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Honorable Lonny R. Suko

Michael A. Patterson, WSBA 7976
Michael T. Kitson, WSBA 41681
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Attorneys for Defendant

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

BETTY RUCKER, and others,

Plaintiffs,

v.

SPOKANE COUNTY, a municipal
corporation,

Defendant.

No. CV-12-05157-LRS

ORDER GRANTING JOINT
MOTION FOR CLASS
CERTIFICATION FOR
SETTLEMENT PURPOSES AND
PRELIMINARY APPROVAL OF
PROPOSED SETTLEMENT

THIS MATTER, having come regularly before the Court in the above-captioned matter upon the Parties' Joint Motion for Class Certification for Settlement Purposes and Preliminary Approval of Proposed Settlement, pursuant to Federal Rule of Civil Procedure ("FRCP") 23(a) and 23(b)(3), and the Court having reviewed the files and pleadings herein, including:

- 1. Joint Motion for Class Certification for Settlement Purposes and Preliminary Approval of Proposed Settlement; and

1 2. The Declaration of Michael T. Kitson in Support of Joint Motion for
2 Class Certification for Settlement Purposes and Preliminary Approval of
3 Proposed Settlement, including the *Settlement Agreement*, which
4 together with the exhibits thereto, sets forth the terms and conditions for
5 a proposed settlement of this matter.

6 THE COURT FINDS and ORDERS:
7

8 1. This Order (“Preliminary Approval Order”) incorporates by
9 reference the definitions in the *Settlement Agreement*; all italicized terms shall
10 have the same meanings set forth in the *Settlement Agreement*.

11 2. The class definition proposed by the parties is appropriate.

12 3. The requirements of FRCP 23(a) are satisfied.

13 4. The action is properly maintained as a class action under FRCP
14 23(b)(3).

15 5. Betty Rucker is an appropriate class representative.

16 6. Plaintiff’s counsel, Breean L. Beggs, Jeffrey K. Finer, and Andrew
17 Biviano are qualified to serve as *Class Counsel*.

18 7. The *Class* shall be certified as:

19 All individuals who were incarcerated in Spokane County Jail between January
20 26, 2008, and the date the court preliminarily approves settlement of the case,
21 for failure to pay their Legal Financial Obligations as directed by an agreed
22 “Order Enforcing Sentence-LFO.”

23 8. The Court preliminarily approves the *Settlement Agreement* and the
24 *Plan of Allocation* to be fair, reasonable, and adequate.

25 5. The Court approves, as to form and content, the proposed *Settlement
Agreement*, which is annexed as Exhibit A to the Declaration of Michael T.

1 Kitson in Support of Joint Motion for Class Certification for Settlement Purposes
2 and Preliminary Approval of Proposed Settlement.

3 6. The Court approves, as to form and content, the *Official Notice* of
4 *Class Action* and *Publication Notice*, which are annexed as Exhibit B and Exhibit
5 C to the Declaration of Michael T. Kitson in Support of Joint Motion for Class
6 Certification for Settlement Purposes and Preliminary Approval of Proposed
7 Settlement.

8 7. The Court finds that the mailing, publication, and distribution of the
9 *Mailed Notice* and *Publication Notice* substantially in the manner and form set
10 forth in paragraph 9 below, constitutes the best notice practicable under the
11 circumstances, including individual notice to all *Class Members*, and constitutes
12 valid, due, and sufficient notice to all persons entitled thereto, complying fully
13 with the requirements of Fed. R. Civ. P. 23 and due process.

14 8. The Court approves the following schedule:

15 Notice mailed to Class Members	Within 30 days after the 16 Order of Preliminary Approval
17 <i>Publication Notice</i> published in English in the <i>Spokesman Review</i> and 18 posted at Spokane County Jail	No later than 21 days after the Order of Preliminary Approval
19 Last day for Class Members to object to or opt-out of Settlement.	January 23, 2015
20 Deadline for filing Motion For Final Approval Of Class Settlement And For 21 Attorney's Fees	January 28, 2015
22 Final Approval Hearing	February 25, 2015

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25 ORDER GRANTING JOINT MOTION FOR
CLASS CERTIFICATION FOR
SETTLEMENT PURPOSES AND
PRELIMINARY APPROVAL OF
PROPOSED SETTLEMENT- 3

CV-12-05157-LRS

12-5157 Proposed Order Granting Joint Motion for Class Cert

PATTERSON BUCHANAN
FOBES & LEITCH, INC., P.S.

2112 Third Avenue, Suite 500, Seattle WA 98121
Tel. 206.462.6700 Fax 206.462.6701

1 9. Notice shall be issued by the *County* in the following form: The
2 County shall cause to be mailed, by first class mail, copies of the *Class Notice*
3 *Form* to the last known address of all *Class Members*. The *Publication Notice*
4 will run twice (once on a weekday and once on a Sunday) in the *Spokesman*
5 *Review*. The *Publication Notice* will run within 21 days after preliminary
6 approval is entered by this Court.

7 10. At or prior the Fairness Hearing (as defined below), the *County* shall
8 file with the Court and serve on *Class Counsel* proof by declaration or affidavit of
9 the mailing, publication, and posting at Spokane County Jail described in
10 paragraph 9 above.

11 11. A hearing (the “Fairness Hearing”) shall be held on February 25,
12 2015, at 2 p.m. before the Honorable Lonny R. Suko, United States District Court
13 Judge, at the United States District Court for the Eastern District of Washington,
14 920 West Riverside Avenue, Spokane, WA 99201, for the purpose of
15 determining: (a) whether the proposed *Settlement* as set forth in the *Agreement* is
16 fair, reasonable and adequate and should be approved by the Court; (b) whether
17 an *Order of Final Judgment and Dismissal* should be entered; (c) whether the
18 proposed *Plan of Allocation* is fair and reasonable and should be approved by the
19 Court; (d) whether and in what amount attorneys’ fees and costs should be
20 awarded to *Class Counsel*; and (e) whether and in what amount an *Incentive*
21 *Award* should be issued to the *Named Plaintiff*, and to rule upon such other
22 matters as the *Agreement* contemplates and as the Court may deem just and
23 proper.

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1 12. A Joint Motion for Final Approval of the Class Settlement and Final
2 Judgment and Dismissal, and all papers in support of the Settlement shall be filed
3 at least fifteen (15) days prior to the *Fairness Hearing*.

4 13. Any *Class Member* may appear and show cause as to why the Court
5 should or should not: (a) approve the proposed *Settlement* as set forth in the
6 *Settlement Agreement* as fair, reasonable and adequate; (b) enter the Order of
7 Final Judgment and Dismissal; (c) award attorneys' fees and costs to *Class*
8 *Counsel*; and/or (d) award an *Incentive Award* to the *Named Plaintiff*, provided,
9 however, that no person shall be heard with respect to, or shall be entitled to
10 contest, the foregoing matters unless on or before January 25, 2015, that person
11 has mailed notice of his, her or its intention to appear, setting forth briefly each
12 objection and the basis therefore, together with copies of any papers and briefs in
13 support of said objections and proof of membership in the *Class*, to the Clerk of
14 the Court at the following address: Thomas S. Foley U.S. Courthouse, 920 West
15 Riverside Avenue, Spokane, WA 99201. Unless otherwise ordered by the Court,
16 any *Class Member* who does not make his or her objection in the manner
17 provided for herein, shall be deemed to have waived such objection and shall
18 forever be foreclosed from making any objection to the foregoing matters.

19 14. The Court may adjourn the Fairness Hearing from time to time and
20 without further notice to the *Class*. The Court reserves the right to approve the
21 *Settlement* at or after the Fairness Hearing with such modifications as may be
22 consented to by the *Settling Parties* and without further notice to the *Class*. The
23 Court further reserves the right to enter a *Final Order*, dismissing the action with
24 prejudice as to the Defendant and against the *Named Plaintiff* and the *Class* at or
25 after the Fairness Hearing and without further notice to the *Class*.

1 15. Upon entry of the Final Order, the *Named Plaintiff*, and each of the
2 *Class Members*, on behalf of themselves, their successors, assigns, and any other
3 person claiming (now and in the future) through or on behalf of them, and
4 regardless of whether any such *Named Plaintiff* or *Class Member* ever seeks or
5 obtains by any means any distribution from the *Settlement Fund*, shall be bound
6 by the *Final Order* and by the terms of the *Settlement Agreement*. Upon entry of
7 the *Final Order*, the Court will dismiss the action in its entirety as to the *County*,
8 with prejudice and without costs (except as otherwise provided in the *Agreement*).

9 16. All reasonable costs and expenses incurred in identifying and
10 providing notice to *Class Members* and in administering the *Settlement Fund* shall
11 be paid as set forth in the *Settlement Agreement*.

12 17. The Court retains jurisdiction over all proceedings arising out of or
13 related to the *Settlement Agreement*.

14 18. If for any reason the *Settlement Agreement* does not become
15 effective in accordance with the terms of the *Settlement Agreement*, this
16 Preliminary Approval Order shall be rendered null and void and shall be vacated
17 nunc pro tunc.

18 19. Without further order of the Court, the *Settling Parties* may agree to
19 reasonable extensions of time to carry out any of the provisions of this
20 Preliminary Approval Order or the *Agreement*.

21 20. Pending final determination as to whether the *Settlement*, as set forth
22 in the *Settlement Agreement*, should be approved, no *Class Member* shall
23 commence, prosecute, pursue, or litigate any *Released Claims* against the *County*,

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1 whether directly, representatively, or in any other capacity, and regardless of
2 whether or not such *Class Member* has appeared in the action.

3 IT IS SO ORDERED.

4 Dated: September 19, 2014.

5 *s/Lonny R. Suko*

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7 LONNY R. SUKO
8 SENIOR U.S. DISTRICT COURT JUDGE
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