

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

_____)	
Sandra King Wilson, et al.,)	
)	
Plaintiffss,)	
)	Civil Action
v.)	
)	No.: 06-cv-01368
)	(JEI-KMW)
THE COUNTY OF GLOUCESTER, et al.,)	
)	
Defendants.)	
_____)	

~~PROPOSED~~
ORDER PRELIMINARILY APPROVING SETTLEMENT

THIS MATTER having come before the Court on the Plaintiffs’ Motion for Approval of the Settlement Agreement; and the parties having filed the Settlement Agreement executed September 9, 2009, as Exhibit A to the Motion for Approval of the Settlement Agreement in satisfaction of Rule 23(e)(2) of the Federal Rules of Civil Procedure; and the Court having reviewed and considered the terms and conditions of the proposed settlement as set forth in the Settlement Agreement; and the Court finding it has subject matter jurisdiction over this matter; and for good cause appearing that the terms and conditions set forth in the Settlement Agreement were the result of good faith, arm’s length settlement negotiations between competent and experienced counsel for both Plaintiffs and Defendants,

AND THE COURT FURTHER HAVING previously issued an “Order Certifying a Plaintiff Class and Appointing Lead Plaintiffs and Class Counsel” dated March 30, 2009 which certified a Class and having found Plaintiffs Sandra King Wilson and Joseph DePietro to be adequate class representatives for the Settlement Class and appointing their counsel Class Counsel,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Capitalized terms used in this Order have the meanings assigned to them in the Settlement Agreement and this Order.
2. The terms of the parties' Settlement Agreement are hereby conditionally approved, subject to further consideration thereof at the Final Approval Hearing provided for below. The Court finds that said settlement is sufficiently within the range of reasonableness and that notice of the proposed settlement should be given as provided in this Order.
3. Pursuant to Fed. R. Civ. P. 34, pending final approval by this Court of the Settlement Agreement and consistent with the Court's March 30, 2009 Order the Court certifies the following settlement class:¹

All persons who have been or will be placed into the custody of the Gloucester County Jail after being charged with nonindictable offenses (such as disorderly persons offenses, traffic infractions, and/or civil commitments) and were strip searched upon their entry into the Gloucester County Jail pursuant to the policy, custom and practice of the Gloucester County Department of Corrections and the County of Gloucester. The class period commences on March 24, 2004 and extends until February 29, 2009. Specifically excluded from the class are Defendants and any and all of their respective affiliates, legal representatives, heirs, successors, employees or assignees.

4. The Court approves the Class Notice of Settlement attached hereto as Exhibit A and the Summary Notice for Publication attached hereto as Exhibit B. The Court also approves the Notice Program as set forth in Section IV of the Settlement Agreement.
5. If the Settlement Agreement is terminated or not consummated for any reason

¹ The settlement class definition utilized herein differs from that the class definition previously adopted by the Court only with respect to the class period, which commenced on March 22, 2004 and extended until the date that Defendants ceased enforcing their unconstitutional policy and practice of conducting strip searches absent reasonable suspicion and with respect to the entity whose policy and practices were at issue, the Department of Corrections, not the Sheriff's Department.

whatsoever, the parties reserve all of their rights, including the right to continue with the litigation pending at the time of the settlement should the Settlement Agreement not be consummated.

6. Beginning no later than forty-five (45) days from the date of this Order Preliminarily Approving Settlement (the commencement of which shall constitute the "Notice Date"), Class Counsel shall cause to be disseminated the notices, substantially in the form attached as Exhibits A and B hereto, in the manner set forth in Section IV of the Settlement Agreement. Such Notice Program will be completed expeditiously pursuant to the terms of the Settlement Agreement. Class Members will have forty-five (45) days from the Notice Date to opt out or to object, and one hundred and fifty (150) days from the Notice Date to file claims. At or before the Final Approval Hearing, Plaintiff and/or the Claims Administrator shall serve and file a sworn statement attesting to compliance with the required notice dissemination.

7. The notice to be provided as set forth in the Settlement Agreement as filed with the Court is hereby found to be the best practicable means of providing notice under the circumstances and, when completed, shall constitute due and sufficient notice of the proposed settlement and the Final Approval Hearing to all persons and entities affected by and/or entitled to participate in the settlement, in full compliance with the notice requirements of Fed. R. Civ. P. 23, due process, the Constitution of the United States, the laws of New Jersey and all other applicable laws. The Notices are accurate, objective, informative and provide Class members with all of the information necessary to make an informed decision regarding their participation in the Settlement and its fairness.

8. Class Counsel is authorized to retain The Garden City Group as the Claims

Administrator in accordance with the terms of the Settlement Agreement and this Order.

Requests for Exclusion from the Settlement Class

9. Any member of the Settlement Class that wishes to be excluded (“opt out”) from the Settlement Class must send a written Request for Exclusion to the Claims Administrator, so that it is received by the Claims Administrator at the address indicated in the Notice on or before the close of the opt out period. The Request for Exclusion shall fully comply with the requirements set forth in the Settlement Agreement.

Members of the Settlement Class may not exclude themselves by filing Requests for Exclusion as a group or class, but must in each instance individually and personally execute a Request for Exclusion and timely transmit it to the Claims Administrator.

10. Any member of the Settlement Class who does not properly and timely request exclusion from the Settlement Class shall be bound by all the terms and provisions of the Settlement Agreement, whether or not such person objected to the Settlement and whether or not such person made a claim upon, or participated in, the Settlement Fund pursuant to the Settlement Agreement.

The Final Approval Hearing

11. A hearing on final settlement approval (the “Final Approval Hearing”) is hereby scheduled to be held before this Court ~~at~~ *at 10:00 a.m. on Thursday March 18, 2010*, ~~2010~~ to consider the fairness, the reasonableness, and adequacy of the proposed settlement, the dismissal with prejudice of this class action with respect to the Released Parties that are Defendants herein, and the entry of final judgment in this class action. Class Counsel’s application

for award of attorney's fees and costs shall be heard at the time of the Final Approval Hearing.

12. The date and time of the Final Approval Hearing shall be set forth in the Notice, but the Final Approval Hearing shall be subject to adjournment by the Court without further notice to the members of the Settlement Class other than that which may be posted by the Court. Class Counsel will advise members of the settlement class of any scheduling issues by way of the settlement website.

13. Any person or entity that does not elect to be excluded from the Settlement Class may, but need not, enter an appearance through his or her own attorney. Settlement Class members who do not enter an appearance through their own attorneys will be represented by Class Counsel.

14. Any person who does not elect to be excluded from the Settlement Class may, but need not, submit comments or objections to the proposed Settlement. Any Class member may object to the proposed Settlement, entry of Final Order and Judgment approving the settlement, and Class Counsel's application for fees and expenses by serving a written objection.

15. Any Class member making the objection (an "objector") must sign the objection personally. An objection must state why the objector objects to the proposed Settlement and provide the basis to support such position. If an objector intends to appear personally at the Final Approval Hearing, the objector must include with the objection a notice of the objector's intent to appear at the hearing.

16. Objections, along with any notices of intent to appear, must be filed no later than ~~forty-five (45)~~ ^{thirty (30)} days from the Notice Date. If counsel is appearing on behalf of more than

one Class Member, counsel must identify each such Class Member and each Class Member must have complied with the requirements of this Order. These documents must be filed with the Clerk of the Court at the following address:

Clerk of the Court
U.S. District Court for the District of New Jersey
Mitchell H. Cohen United States Courthouse
1 John F. Gerry Plaza
Camden, New Jersey 08101

17. Objections, along with any notices of intent to appear, must also be mailed to Class Counsel and counsel for Defendant at the address listed below:

CLASS COUNSEL:

Seth Lesser, Esquire
Fran Rudich, Esquire
KLAFTER OLSEN & LESSER LLP
Two International Place, Suite 350
Rye Brook, New York 10573

DEFENSE COUNSEL:

Patrick J. Madden, Esquire
MADDEN & MADDEN, PA
108 Kings Highway East, Suite 200
Haddonfield, NJ 08033

Joseph Santarone, Esquire
MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN, P.A.
Woodland Falls Corporate Park
200 Lake Drive East, Suite 300
Cherry Hill, NJ 08002

18. Only Class Members who have filed and served valid and timely notices of objection shall be entitled to be heard at the Final Approval Hearing. Any Class Member who does not timely file and serve an objection in writing to the Settlement, entry of Final Judgment, or to Class Counsel's application for fees, costs, and expenses, in accordance with the procedure set forth in the Class Notice and mandated in this Order,

shall be deemed to have waived any such objection by appeal, collateral attack, or otherwise.

19. Persons wishing to be heard at the Final Approval Hearing are required to file written comments or objections and indicate in their written comments or objections their intention to appear at the Final Approval Hearing. Settlement Class members need not appear at the hearing or take any other action to indicate their approval.

20. All members of the Settlement Class who do not personally and timely request to be excluded from the Class are enjoined from proceeding against the Defendants for the claims made in the Complaint.

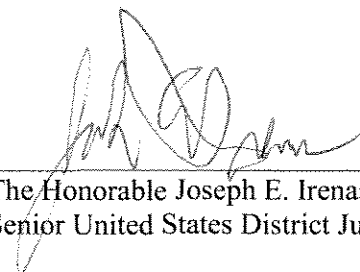
Other Provisions

21. Upon approval of the settlement provided for in this Settlement Agreement, each and every time period and provision thereof shall be deemed incorporated herein as if expressly set forth and shall have the full force and effect of an Order of this Court.

22. All reasonable costs incurred in notifying members of the Settlement Class, as well as administering the Settlement Agreement, shall be paid as set forth in the Settlement Agreement.

IT IS SO ORDERED.

Dated: 12/22/09



The Honorable Joseph E. Irenas
Senior United States District Judge.