. A decision of the Claims Administrator can be appealed to the District Court. (If you are not a Class Member, you are not bound by this settlement, and can take action as an individual if you wish.)

How did the lawyers in this case find me and how can I protect my privacy?

After you were arrested, you gave your name and address at the Jail. The District Court ordered that this information be given to the lawyers for the plaintiffs. The Court ordered that this information must remain confidential and cannot be further disclosed. Only the lawyers in the case, the Claims Administrator, and the State's administrators for collections of applicable liens will know your name and, in most cases, only those persons just mentioned who have been authorized by the Court's Order will see your Claim Form. Those persons who learn your identity as a result of this Settlement cannot disclose your private information.

What should I do if I do not want to participate in the class action?

If you do not wish to participate in the class action, you can either exclude yourself or do nothing. If you do not send in a claim form, you will not be a participating Class Member and you will not receive a payment. You will also be barred from filing a case on these claims in the future.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If I exclude myself, can I get money from this Settlement?

No, you will not get a payment from this settlement. You will not be legally bound by the settlement. You can bring your own lawsuit. However, **your individual claim may be barred by the statute of limitations and you may get nothing**. Class counsel will not represent you in pursuing your claims. If you exclude yourself, do not send in a Claim Form. You cannot object to the settlement if you ask to be excluded. A request to be excluded means you have opted out of this case.

How do I ask to be excluded from the settlement?

To exclude yourself from the settlement, you must send a letter by mail saying that you want to be excluded from *Sutton, et al. v. Hopkins County, et al.* Be sure to include your name, address, telephone number, and sign the letter. You must mail your exclusion request postmarked no later than **October 10, 2008**, to the Claims Administrator at Turner Claims Administrator, P.O. Box 2002, Chanhasen, MN 55317-2002. The Claims Administrator will file your notice with the Court and counsel. **You cannot exclude yourself by phone or by e-mail.**

If I do not exclude myself, can I sue the Jail for the same thing later?

No. Unless you exclude yourself, you give up the right to sue the Jail or its employees for the claims that this settlement resolves. This case resolves all claims for alleged illegal strip-searches that took place when persons were admitted to or released from the Jail from January 9, 2002, to June 2, 2008 (inclusive). Remember, the exclusion deadline is **October 10, 2008**.

OBJECTING TO THE SETTLEMENT

What if I think the proposed settlement is unfair? What can I do?

If you wish to object to the proposed settlement, you or a lawyer on your behalf must either state your objections to the Court in a letter sent to the Claims Administrator, postmarked no later than **October 10, 2008**, or appear in the United States District Court, Western District of Kentucky at Owensboro, **423 Frederica St, Owensboro, KY 42301**, on **October 20, 2008 at 9 a.m. CDT** to present your objections. **If you do not check in with the Court by 9 a.m. CDT on that date, your objection will not be heard.** If you write, the Claims Administrator will forward your objection to the Court and to the lawyers.

You may object to the proposed settlement and still be eligible to receive a payment. *If you wish to claim money should the settlement be approved, you must submit a valid Settlement Claim Form by the December 31, 2008 deadline even if you object to the settlement.*

THE COURT'S FAIRNESS HEARING

What is a Fairness Hearing?

The Court will hold a hearing to decide whether to approve the settlement. The Court will consider whether the settlement is fair, reasonable and adequate. The Court will also decide whether to approve the request for attorneys' fees, costs, expenses and the recoveries by the named plaintiffs. If the Court approves the proposed settlement, it will affect all class members.

When and where is the hearing?

The Hearing will be at **9 a.m. CDT on October 20, 2008**, in the United States District Court, Western District of Kentucky at Owensboro, 423 Frederica St, Owensboro, KY 42301, before the Honorable Joseph McKinley, Judge.

Do I have to come to the hearing? May I or my lawyer speak at the hearing?

You may, but are not required, to attend the hearing. Class counsel will answer any questions the Court may have. You are welcome to come at your own expense. If you object to the settlement and you want to explain the objection to the Court, you can attend the hearing or hire your own lawyer to attend for you.

THE LAWYERS IN THIS CASE

Who are the lawyers in this case?

The lawyers for the plaintiffs are:	Gregory A. Belzley DINSMORE & SHOHL LLP 500 West Jefferson Street 1400 PNC PLAZA Louisville, KY 40202	Bart L. Greenwald FROST BROWN TODD LLC 400 West Market Street, 32nd Floor Louisville, KY 40202
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The lawyers for the defendants are:	Stacey A. Blankenship Douglas Moore DENTON & KEULER P.O. Box 929 Paducah, KY 42002-0929	Michael Sullivan 100 St. Ann Building P.O. Box 727 Owensboro, KY 42302-0727
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How will the plaintiffs’ lawyers be paid?

Plaintiffs’ Attorneys’ fees and expenses will first be paid from the settlement fund. The named plaintiffs believe that Plaintiffs’ Counsel are entitled to recoup their actual hourly fees and costs up to and including June 9, 2008, not to exceed \$1.5 million, and any actual costs and attorney’s fees after that date. The named plaintiffs will also be paid from the settlement fund.

OTHER INFORMATION

If you wish to view the Court file or a copy of the proposed settlement agreement, you may go to the Clerk of the United States District Court, Western District of Kentucky at Owensboro, 423 Frederica St, Owensboro, KY 42301, during regular business hours. You can also view the settlement papers on the web at www.turnersettlement.com.

To obtain more information or ask questions about the settlement, you can call the Claims Administrator toll-free at (866) 308-7614; write to the Claims Administrator at Turner Claims Administrator, P.O. Box 2002, Chanhassen, MN 55317-2002; or visit the Internet website at www.turnersettlement.com. On the website you will find answers to frequently asked questions, a downloadable claim form, plus additional information that may help you determine if you are a Class Member.

Important: Please do not call the Court directly with questions about the settlement. Please contact the Claims Administrator or visit the website.