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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

COMMUNITIES ACTIVELY LIVING
INDEPENDENT AND FREE, a
nonprofit corporation, and AUDREY
HARTHORN, an individual, on behalf
of themselves and ALL OTHERS
SIMILARLY SITUATED,
Plaintiffs,
v.
CITY OF LOS ANGELES, a public
entity, and COUNTY OF LOS
ANGELES, a public entity,
Defendants.

Case No.: CV 09-0287 CBM (RZx)
CLASS ACTION

ORDER GRANTING PLAINTIFFS'
MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT
AGREEMENT WITH COUNTY OF
LOS ANGELES

1 Plaintiffs have applied to the Court for an order for final approval of the
2 settlement of this action with Defendant County of Los Angeles in accord with the
3 Settlement Agreement (“Agreement”), which sets forth the terms of and conditions
4 of a proposed settlement and dismissal of the action with prejudice upon the terms
5 and conditions set forth therein. [Docket No. 229.] Defendant County of Los
6 Angeles does not oppose the motion.

7 Mr. Steven Stanwyck, a class member, objected to the Settlement
8 Agreement. On May 21, 2013, the Court heard Mr. Stanwyck’s objections, which
9 are as follows (in italics):

- 10 1. *That the Agreement does not empower individuals to “independently act on*
11 *our behalf in the event of the first 72 hours of an emergency and to act as a*
12 *resource for others.”*¹ Class Counsel responded that the Agreement does
13 not prevent anyone from acting independently on their own behalf in the
14 first 72 hours of an emergency, nor does it prevent the individuals from
15 serving as a resource for others.
- 16 2. *That the Agreement does not provide a comprehensive plan for cities within*
17 *the County of Los Angeles, where in the event of an emergency there will not*
18 *be coordination or a “centralized communications and coordination*
19 *system.” This objection is made after Mr. Stanwyck brought Santa*
20 *Monica’s Emergency Preparedness Plan to the attention of class counsel,*
21 *who admitted that Santa Monica’s input has not been solicited and that*
22 *Santa Monica, and all other cities in the County, will be “affected” by the*
23 *Agreement.* Counsel for the County of Los Angeles responded that the
24 County will coordinate with cities located within the County prior to an
25 emergency, but do not have control over those cities’ emergency plans.

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27 ¹ Quotes come from Mr. Stanwyck’s written objections that were provided to Class Counsel
28 prior to the May 21, 2013 hearing, and made available to the Court in hard copy on May 21,
2013. The document was not filed with the Court.

- 1 3. *That the State of California and the United States are indispensable parties,*
2 *and the United States has not filed a Statement of Interest nor joined in the*
3 *Settlement. Additionally, these entities were placed on mailing lists “with*
4 *no orders or direction from the Court,” which is “meaningless in terms of*
5 *the required participation.” He requested that the Court should abstain*
6 *from this case.* In response, class counsel indicated that these parties were
7 served with a copy of the Complaint and that they have been kept abreast of
8 the proceedings in this case. During negotiations, parties drafted an Interim
9 Agreement, which this Court approved on June 7, 2010. [Doc. No. 88.] The
10 Interim agreement involves developing a document, with class counsel’s
11 input, that identifies the County’s key policies, procedures, and issues
12 directly related to the preparedness, response, and recovery of access and
13 functional needs populations (“Persons with Disabilities and Access and
14 Functional Needs Annex”). The draft Annex was provided to the U.S.
15 Department of Justice (“DOJ”), which responded and provided feedback.
16 The United States was not named as a party in the Complaint, but the DOJ
17 did file a Statement of Interest in the case. [Doc. No. 111.]
- 18 4. *That class counsel from the Disability Rights Legal Center (“DRLC”) and*
19 *Disability Rights Advocates (“DRA”) have been “in contempt of their four*
20 *(4) year monitoring duties, for which they were already compensated, in the*
21 *related ADA case Miles v. County of Los Angeles, 02-3932*
22 *(DT)(JTLx)....[t]herefore, they cannot be allowed to act in this ADA case, or*
23 *be compensated.”* The *Miles* case is currently closed and any Motions
24 regarding that case should not be filed under the *Communities Actively*
25 *Living* case number. Additionally, the Court understands that class counsel
26 stated that in *Miles*, progress reports were not filed with the Court and that
27 these two entities provided reports to the parties. After reviewing the
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1 docket, there is no record that either DRLC or DRA were cited for contempt
2 or found in contempt.

3 5. *That class counsel “incorrectly cite to cases of non-party governmental*
4 *participation as a settlement factor because the County is a “public*
5 *entity.”” Mr. Stanwyck further states that the cases cited require*
6 *“meaningful nonparty governmental participation,” and due to this, and*
7 *because “DOJ and FEMA should have been included, the settlement must be*
8 *denied.”* The Court finds that the United States has been involved in the
9 case, as indicated above.

10 6. *That class representatives are uninformed and have divergent interests*
11 *because in an email exchange with lead class representative Lilibeth*
12 *Navarro, she did not request damages since “we did not know that we*
13 *could” and that she is allegedly “afraid to object because that might cast a*
14 *negative light on [her organization’s] good intentions.” Mr. Stanwyck*
15 *further objects that “[i]f Ms. Navarro had been fully informed, she would*
16 *not have approved DRLC or this settlement.”* Ms. Navarro was present at
17 the hearing and was questioned by the Court. She stated that she does not
18 object to the settlement and believes class counsel fully represents her and
19 the class’ interests;

20 7. *That Class Counsel have disqualifying conflicts, and there is a wide*
21 *divergence of interests among the class representatives;*

22 8. *That Class Counsel, “operating out of Berkeley, California,” were never*
23 *qualified to bring this case in Los Angeles County.* Class Counsel noted that
24 though DRA is based in Berkeley, DRLC is based out of Los Angeles,
25 California, which is the city and county that is the subject of the suit;

26 9. *That Class Counsel have not disclosed their malpractice insurance;*

27 10. *That Mr. Stanwyck is confused by the Agreement, and what he is*

28 *“apparently giving up is too great and what [he] is getting is not adequate.”*

1 The Court questioned Mr. Stanwyck and Class Counsel whether Mr.
2 Stanwyck could opt-out of the class, and counsel responded that he could
3 have opted out of the class earlier, but that period had ended.

4 11. *That while class members are required to give up injunctive and declaratory*
5 *relief under a general release and under California Civil Code § 1542, there*
6 *are no similar releases or admissions of liability by the County, and this is*
7 *against public policy in the Ninth Circuit.* Class counsel said that class
8 members do not give up claims for damages under this release²;

9 12. *That the fees of \$2.1 million dollars “already paid by the City [of Los*
10 *Angeles], the additional \$1.25 million dollars, with no monetary benefits to*
11 *any class member, the general releases” and no admission of liability by the*
12 *County is “improper and overlapping.”* The Court is unclear about the
13 nature of this objection, since the case is still active as to the City, which is
14 not party to the settlement.

15 Mr. Stanwyck’s objections were heard and considered on the record. While the
16 Court finds it appropriate that class members, such as Mr. Stanwyck, bring their
17 concerns to the attention of the Court, the Court further finds that his objections
18 were adequately addressed, and overrules each of them. In spite of the objections
19 raised, the settlement is in the best interests of the class and the community of Los
20 Angeles in that the purpose of the lawsuit is to provide representation from the
21 disability community regarding emergency planning within the County and the
22 City, and to provide a comprehensive emergency plan. Rather than spending
23 money in discovery, the Court finds that the money and time can be better spent on
24 securing an emergency plan to serve the community.

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27 ² Cal. Civil Code § 1542 states that “[a] general release does not extend to claims which the
28 creditor does not know or suspect to exist in his or her favor at the time of executing the release,
which if known by him or her must have materially affected his or her settlement with the
debtor.”

1 Having read the papers submitted and carefully considered the arguments
2 and relevant legal authority, and good cause appearing, the Court GRANTS
3 Plaintiffs' Motion for Final Approval of Class Action Settlement.

4 NOW, THEREFORE, IT IS HEREBY ORDERED:

5 1. Due and adequate notice of the proposed Agreement was provided to
6 the class through the following methods:

- 7 a. Mailed and/or emailed to all organizations that received or
8 commented on the draft Disability and Functional Needs Annex;
- 9 b. Posted on the websites of Disability Rights Legal Center, Disability
10 Rights Advocates, the County of Los Angeles, and the County's
11 Office of Emergency Management for a period of no less than thirty
12 (30) days;
- 13 c. Published in the Los Angeles Times at least two occasions within
14 twenty-one (21) calendar days of the date of the Court's Preliminary
15 Approval Order;
- 16 d. Translated into the following languages: Spanish, Hindi, Khmer, Thai,
17 Japanese, Korean, Tagalog, Chinese, and Vietnamese, which are the
18 current voting languages in Los Angeles County, and published in
19 newspapers that correspond to those languages as follows: La Opinion
20 (Spanish), India Post (Hindi), The Khmer Post Media Center (Khmer),
21 Siamtown US (Thai), Rafu Shimpo (Japanese), The Korean Times
22 (Korea), Philippine Media (Tagalog), World Journal Chinese Daily
23 News (Chinese), and Nguoi Viet (Vietnamese) at least two occasions
24 within twenty-one (21) calendar days, with the exception of The
25 Khmer Post Media Center, which publishes bi-monthly, and said
26 Notice was published in The Khmer Post Media Center twice within
27 thirty (30) calendar days, of the date of the Court's Preliminary
28 Approval Order.

1 2. The form and manner of delivery to the class met the requirements of
2 Rule 23 and due process, constituted the best notice practicable under the
3 circumstances, and constituted due and sufficient notice to all members of the
4 class. There has only been one objector to the settlement. The Court has
5 considered the submission and argument provided by the objecting class member,
6 as well as Class Counsel's and Defendant County of Los Angeles' response to the
7 objection, and has determined that the objection does not warrant disapproval of
8 the Agreement.

9 3. The Court hereby approves the Agreement and finds that it is, in all
10 respects, fair, adequate and reasonable to all potential class members. It appears
11 that extensive evaluation of the merits has been conducted by counsel for the
12 Parties, who have evaluated their respective positions. It also appears to the Court
13 that settlement at this time will avoid substantial additional costs to all Parties, as
14 well as avoid the delay and the risks presented by further prosecution of issues
15 addressed by the Agreement. It further appears that the Agreement has been
16 reached as the result of intensive, prolonged, serious and non-collusive arms-length
17 negotiations, including several settlement sessions supervised by Honorable
18 Magistrate Judge Andrew J. Wistrich and Honorable Judge Edward A. Infante
19 (retired). The Court has reviewed the relief granted as part of the Agreement and
20 recognizes the significant value to the class of the injunctive relief provided by the
21 settlement.

22 4. The Court retains continuing jurisdiction over this matter for a period
23 of six years from the date of entry of this Order in order to supervise the
24 implementation, enforcement, construction, and interpretation of the Agreement
25 and this Order. Is it hereby Ordered that progress reports be filed with the Court
26 every six (6) months by parties, and the first report should be filed no later than
27 December 10, 2013.
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1 5. The Court hereby Orders a copy of Mr. Steven Stanwyck's Objections
2 be filed forthwith.

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IT IS SO ORDERED.



DATED: June 10, 2013

HON. CONSUELO B. MARSHALL
DISTRICT COURT JUDGE