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COUNTY OF ALAMEDA, ALAMEDA
11 COUNTY SHERIFF CHARLES C. PLUMMER

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 DANIEL SCHAFFER, on behalf of himself) Case No.: C 06 0310 MMC
15 and all those similarly situated;)
16 Plaintiffs,) **AMENDED STIPULATION OF**
17 vs.) **SETTLEMENT**
18 COUNTY OF ALAMEDA, ALAMEDA)
19 COUNTY SHERIFF CHARLES C.)
20 PLUMMER, IN HIS INDIVIDUAL AND)
OFFICIAL CAPACITIES, ALAMEDA)
21 COUNTY SHERIFF'S DEPUTIES DOES 1)
THROUGH 50, AND ROES 1 THROUGH)
22 20, INCLUSIVE,)
Defendants.)

23
24 Plaintiff DANIEL SCHAFFER ("SCHAFFER") on behalf of himself and on behalf of the
25 settlement class defined herein, and Defendants COUNTY OF ALAMEDA, ALAMEDA
26 COUNTY SHERIFF CHARLES C. PLUMMER (hereinafter collectively referred to as
27 "COUNTY"), by and through their respective counsel, hereby submit the following Stipulation of
28 Settlement.

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I.

RECITALS

On or about January 17, 2006, SCHAFFER filed a class action complaint against Defendants. Said complaint alleged that the COUNTY’s practices related to strip searching pre-arraignment arrestees at its jail facilities violated said arrestees’ rights guaranteed by the Fourth Amendment to the United States Constitution and Article I, Section 1 of the California Constitution and were in violation of certain California statutes, including Penal Code section 4030, in two respects: said searches were being performed on arrestees for whom there was no reasonable suspicion that they may be attempting to conceal contraband (“ILLEGAL SEARCHES”), and said searches were being performed on more than one person at the same time and in the same room (“GROUP SEARCHES”).

The parties entered into discovery which included exchange of documents, preparation of and responses to request for production of documents, interrogatories and depositions.

Beginning in June 2006 and continuing thereafter through December 31, 2006, COUNTY issued written and verbal directives and training to employees operating its jail facilities in order to eliminate the challenged practices of conducting either ILLEGAL SEARCHES and GROUP SEARCHES of pre-arraignment arrestees.

On February 14 and 15, 2007, the Parties participated in mediation sessions presided over by the Honorable Raul A. Ramirez (retired) and agreed to this Stipulation of Settlement which, subject to the approval of the Court, settles this action in the manner and upon the terms set forth below and fully resolves the dispute.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the Parties as follows:

II.

DEFINITIONS

1. “Administrator” means Gilardi and Co., P. O. Box 1110, Corte Madera, CA 94976-1110, to be appointed by the Court to provide notice to the members of the class and to review and determine the validity and value of claims submitted by Settlement Class Members (“SCMs”),

1 according to the procedures set forth herein.

2 2. The “Bar Date” is the date established by the Court by which any SCM who wishes
3 to receive payment pursuant to the Stipulation of Settlement must file his/her Claim Form(s),
4 objections to this Stipulation of Settlement, or request to be excluded from the class (“opt-out”).
5 The Bar Date shall be one hundred and twenty (120) days after the date of the Court’s order
6 preliminarily approving the terms of this settlement.

7 3. “Charge List” means the list of charges attached hereto as Exhibit 1.

8 4. The “Claim Form” is the form required to be used to make a claim for payment
9 under this settlement. A copy of the proposed Claim Form is attached as Exhibit 2.

10 5. “Class Counsel” means The Law Office of Mark E. Merin, and Mark E. Merin,
11 attorney, 2001 P Street, Suite 100, Sacramento, CA 95814.

12 6. The “Class Notice” means the notice in the form attached hereto as Exhibit 3
13 (Notice by Mail); such other summary notice(s) to be published in newspapers serving the
14 Alameda County area and posted in the Santa Rita and Glenn Dyer jails operated by Alameda
15 County:

16 7. The “Class Period 1” is January 17, 2004, through December 31, 2006, for
17 claimants making claims for GROUP SEARCHES.

18 8. The “Class Period 2” is January 17, 2004 through August 31, 2006, for claimants
19 making claims for ILLEGAL SEARCHES.

20 9. The “Database” is the information provided in hard copy and/or electronic form by
21 COUNTY to the Administrator and Class Counsel which includes, to the extent practicable, the
22 name, last known addresses, date of birth, social security number, date(s) of booking, charge(s)
23 and information reflecting whether the SCM was on searchable parole or probation at the time of
24 booking of all SCMs booked and housed at COUNTY’s jail facilities during the Class Periods.

25 10. “Debts Owed” shall mean any financial obligation of an SCM which would be
26 collected by the Central Collections Department of the Alameda County Auditor-Controller
27 Agency or by the Alameda County Treasurer-Tax Collector, any amounts owed to the County of
28 Alameda for unpaid work furlough fees, any amounts owed to the County of Alameda or State of

1 California for unpaid child support or for amounts paid from the Victims of Violent Crime Fund as
2 a result of criminal conduct of an SCM, and any amounts owed by any SCM for restitution ordered
3 by the Alameda Superior Court.

4 11. The “Effective Date” means the date upon which a judgment entered by the Court
5 approving the Stipulation of Settlement becomes final. The judgment will be deemed final only
6 upon expiration of the time to appeal or, if a Notice of Appeal is filed, upon exhaustion of all
7 appeals and petitions for Writ of Certiorari.

8 12. “Non-VDW Misdemeanor Offense” means a misdemeanor, infraction, ordinance or
9 lesser offense arrest charge not listed on the Charge List.

10 13. “Non-VDW Felony Offense” means a felony arrest charge not listed on the Charge
11 List.

12 14. “VDW Misdemeanor Offense” means a misdemeanor, infraction, ordinance or
13 lesser offense arrest charge listed on the Charge List.

14 15. “VDW Felony Offense” means a felony arrest charge listed on the Charge List.

15 16. An “Opt-Out” is any potential SCM who files a timely request for exclusion as
16 specified in Paragraph 48.

17 17. “Released Persons” means the COUNTY OF ALAMEDA, all of its agencies,
18 departments and divisions, ALAMEDA COUNTY SHERIFF CHARLES C. PLUMMER and their
19 predecessors, successors, and/or assigns, together with past, present, and future officials,
20 employees, representatives, attorneys and/or agents of the COUNTY OF ALAMEDA or the
21 Alameda County Sheriff’s Department.

22 18. The “Settlement Class” means all of those persons who are members of the
23 following defined classes who, during the class periods identified in Paragraphs 7 and 8 above,
24 were booked at Alameda County Santa Rita or Glenn Dyer Jails, assigned to a housing unit and
25 strip searched at said facilities prior to arraignment on the charges for which they were booked:

26 a. The following persons shall be referred to as the “Group Search Class”: (1)
27 All arrestees booked into Santa Rita Jail during Class Period 1 on a VDW Felony or
28 Misdemeanor Offense, who were assigned to a housing unit and who underwent a

1 GROUP SEARCH prior to arraignment on the charges on which they were booked
2 during Class Period 1; (2) All arrestees booked into Santa Rita Jail during Class
3 Period 1 on a non-VDW Offense, but who, during the Five (5) years prior to such
4 Class Period 1 booking, had been arrested in ALAMEDA COUNTY on a VDW
5 Felony or Misdemeanor Offense, or who, at the time of such Class Period 1
6 booking were required to submit to a search of their person as a condition of parole
7 or probation, who were assigned to a housing unit and who underwent a GROUP
8 SEARCH prior to arraignment on the charges on which they were booked during
9 Class Period 1.

10 b. The following persons shall be referred to as the “Illegal Search Class”: All
11 arrestees booked into Santa Rita or Glenn Dyer Jails during Class Period 2 on a
12 non-VDW Felony or Misdemeanor Offense, except those who, at the time of such
13 Class Period 2 booking, had been arrested in ALAMEDA COUNTY in the Five (5)
14 years prior to such Class Period 2 booking on a VDW Felony or Misdemeanor
15 Offense, or who, at the time of such Class Period 2 booking, were required to
16 submit to a search of their person as a condition of parole or probation, who were
17 assigned to a housing unit and who underwent an ILLEGAL SEARCH prior to
18 arraignment on the charges on which they were booked during Class Period 2.

19 19. A “Settlement Class Member” (“SCM”) means any member of the Settlement
20 Class, including representatives, successors and assigns, who does not file a valid and timely
21 Request for Exclusion as provided in Paragraph 48 of this Stipulation of Settlement.

22 20. “Special Master” shall mean the Honorable Raul A. Ramirez (Ret.) appointed by
23 the Court to preside over this Stipulation of Settlement. The Special Master shall have power to
24 make decisions in all matters pertaining to the administration and enforcement of the Stipulation of
25 Settlement, and to resolve all disputes between the Parties pertaining to the Stipulation of
26 Settlement. All orders and directives of the Special Master shall be subject to review by the Court
27 upon request of any party. Except for those duties set forth in Paragraph 53, all fees and expenses
28 of the Special Master shall be paid equally by the parties, unless otherwise ordered by either the

1 Special Master or the Court, or otherwise agreed by the Parties.

2 21. This Stipulation of Settlement is for settlement purposes only, and neither the fact
3 of, nor any provision contained in this Stipulation of Settlement or its exhibits, nor any action
4 taken hereunder shall constitute, be construed as, or be admissible in evidence as any admission of
5 the validity of any claim or any fact alleged by the Plaintiff or SCMs in this action or in any other
6 pending action of any wrongdoing, fault, violation of law, or liability of any kind on the part of
7 Defendants or admission by Defendants of any claim or allegation made in this action or in any
8 other action, nor as an admission by the Plaintiff, SCMs or Class Counsel of the validity of any
9 fact or defense asserted against them in this action or in any other action. Defendants deny all
10 allegations of wrongdoing and deny any liability to Plaintiffs or to any other Class Members. The
11 Parties have agreed that, in order to avoid long and costly litigation, this controversy should be
12 settled pursuant to the terms of this settlement, subject to the approval of the Court.

13 **III.**

14 **TERMS AND EFFECT OF STIPULATION OF SETTLEMENT**

15 22. The parties will file a proposed stipulated protective order concurrently with the
16 motion for preliminary approval of this Stipulation of Settlement to allow personnel of the
17 Alameda County Sheriff's Department and/or the Alameda County Information Technology
18 Department to provide the name, last known address, and other necessary data of all SCMs to
19 Class Counsel and the Claims Administrator. This information is privileged and confidential. The
20 Defendants may, in their sole discretion, withdraw from the Stipulation of Settlement if the Court
21 does not enter that order.

22 23. On or about the Effective Date, the parties will submit all appropriate papers to
23 dismiss Case No. C 06 0310 MMC in the United States District Court for the Northern District of
24 California.

25 24. The Parties agree, solely for the purpose of this settlement and implementation, that
26 the action shall proceed as a class action, with the Settlement Class as defined in Paragraph 18, and
27 that attorneys for the Settlement Class are Class Counsel as defined in Paragraph 5; but if such
28 settlement fails to be approved or otherwise fails to be consummated, then this Stipulation of

1 Settlement is hereby withdrawn.

2 25. SCMs who comply with the requirements set forth in this Stipulation of Settlement
3 will be paid specified sums determined by the procedures set forth herein in full satisfaction of all
4 claims.

5 26. This Stipulation of Settlement, as of the Effective Date, resolves in full all claims
6 against the Released Persons by SCHAFFER and all of the SCMs, involving violations of their
7 rights guaranteed by the Fourth Amendment to the United States Constitution, or by Article 1,
8 Section 1 of the California Constitution, or of alleged violations of California Penal Code Section
9 4030, California Civil Code Sections 52 and 52.1 or any other federal, state or local law,
10 regulation, duty or obligation which are based upon, or could be based upon, or arise from the facts
11 alleged in the complaint for damages filed in Case No. C 06 0310 MMC filed in the United States
12 District Court, for the Northern District of California. When the Stipulation of Settlement is final,
13 as of the Effective Date, all SCMs and SCHAFFER, hereby release all such claims.

14 27. The Parties agree that the Court, by preliminarily approving the Stipulation of
15 Settlement, will be certifying the Settlement Class as defined in Paragraph 18 as the Settlement
16 Class, subject to final approval of the settlement at the Fairness Hearing and that the Court shall
17 retain exclusive and continuing jurisdiction of the action, Parties, SCMs, Special Master and the
18 Administrator to interpret and enforce the terms, conditions and obligations under this agreement.

19 28. This is a full and final Release applying to all unknown and unanticipated injuries,
20 deaths or damages arising out of the events described in Paragraph 23 as well as those now known
21 or disclosed, SCHAFFER and each SCM waives all rights or benefits which he or she now has or
22 in the future may have under the terms of California Civil Code section 1542, which reads:

23 "A general release does not extend to claims which the creditor does
24 not know or suspect to exists in his or her favor at the time of
25 executing the release, which if known by him or her must have
26 materially effected his or her settlement with the debtor."

27 29. As of the Effective Date of this Stipulation of Settlement, the SCMs, including
28 SCHAFFER, hereby waive any and all rights to pursue, initiate, prosecute, or commence any
action or proceeding before any court, administrative agency or other tribunal, or to file any

1 complaint with regard to acts or commission or omission by the Released Persons respecting such
2 SCMs with respect to any strip search by Defendants during their confinement at any of the
3 COUNTY's jail facilities which occurred during the Class Periods.

4 30. This Stipulation of Settlement contains all of the terms and conditions agreed upon
5 by the Parties hereto regarding the subject matter of the instant proceeding, and no oral agreement
6 entered into at any time nor any written agreement entered into prior to the execution of this
7 Stipulation shall be deemed to exist, or to bind the Parties hereto, or to vary the terms and
8 conditions contained herein, except as expressly provided herein.

9 31. Each SCM shall be deemed to have submitted to the jurisdiction of the Court.

10 32. No Opt-Out shall share in any monetary benefits provided by this Stipulation of
11 Settlement.

12 33. This agreement is subject to and conditioned upon the final approval of this
13 Stipulation of Settlement and the issuance of the final order and judgment of dismissal, by the
14 United States District Court, Northern District of California, providing the below specified relief,
15 which relief shall be pursuant to the terms and conditions of this Stipulation of Settlement and the
16 Parties' performance of their continuing rights and obligations hereunder. The order and judgment
17 will be deemed final only upon expiration of the time to appeal, or, if a Notice of Appeal is filed,
18 upon exhaustion of all appeals and petitions for writs of certiorari. Such final order and judgment
19 shall:

- 20 a. Dismiss with prejudice all complaints in the action as to the Released
21 Persons;
- 22 b. Order that all SCMs are enjoined from asserting against any Released
23 Person any and all claims which the SCMs have, had, or may have in the
24 future arising out of the facts alleged in the complaint;
- 25 c. Release each Released Person from the claims which any SCM has, had or
26 may have in the future, against such Released Person arising out of the facts
27 alleged in the related complaints;
- 28 d. Determine that this Stipulation of Settlement is entered into in good faith, is

1 reasonable, fair and adequate, and is in the best interest of the Class; and
2 e. Reserve the Court's continuing and exclusive jurisdiction over the Parties to
3 this Stipulation of Settlement, including Defendants and all SCMs, to
4 administer, supervise, construe and enforce the Stipulation of Settlement in
5 accordance with the terms for the mutual benefit of all the Parties.

6 34. The Parties will take all necessary and appropriate steps to obtain preliminary
7 approval of the Stipulation of Settlement, final approval of the settlement, and dismissal of the
8 action with prejudice. If the Court finally approves this Stipulation of Settlement, and if there is an
9 appeal from such decision, the Defendants will actively cooperate with Plaintiffs in joint efforts to
10 defend the Stipulation of Settlement.

11 **IV.**

12 **RESOLUTION AND PAYMENT OF CLAIMS FOR DAMAGES**

13 35. The Parties have agreed that certain sums will be paid by or on behalf of the
14 COUNTY to resolve all claims of all SCMs as described in Paragraph 26, and that the total of all
15 such sums shall not exceed Six Million, One Hundred Fifty Thousand Dollars (\$6,150,000.00)
16 including the fees and costs of Class Counsel and the cost of administration of this settlement.

17 36. Class Counsel and the SCMs, by and through the Representative Plaintiff, have
18 determined that the following distribution of the sum described in Paragraph 35 is appropriate, in
19 which determination the Released Persons acquiesce: (1) Up to Four Million, Seven Hundred
20 Thousand Dollars (\$4,700,000.00) will be allocated to pay verified claims, including Seventy-Five
21 Thousand Dollars (\$75,000.00) for the Representative Plaintiff; (2) the sum of One Million, One
22 Hundred Seventy-Five Thousand Dollars (\$1,175,000.00) will be allocated to pay Class Counsel's
23 fees and costs; (3) Up to Two Hundred Seventy-Five Thousand Dollars (\$275,000.00) will be
24 allocated to pay the costs of administration, including all notices to the classes and processing,
25 administration and payment of the SCM's claims. Distribution of the settlement amount is subject
26 to the further terms and conditions of this Stipulation of Settlement.

27 37. No payment shall be made to eligible SCMs before the Effective Date. Claims may
28 be processed between the date of preliminary Court approval and the Effective Date. Claims will

1 only be paid after all verified Claims have been calculated and all disputes relating to Claims have
2 been resolved.

3 38. No payment shall be paid to Class Counsel for fees and costs before the Effective
4 Date as more fully described in Paragraph 10.

5 39. The Parties agree to make an application to the Court to appoint the Administrator
6 as an officer of the Court for the purpose of implementing the terms of the Stipulation of
7 Settlement. The Administrator shall be subject to judicial immunity to the fullest extent permitted
8 by law.

9 V.

10 **PROCEDURES FOR RECEIVING PAYMENT**
11 **UNDER THIS SETTLEMENT AGREEMENT**

12 40. All Group Search Class members, as defined in Paragraph 18a, booked on a VDW
13 Felony Offense during Class Period 1 or arrested for a VDW Felony Offense in ALAMEDA
14 COUNTY during the five (5) years prior to their Class Period 1 booking, or who, at the time of
15 their Class Period 1 booking, were required to submit to a search of their person as a condition of
16 probation or parole, upon return of a verified Claim Form, shall, for each Class Period 1 booking
17 and pre-arraignment GROUP SEARCH, up to a maximum of two, become eligible to receive the
18 sum of Thirty-Five Dollars (\$35.00).

19 41. All Group Search Class members, as defined in Paragraph 18a, booked during Class
20 Period 1 on a VDW Misdemeanor Offense or arrested for a VDW Misdemeanor Offense in
21 ALAMEDA COUNTY during the five (5) years prior to their Class Period 1 booking, and who, at
22 the time of their Class Period 1 booking, were not required to submit to a search of their person as
23 a condition of probation or parole, upon return of a verified Claim Form, shall, for each Class
24 Period 1 booking and pre-arraignment GROUP SEARCH, up to a maximum of two, become
25 eligible to receive the sum of Two Hundred Dollars (\$200.00).

26 42. All Illegal Search Class members, as defined in Paragraph 18b, booked during
27 Class Period 2 on a non-VDW Felony Offense, except those who, at the time of such Class Period
28 2 booking, had been arrested on a VDW Felony or Misdemeanor Offense in ALAMEDA

1 COUNTY during the preceding five (5) years, or who, at the time of such Class Period 2 booking,
2 were required to submit to a search of their person as a condition of probation or parole, upon
3 return of a verified Claim Form, shall, for each Class Period 2 booking and pre-arraignment
4 ILLEGAL SEARCH, up to a maximum of two, become eligible to receive the sum of One
5 Thousand Dollars (\$1,000.00).

6 43. All Illegal Search Class members, as defined in Paragraph 18b, booked during
7 Class Period 2 on a non-VDW Misdemeanor Offense, except those who, at the time of such Class
8 Period 2 booking, had been arrested on a VDW Felony or Misdemeanor Offense in ALAMEDA
9 COUNTY during the preceding five (5) years, who, at the time of such Class Period 2 booking,
10 were required to submit to a search of their person as a condition of probation or parole, upon
11 return of a verified Claim Form, shall, for each Class Period 2 booking and pre-arraignment
12 ILLEGAL SEARCH, up to a maximum of two, become eligible to receive the sum of One
13 Thousand Five Hundred Dollars (\$1,500.00).

14 44. In addition to the sums specified in Paragraph 42, all SCMs described in said
15 Paragraph will become eligible to receive additional sums, referred to as "Minor Enhancements,"
16 of Two Hundred Fifty Dollars (\$250), for each applicable condition, if they were under 21 or over
17 60 years of age at the time of their strip search(es) and/or appropriately indicate on their Claim
18 Form, and the COUNTY has no information to the contrary, that, at the time of the search which is
19 the subject of the claim, they were suffering from a mental or physical disability, and/or were
20 required to remove religious garments. Such SCM's will also become eligible to receive an
21 additional sums, referred to as "Major Enhancements," of Five Hundred Dollars (\$500), if they
22 appropriately indicate on their Claim Form, and the COUNTY has no information to the contrary,
23 that, at the time of the search which is the subject of the claim, they were either more than two (2)
24 months pregnant or menstruating.

25 45. In addition to the sums specified in Paragraph 43, all SCMs described in said
26 Paragraph will become eligible to receive additional sums, referred to as "Major Enhancements,"
27 of Five Hundred Dollars (\$500) for each applicable condition, if they were under 21 or over 60
28 years of age at the time of their strip search(es) and/or they appropriately indicate on their Claim

1 Forms, and the COUNTY has no information to the contrary, that, at the time of the search which
2 is the subject of the claim, they were suffering from a mental or physical disability, were required
3 to remove religious garments and/or were either more than two (2) months pregnant or
4 menstruating.

5 46. In addition to the payments described in Paragraphs 42 through 45, SCMs described
6 in Paragraphs 42 and 43 may become eligible to receive amounts, to be determined by negotiations
7 between Class Counsel and COUNTY's Counsel, of not less than Five Thousand Dollars
8 (\$5,000.00) or more than Twenty-Five Thousand Dollars (\$25,000.00), if, at the time that they
9 submit a timely Claim Form to the Administrator, they also submit medical or psychological
10 records or reports of licensed physicians, psychologists, marriage, family and child counselors or
11 clinical social workers establishing that, within Ninety (90) days after the ILLEGAL SEARCH
12 which is the subject of their claim, they received treatment for a physical, emotional or
13 psychological injury caused by the ILLEGAL SEARCH. All documentation of such claimed
14 injuries will be provided to Counsel for the COUNTY, who will be afforded a reasonable period of
15 time to investigate each such claim, including taking depositions and obtaining additional records.
16 In the event that Class Counsel and County's Counsel cannot agree on an amount to resolve the
17 claim of any SCM described in this Paragraph, all documentation pertaining to that SCM's claim
18 shall be submitted to the Special Master, along with each Counsel's proposed amount for an
19 award, and the Special Master shall determine the amount of the award, based upon the documents
20 submitted to him.

21 47. The total of all payments described in Paragraphs 40 and 41 shall not exceed the
22 sum of Six Hundred Twenty-Five Thousand Dollars (\$625,000.00). This amount shall be referred
23 to as the "Group Search Claim Fund." The total of all payments described in Paragraphs 42
24 through 46 shall not exceed the sum of Four Million Dollars (\$4,000,000.00). This amount shall
25 be known as the "Illegal Search Claim Fund."

26 48. The Administrator shall determine whether or not a person who has submitted a
27 Claim Form is an SCM and shall reject claims by persons who are not SCMs.

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1 49. After the Bar Date, the Administrator will determine the total amount owed from
2 the Group Search Claim Fund to all SCM's who have filed valid claim forms for payments from
3 that Fund. In the event that the total amount owed for claims made by SCMs eligible to receive
4 payments from the Group Search Claim Fund exceeds the amount of that Fund, Administrator will
5 reduce the amount which each SCM will receive for each eligible booking and pre-arraignment
6 GROUP SEARCH so that the total of all payments does not exceed the amount of the Group
7 Search Claim Fund. Such reductions shall be made in accordance with the following formula: (1)
8 All persons submitting claims entitled to a payment as described in Paragraph 40 shall be credited
9 with Thirty-Five (35) points for each booking and pre-arraignment GROUP SEARCH they
10 underwent during Class Period 1, up to a maximum of Seventy (70) points; (2) All persons
11 submitting claims entitled to a payment as described in Paragraph 41 shall be credited with Two
12 Hundred (200) points for each booking and pre-arraignment GROUP SEARCH they underwent
13 during Class Period 1, up to a maximum of Four Hundred (400) points; (3) The points assigned to
14 all SCM's will be totaled and divided into the sum of Six Hundred Twenty-Five Thousand Dollars
15 (\$625,000.00) to determine the monetary value of each point. (4) Each SCM's points will be
16 multiplied by the monetary value of each point to determine his or her recovery from the Group
17 Search Claim Fund.

18 50. After the Bar Date, the Administrator will determine the total amount owed from
19 the Illegal Search Claim Fund to all SCM's who have filed valid claim forms for payments from
20 that Fund. In the event that the total amount owed for claims made by SCMs eligible to receive
21 payments from the Illegal Search Claim Fund exceeds the amount of that Fund, Administrator will
22 reduce the amount which each SCM, except those described in Paragraph 46, will receive for each
23 eligible booking and pre-arraignment ILLEGAL SEARCH, so that the total of all payments does
24 not exceed the amount of the Illegal Search Claim Fund. Such reductions shall be made in
25 accordance with the following formula: (1) The amounts owed to persons eligible for payments
26 described in Paragraph 46 shall be deducted from the Illegal Search Claim Fund, and the resulting
27 amount shall be referred to as the "Net Illegal Search Fund;" (2) All persons entitled to a payment
28 as described in Paragraphs 42 and 44, except those entitled to payments described in Paragraph 46,

1 shall be credited with Four (4) points for each booking and pre-arraignment GROUP SEARCH
2 they underwent during Class Period 2, up to a maximum of Eight (8) points and One (1) point for
3 each Minor Enhancement and Two (2) points for each Major Enhancement for which they are
4 eligible pursuant to Paragraph 44; (2) All persons entitled to a payment as described in Paragraphs
5 43 and 45 shall be credited with Six (6) points for each booking and pre-arraignment ILLEGAL
6 SEARCH they underwent during Class Period 2, up to a maximum of Twelve (12) points, and
7 Two (2) points for each Major Enhancement for which they are eligible pursuant to Paragraph 45;
8 (3) The points assigned to all SCM's will be totaled and divided into the amount of the Net Illegal
9 Search Fund to determine the monetary value of each point; (4) Each SCM's points will be
10 multiplied by the monetary value of each point to determine his or her recovery from the Illegal
11 Search Claim Fund.

12 51. Any SCM who fails to submit a Claim Form completed in accordance with the
13 instructions contained therein by the Bar Date or any other Court mandated extension, shall be
14 forever barred from receiving any payment pursuant to the Stipulation of Settlement. Such SCM
15 shall, in all other respects, be bound by all of the terms and conditions of the Stipulation of
16 Settlement, and the judgment entered herein, including but not limited to the release of all
17 Released Persons of all claims resolved herein.

18 52. The Administrator will determine the point value to be assigned to each eligible
19 SCM based upon the Administrator's review of the Claim Forms and the information in the
20 database provided by Defendants.

21 **VI.**

22 **PAYMENT OF DEBTS OWED TO THE COUNTY FROM AWARDS**

23 53. All awards to SCMs paid from the Illegal Search Fund shall be subject to deduction
24 for any Debts Owed as described in Paragraph 10, up to a maximum of Fifty Percent (50%) of the
25 net recovery after any reduction as provided in Paragraph 58. The COUNTY shall provide to the
26 Administrator and Class Counsel, a list of all qualified SCMs who have Debts Owed and who
27 submit valid claims, with the amount and nature of the Debt Owed. The Administrator shall
28 deduct from each SCM's award the amount of the specified Debt Owed, up to a maximum of Fifty

1 Percent (50%) of the net recovery after any reduction as provided in Paragraph 58. The
2 Administrator shall reduce the SCMs' payments and forward to COUNTY or other appropriate
3 agency the amounts deducted from the SCM's awards based upon the unpaid Debts Owed. Copies
4 of the information related to the Debts Owed and the reduction of the awards shall be provided to
5 the SCMs with copies to Class Counsel. Any SCM may submit a written objection to the Debts
6 Owed within thirty (30) days of the date that settlement checks are distributed. The written
7 objection shall specify the grounds for the objection and copies shall be sent to Class Counsel and
8 Defendants' Counsel. In the event that the SCM, Class Counsel and Defense Counsel cannot
9 informally resolve the objection, the objection will be submitted to the Special Master. The fees of
10 the Special Master for resolving such objections shall be paid as a cost of administration of the
11 settlement.

12 **VII.**

13 **GENERAL CLAIM PROCEDURES**

14 54. To receive payment an SCM shall be required to submit to the Administrator an
15 executed Claim Form, signed under penalty of perjury.

16 55. The Claim Form shall be submitted by first class mail and shall be deemed
17 submitted upon the date of the postmark thereon.

18 56. COUNTY will have a period of Forty-Five (45) days from the date each Claim
19 Form is received by its counsel to check each SCM who submits a claim for recovery from the
20 ILLEGAL SEARCH fund against the California Department of Justice criminal history database
21 for convictions or unresolved criminal charges for VDW offenses during the five (5) year period
22 preceding the date of the booking which is the subject of the claim. Any SCM with such criminal
23 history will be ineligible for any payments described in Paragraphs 42 through 46, but shall receive
24 payment, as appropriate, under Paragraph 40 and/or Paragraph 41.

25 57. SCMs who submit claims and whose names appear on the database will be paid by
26 mail at the address specified on the Claim Form. The Representative Plaintiff shall be deemed
27 fully compensated by the distribution for him to Class Counsel of the sum of Seventy-Five
28 Thousand Dollars (\$75,000.00), and he shall not be permitted or required to submit a Claim Form.

1 58. Any recovery for which an SCM who submits a claim for recovery from the
2 ILLEGAL SEARCH fund is eligible shall be reduced by 50% if the SCM was sentenced and
3 confined in any California County jail or in a California State Penitentiary or Correctional
4 Institution for any period of time during the Five (5) years preceding the earliest ILLEGAL
5 SEARCH or GROUP SEARCH during the applicable class period.

6 59. Payments to SCMs who are confined to an Alameda County jail facility at the time
7 of payment will be made to the SCM's jail commissary account.

8 **VIII.**

9 **EXCLUSION FROM THE SETTLEMENT CLASS**

10 60. Any potential SCM who wishes to be excluded from one of the Settlement Classes
11 described in Paragraph 19 must file a Request for Exclusion from the class with the Clerk of the
12 Court, on or before the Bar Date or as the Court may otherwise direct. The Representative
13 Plaintiff may not request exclusion pursuant to this paragraph.

14 61. Any potential SCM who does not timely file a Request for Exclusion shall
15 conclusively be deemed to have become an SCM and to be bound by this Stipulation of Settlement
16 any by all subsequent proceedings, orders, and judgments herein.

17 62. Any SCM who does not elect to be excluded from the Settlement Class may, but
18 need not, enter an appearance through his or her own attorney. SCMs who do not enter an
19 appearance will be represented by Class Counsel.

20 63. The Defendants may, in their sole discretion, withdraw from the Stipulation of
21 Settlement if the number of Opt-Outs from the Group Search Class exceeds Twenty-Five (25) or if
22 the number of Opt-Outs from the Illegal Search Class exceeds Fifteen (15). Defendants will
23 advise the Court of their election no less than Fifteen (15) days prior to fairness hearing. If
24 Defendants withdraw pursuant to this provision of Stipulation of Settlement, the Stipulation of
25 Settlement will be null and void.

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27 \\\
28 \\\

1 IX.

2 **OBJECTING TO THE PROPOSED SETTLEMENT**

3 64. Any SCM who does not elect to be excluded from the Settlement Class may, but
4 need not, submit comments or objections to the proposed settlement. The Court will enter an
5 appropriate order setting forth the procedure for SCMs to submit comments or objections to the
6 proposed settlement.

7 X.

8 **ATTORNEYS' FEES AND COSTS**

9 65. Class Counsel shall receive a total award of One Million One Hundred Seventy-
10 Five Thousand Dollars (\$1,175,000.00) for attorneys' fees, costs and expenses incident to
11 prosecuting this action, inclusive of any costs and fees incurred in seeking final approval of this
12 Stipulation of Settlement and the defense thereof in any court or jurisdiction. Payment will be
13 made as follows: Five Hundred Eighty-Seven Thousand Five Hundred Dollars (\$587,500.00) will
14 be paid within Thirty (30) days of the Effective Date by check made payable to the Law Office of
15 Mark E Merin and delivered to Class Counsel at 2001 P Street, Suite 100, Sacramento, CA 95814.
16 The remaining Five Hundred Eighty-Seven Thousand Five Hundred Dollars (\$587,500.00) will be
17 paid at the time of distribution of settlement funds to the SCMs by delivery of a check made
18 payable and delivered as specified above. This award is subject to the approval of the Court.

19 XI.

20 **NOTICE**

21 66. Notice to SCMs defined in Paragraph 18, including a Claim Form with a postage
22 pre-paid return envelope, shall be by first class mail, postage prepaid, to all individuals whose
23 addresses are on record in databases maintained by the Alameda County Sheriff's Department
24 and/or the Alameda County Information Technology Department, or to such other, better addresses
25 identified by the Administrator. Such information will be provided to the Administrator, subject to
26 the protective order referred to in Paragraph 22. Both Parties and the Administrator will exercise
27 their best efforts to update and to verify addresses, including but not limited to addresses of SCMs
28 who are incarcerated. This paragraph shall not limit further appropriate efforts to provide notice.

