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19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

21 JESSE HERNANDEZ et al., on behalf of
 22 themselves and all others similarly situated,

23 Plaintiffs,

24 v.

25 COUNTY OF MONTEREY; MONTEREY
 COUNTY SHERIFF’S OFFICE;
 26 CALIFORNIA FORENSIC MEDICAL
 GROUP, INCORPORATED, a California
 27 corporation; and DOES 1 to 20, inclusive,

28 Defendants.

Case No. CV 13 2354 PSG

~~PROPOSED~~ ORDER GRANTING
 STIPULATED MOTION FOR
 PRELIMINARY APPROVAL OF
 CLASS ACTION SETTLEMENT
 AND EXTENSION OF TIME FOR
 PRELIMINARY INJUNCTION
 COMPLIANCE

Judge: Hon. Paul S. Grewal

[No Hearing Requested]

1 1. The Court finds that the proposed settlement falls within the range of
2 possible approval and is sufficiently fair to warrant the dissemination of notice to the class
3 members apprising them of the settlement.

4 2. The proposed settlement is the product of arm's-length, serious, informed
5 and non-collusive negotiations between experienced and knowledgeable counsel who have
6 actively prosecuted and defended this litigation.

7 3. The Settlement Agreement is granted preliminary approval and incorporated
8 herein by this reference, and has the full force and effect of an order of the Court.

9 4. A hearing is appropriate to consider whether this Court should grant final
10 approval to this settlement, and to allow adequate time for members of the class, or their
11 counsel, to support or oppose this settlement.

12 GOOD CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED:

13 5. This action is determined to be properly maintained as a class action
14 pursuant to Rule 23(b)(2), Federal Rules of Civil Procedure. The Court has already
15 certified a class defined as "all adult men and women who are now, or will be in the future,
16 incarcerated in the Monterey County Jail." The Court also certified a sub-class of "all
17 qualified individuals with a disability, as that term is defined in 42 U.S.C. § 12102, 29
18 U.S.C. § 705(9)(B), and California Government Code § 12926(j) and (m), and who are
19 now, or will be in the future, incarcerated in the Monterey County Jail."

20 6. Within 7 days after this Order granting Preliminary Approval, the written
21 notice of settlement (the "Notice") shall be disseminated to the Class, substantially in the
22 form attached as Exhibit B to the Declaration of Ernest Galvan accompanying the
23 Stipulated Motion by the following means: (1) For the benefit of all class and sub-class
24 members, written Notices shall be posted throughout the Monterey County Jail, in the
25 same locations within the Jail that the Parties agreed class certification notices were to be
26 placed. (2) Copies of the Settlement Agreement shall be available in the Jail library and
27 made available to Jail inmates upon request. (3) Inmates under the custody of the
28 Monterey County Sheriff's Office who reside at other locations (such as Natividad

1 Medical Center or the jail in Alameda County) shall be sent the Notice by first class mail
2 to their last known address, or shall be provided with the notice in person by custodial
3 staff. (4) The Notice and the Settlement Agreement shall be posted on the website of the
4 Monterey County Sheriff's Office and made available for public review and downloading.
5 The notice informs class members that there is no right to opt-out of the class. The Court
6 certified a Rule 23(b)(2) class in which the class seeks “uniform relief from a practice
7 applicable to all of them,” rather than “damages or relief for any specific Plaintiff.” (Dkt.
8 No. 431 at 48.) Opt-out rights are “contradictory to the very nature of . . . (b)(2) class
9 actions.” Newberg on Class Actions § 9:51 (5th ed.). The Notice constitutes valid, due,
10 and sufficient notice to the class, constitutes the best notice practicable under the
11 circumstances, and complies fully with the requirements of Rule 23 of the Federal Rules of
12 Civil Procedure. The proposed forms of Notice apprise class members in a fair and neutral
13 way of the existence of the settlement with the Defendants and their rights with respect to
14 the settlement.

15 7. The expense of giving notice to the class members shall be paid by the
16 Defendants. Dissemination of the Notice as provided above is hereby authorized and
17 approved, and satisfies the notice requirement of Rule 23(e), Federal Rules of Civil
18 Procedure, the Constitution of the United States, due process and any other applicable
19 rule(s) of this Court. No later than June 1, 2015, Defendants must file and serve on
20 Plaintiffs' counsel an affidavit affirming that they published notice as required in the
21 Court's order.

22 8. Any member of the class may write to the Court about whether the
23 settlement is fair. The Court will consider written communications when deciding whether
24 to approve the settlement. Comments must include at the top of the first page the case
25 name, *Hernandez v. County of Monterey* and case number (5:13-cv-02354-PSG).
26 Comments must be postmarked no later than July 11, 2015, and sent to the following
27 address:

28 Clerk of the Court

1 United States District Court
2 Northern District of California
3 280 South 1st Street
4 San Jose, CA 95113

5 9. A final approval hearing pursuant to Rule 23(e), Federal Rules of Civil
6 Procedure, will be in the Courtroom of undersigned on August 4, 2015 at 10:00 a.m. in the
7 United States District Court for the Northern District of California, to determine whether
8 the proposed settlement is fair, reasonable and adequate, and whether it should be finally
9 approved by the Court. The hearing may be continued from time to time without further
10 notice.

11 10. Party briefs in support of final approval shall be filed on or before July 28,
12 2015.

13 11. Plaintiffs' motion for reasonable attorneys' fees and expenses shall be filed
14 and served no later than October 2, 2015. Defendants' response to the fees motion shall be
15 filed and served no later than October 16, 2015. Plaintiffs' reply shall be filed and served
16 no later than October 23, 2015. A hearing on the motion for attorneys' fees and expenses
17 shall be held on November 6, 2015.

18 12. The deadlines set by the Order Granting Motion for Preliminary Injunction
19 (Docket No. 460, at 42-44) are amended as follows:

20 a. No later than July 30, 2015, Defendants must provide to Plaintiffs'
21 counsel the plans to address the elements set forth at pages 42-44 of the Order. The plans
22 shall not be filed with the Court.

23 b. No later than 10 days thereafter Plaintiffs shall respond with specific
24 comments or objections if any.

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1 c. The Parties shall meet and confer to resolve all disputed items within
2 30 days thereafter. Any unresolved items shall be submitted to the agreed upon mediator,
3 Hon. Nathanael Cousins. If the Parties are still unable to agree to the content of the plans,
4 the Parties shall submit disputed issues to the Court.

5 IT IS SO ORDERED.

6 DATED: May 15, 2015

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9 Paul S. Grewal
Magistrate Judge of the U.S. District Court

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