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17 Attorneys for Defendants

18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA

20  
21 SHANNON GALLAGHER, ROBERTA  
BAUCCIO, GRACE CARLAND, and all others  
22 similarly situated,

Plaintiffs,

23 vs.

24 COUNTY OF SAN MATEO, SAN MATEO  
25 COUNTY SHERIFF'S DEPARTMENT; SAN  
MATEO COUNTY SHERIFF DON HORSLEY, in  
26 his individual and official capacity; SAN MATEO  
COUNTY SHERIFF'S DEPUTIES DOES 1  
27 THROUGH 100; and DOES 1 THROUGH 150,  
INCLUSIVE, et al.,

28 Defendants.

CASE NO: C 04-0448 SBA

**ORDER FOR PRELIMINARY  
APPROVAL OF SETTLEMENT OF  
CLASS ACTION [PROPOSED]**

**DATE:** April 3, 2007

**TIME:** 1:00 p.m.

**CTRM:** 3

**JUDGE:** Hon. Sandra Brown  
Armstrong

1 WHEREAS, plaintiffs SHANNON GALLAGHER, ROBERTA BAUCCIO, and GRACE  
2 CARLAND, on behalf of themselves and all persons similarly situated, by and through their  
3 attorneys, Mark E. Merin of the Law Office of Mark E. Merin and Andrew C. Schwartz of  
4 Casper, Meadows, Schwartz & Cook, and defendants, COUNTY OF SAN MATEO, SAN  
5 MATEO COUNTY SHERIFF'S DEPARTMENT and SAN MATEO COUNTY SHERIFF DON  
6 HORSLEY, by and through their counsel, Thomas F. Casey, III, County Counsel, Carol L.  
7 Woodward, Deputy County Counsel and Terence J. Cassidy of the law firm Porter, Scott,  
8 Weiberg & Delehant, have entered into a Stipulation of Settlement intending to resolve all claims  
9 raised in this class action pending in this Court;

10 WHEREAS, the Stipulation of Settlement, together with the supporting materials, sets  
11 forth the terms and conditions for a proposed settlement and dismissal with prejudice of the  
12 pending above-captioned class action against all defendants;

13 WHEREAS, the Court has before it and has reviewed the parties' Stipulated Motion for  
14 Preliminary Approval of Settlement of Class Action together with the Stipulation of Settlement  
15 and supporting materials; and

16 WHEREAS, the Court is satisfied that the terms and conditions set forth in the  
17 Stipulation of Settlement were the result of good faith, arms' length settlement negotiations  
18 between competent and experienced counsel for both plaintiffs and defendants, after mediation  
19 before both Chief Magistrate Judge James Larson and the Honorable Raul Ramirez (Retired);

20 IT IS HEREBY ORDERED AS FOLLOWS:

21 **I. PRELIMINARY APPROVAL OF SETTLEMENT**

22 1. The terms of the Stipulation of Settlement are hereby preliminarily approved,  
23 subject to further consideration thereof at the Fairness Hearing provided for  
24 below. The Court finds that the settlement is sufficiently within the range of  
25 reasonableness and that notice of the proposed settlement should be given as  
26 provided in this Order.

27 2. The Court further finds that plaintiffs SHANNON GALLAGHER, ROBERTA  
28 BAUCCIO, and GRACE CARLAND are adequate class representatives for the

- 1 settlement class.
- 2 3. The Court further finds that plaintiffs' counsel Mark E. Merin of the Law Office
- 3 of Mark E. Merin and Andrew C. Schwartz of Casper, Meadows, Schwartz and
- 4 Cook are adequate class counsel.
- 5 4. The Court approves the Notice of Proposed Settlement of Class Action Strip
- 6 Search Case attached hereto as Exhibit A and further approves the method by
- 7 which notice is proposed to be given.
- 8 5. If, pursuant to the terms of the Stipulation of Settlement, the settlement is not
- 9 consummated, the preliminary approval of the Stipulation of Settlement shall be
- 10 void and the parties shall have reserved all of the rights to continue with any
- 11 litigation or further mediation or settlement discussions.
- 12 6. The Bar Date, as defined in paragraph 2 of the Stipulation of Settlement shall be
- 13 \_\_\_\_\_.

14 **II. NOTICE TO SETTLEMENT CLASS MEMBERS, APPROVAL OF CLASS**

15 **COUNSEL, AND EMPLOYMENT OF CLASS CLAIM ADMINISTRATOR**

- 16 7. Counsel for the class ("class counsel") are as follows:
- 17 Mark E. Merin, Esq.  
18 Law Office of Mark E. Merin  
19 2001 P Street, Suite 100  
20 Sacramento, CA 95814  
(916) 443-6911 - Telephone  
(916) 447-8336 - Facsimile
- 21 Andrew Charles Schwartz, Esq.  
22 Casper, Meadows, Schwartz & Cook  
23 2121 N California Boulevard, Suite 1020  
Walnut Creek, CA 94596  
(925) 947-1147 - Telephone  
(925) 947-1131 - Facsimile
- 24 8. Counsel for defendants are as follows:
- 25 Thomas F. Casey, III, County Counsel  
26 Carol L. Woodward, Deputy County Counsel  
27 Hall of Justice and Records  
400 County Center, 6<sup>th</sup> Floor  
28 Redwood City, CA 94063  
(650) 363-4746 - Telephone  
(650) 363-4034 - Facsimile

1 Terence J. Cassidy, Esq.  
2 Porter Scott Weiberg & Delehant  
3 P.O. Box 255428  
4 Sacramento, CA 95865  
5 (916) 929-1481 - Telephone  
6 (916) 927-3706 - Facsimile

9. Class Claims Administrator is as follows:

7 Gilardi and Company, LLC  
8 3301 Kerner Blvd  
9 San Rafael, CA 94901  
10 (415) 461-0410 - Telephone  
11 (800) Toll Free Number to be arranged.  
12 (415) 461-0412 - Facsimile

10. Beginning no later than 30 days from the date of this Order, counsel for the parties acting with the Class Claims Administrator shall cause to be disseminated the Notice and Claim Form, substantially in the form attached hereto as Exhibits A and B, in the manner set forth in paragraphs 58 through 63 of the Stipulation of Settlement. Such summary notice as the parties agree will be published in accordance with the Stipulation of Settlement and announcements following a script approved by the parties will be made on such radio stations with the frequency provided in the Stipulation of Settlement. Class members will have up to and including [four months from date of Court Order on a date certain to be inserted?], in which to object to this settlement or file claims. Prior to the Fairness Hearing, the Claims Administrator shall file and serve a sworn statement attesting to compliance with the provisions of this paragraph.

11. The notice to be provided as set forth in the Stipulation of Settlement is hereby found to be the best means practicable of providing notice under the circumstances and, when completed, shall constitute due and sufficient notice of the proposed settlement and of the Fairness Hearing to all persons and entities affected by and/or entitled to participate in the settlement, in full compliance with applicable statutes and Constitution of the state of California, due process, the Constitution of the United States and all other applicable laws. The notices are accurate, objective, informative and provide class members with all of the

- 1 necessary information to make an informed decision regarding their participation  
2 in the settlement and its fairness.
- 3 12. Counsel for the respective parties are authorized to retain Gilardi and Company,  
4 LLC, 3301 Kerner Blvd, San Rafael, CA 94901, as Class Claims Administrator in  
5 accordance with the Stipulation of Settlement and this Order.
- 6 13. Members of the Settlement Class were given an opportunity to be excluded (“opt  
7 out”) from the Settlement Class by filing their request to be excluded on or before  
8 March 31, 2006. No persons have elected to exclude themselves by filing  
9 requests for exclusion.
- 10 14. Members of the Settlement Class who did not properly and timely request  
11 exclusion from the Settlement Class shall be bound by all the terms and  
12 provisions of this Stipulation of Settlement, including but not limited to the  
13 releases, waivers, and covenants described in the Stipulation of Settlement,  
14 whether or not such person object to the settlement and whether or not such  
15 person made a claim upon or participated in the Settlement Fund created pursuant  
16 to the Stipulation of Settlement.

17 **III. THE FAIRNESS HEARING**

- 18 15. A hearing on final approval, the “Fairness Hearing,” is hereby scheduled to be  
19 held before this Court on \_\_\_\_\_[seven months from date of Court  
20 Order]\_\_\_\_\_, at \_\_\_\_\_ a.m., to consider the fairness, reasonableness, and  
21 adequacy of the proposed settlement, the dismissal with prejudice of this class  
22 action complaint with respect to the released parties herein, and the entry of final  
23 judgment in the class action. Class counsels’ application for award of attorneys’  
24 fees and costs shall be heard at the time of the Fairness Hearing.
- 25 16. The date and time of the Fairness Hearing shall be set forth in the Notice, but the  
26 Fairness Hearing shall be subject to adjournment by the Court without further  
27 notice to the members of the settlement class other than that which may be issued  
28 by the Court.

- 1           17. Any person who did not elect to be excluded from the settlement class may, but  
2           need not, enter an appearance through his or her own attorney. Settlement class  
3           members who do not enter an appearance through their own attorneys will be  
4           represented by class counsel.
- 5           18. Any person who did not elect to be excluded from the settlement class may, but  
6           need not, submit comments or objections to the proposed settlement. Any class  
7           member may object to the proposed settlement, entry of the final order and  
8           judgment approving the settlement, and class counsels' application for fees and  
9           expenses by filing and serving a written objection.
- 10          19. Any class member making the objection (an "objector") must sign the objection  
11          personally. Any objection must state why the objector objects to the proposed  
12          settlement and provide the basis to support such position. If an objector intends to  
13          appear personally at the Fairness Hearing, the objector must include with the  
14          objection a notice of the objector's intent to appear at the hearing.
- 15          20. Objections, along with any notice of intent to appear, must be filed with the Court  
16          no later than \_\_\_\_\_. If counsel is appearing on behalf of more than one  
17          class member, counsel must identify each such class member and each class  
18          member must have complied with the requirements of this order. The documents  
19          must be filed with the clerk of the Court at the following address: United States  
20          District Court, Northern District of California, 1301 Clay Street, Courtroom 3,  
21          Oakland, California 94612.
- 22          21. Objections, along with any notice of intent to appear, must also be mailed to class  
23          counsel and counsel for defendants at the addresses listed below:

24          Counsel for the class ("class counsel") are as follows:

25                   Mark E. Merin, Esq.  
26                   Law Office of Mark E. Merin  
27                   2001 P Street, Suite 100  
28                   Sacramento, CA 95814  
                      (916) 443-6911 - Telephone  
                      (916) 447-8336 - Facsimile

1 Andrew Charles Schwartz, Esq.  
2 Casper, Meadows, Schwartz & Cook  
3 2121 N California Boulevard, Suite 1020  
4 Walnut Creek, CA 94596  
5 (925) 947-1147 - Telephone  
6 (925) 947-1131 - Facsimile

Counsel for defendants are as follows:

7 Thomas F. Casey, III, County Counsel  
8 Carol L. Woodward, Deputy County Counsel  
9 Hall of Justice and Records  
10 400 County Center, 6<sup>th</sup> Floor  
11 Redwood City, CA 94063  
12 (650) 363-4746 - Telephone  
13 (650) 363-4034 - Facsimile

14 Terence J. Cassidy, Esq.  
15 Porter Scott Weiberg & Delehant  
16 P.O. Box 255428  
17 Sacramento, CA 95865  
18 (916) 929-1481- Telephone  
19 (916) 927-3706- Facsimile

- 20 22. Only class members who have filed and served valid and timely notices of  
21 objection shall be entitled to be heard at the Fairness Hearing. Any class member  
22 who does not timely file and serve an objection in writing to the settlement, entry  
23 of final order and judgment, or to class counsels' application for fees and  
24 expenses, in accordance with the procedure set forth in the class notice and  
25 mandated in the order, shall be deemed to have waived any such objection by  
26 appeal, collateral attack, or otherwise.
- 27 23. Persons wishing to be heard at the Fairness Hearing are required to file written  
28 comments or objections and indicate in their written comments or objections their  
intention to appear at the Fairness Hearing. Settlement class members need not  
appear at the hearing or take any other action to indicate their approval.
- 29 24. All members of the settlement class who did not timely request to be excluded  
from the class are enjoined from proceeding against the defendants until such time  
as the Court renders a final decision regarding approval of the settlement and, if  
the settlement is approved, enters final judgment as provided in the Stipulation of  
Settlement.

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**V. OTHER PROVISIONS**

- 25. Upon approval of the settlement provided for in the Stipulation of Settlement, each and every term and provision thereof shall be deemed incorporated herein as if expressly set forth and shall have the force and effect of an order of this Court.
- 26. The Honorable Raul Ramirez, United States District Court Judge, retired, is hereby appointed to serve as Special Master to review and resolve certain disputes which may arise pursuant to the terms of the Stipulation of Settlement.
- 27. All reasonable costs incurred in notifying members of the settlement class as well as administering the Stipulation of Settlement shall be paid as set forth in the Stipulation of Settlement.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

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HON. SAUNDRA BROWN ARMSTRONG  
 JUDGE OF THE UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA