

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JANE DOE,)
)
Plaintiff,)
) 87 C 3594
-vs-)
) Judge Shadur
CALUMET CITY, ILLINOIS)
et al.,)
)
Defendants.)

SETTLEMENT AGREEMENT

INTRODUCTION

This settlement agreement is entered into by the parties to this action through their respective undersigned counsel to resolve all matters at issue in the above referred cause.

Pursuant to the Court's order of October 1, 1987, this case is being maintained as a class action on behalf of all women who were arrested on misdemeanor or ordinance violation charges in Calumet City, Illinois between April 16, 1982 and March 31, 1988. The defendants are the City of Calumet City and its former police chief James Shutowski.

On December 12, 1990, the Court granted plaintiffs' motion for summary judgment and entered a finding of liability against Calumet City.

On January 6, 1992, the Court found that class members have received the best notice practicable, as required by Rule 23(c)(2) of the Federal Rules of Civil Procedure and that class counsel's efforts to communicate

with class members have satisfied the requirements of the Due Process Clause of the Fourteenth Amendment.

Following the identification of all class members, the parties have worked to quantify the amount of damages that, in light of the district court's finding of liability, would be due to each class member. In making these judgments, counsel have been guided by decisions of the United States Court of Appeals for the Seventh Circuit setting strict rules on the amount of recoverable damages in strip search cases.

Following their evaluation of the claim of each class member, counsel for the parties have agreed to avoid the uncertainty, delay, distraction, and expense of further litigation by compromising all claims at issue in accordance with the monetary settlement described below.

MONETARY SETTLEMENT

To resolve all claims at issue in this case, including but not limited to claims for compensatory and punitive damages, and claims for attorneys' fees and expenses, the parties have agreed to a settlement of all claims at issue in the case. With respect to the claims asserted on behalf of the class, the plaintiff class has agreed to waive its right to individual damage trials. The defendants have agreed to waive their right to appeal from the district court's finding of liability and defendant Calumet City has agreed to the immediate entry of a consent judgment in favor of the plaintiff class in the amount of

\$6,013,000 (six million thirteen thousand dollars).

Attorneys fees and expenses will be paid from this common fund, in an amount to be set by the Court; the total amount of attorneys' fees will not exceed 30% of the total settlement fund. The remainder of the fund will be paid in accordance with the distribution formula described below.

THE DISTRIBUTION FORMULA

The parties, while recognizing that each class member has a distinct claim for damages, agree that the expense, uncertainty, and delay of providing each class member with an individual determination of damages outweighs the benefits of distribution by a formula based on the following principles:

1. Each class member has been rated by class counsel into one of six categories, based primarily on the intrusiveness of the alleged search. An outline of the considerations used by class counsel is attached to this agreement as Exhibit 1.

2. Class counsel has used the aggravating and mitigating factors conventionally used by attorneys in assessing cases to subdivide category 6 into "low," "medium," and "high."

3. Class counsel has notified each class member of her rating and has provided each class member with an opportunity to discuss in person the rating.

4. The amount to be paid to each category will depend on the total number of class members in each category, as follows:

a) Each category will receive a point rating, as set out below:

<u>Category</u>	<u>Points</u>
1	15
2	25
3	45
4	65
5	80
6 (low)	100
6 (mid)	110
6 (high)	120

b) The award for each category will be determined by dividing the total of the settlement fund (less whatever amount is awarded for attorneys' fees and expenses) by the total number of points. The parties expect that the final award for each category will be approximately as follows:

<u>Category</u>	<u>Probable Award</u>
1	\$3000
2	5000
3	9000
4	13000
5	16000
6 (low)	20000
7 (mid)	22000
6 (high)	24000

c) A separate category, with a point value of 50, has been established for claims asserted for class members who are no longer living. It is estimated that the

estate of each deceased class member will receive approximately ten thousand dollars.

5. A class member who disagrees with class counsel's rating may seek review of her category with the Court. In order to seek such review, the class member must file with the Clerk of the Court, 219 South Dearborn Street, 20th floor, Chicago, Illinois 60604, a "request for review" in the form set out in Exhibit "2" to this agreement. Any such "request for review" shall be filed with and received by the Clerk of the Court at least one week in advance of the hearing to be held on the fairness of this settlement. The Court shall provide each class member who files such a request for review an opportunity to be heard, either before the Court or before a special master, on her objections. Any class member who, after hearing before the district judge, does not obtain an increase in her total number of points shall have her point rating diminished by five points. In the event the Court exercises its discretion to appoint a special master, the costs of the master will be paid out of the settlement fund.

6. After all challenges have been resolved, a final determination of the damages due to each class member will be made in accordance with the computations described in paragraph 4(b) above.

DISTRIBUTION AND PAYMENT OF SETTLEMENT

1. In order to receive her share of the settlement each class member must sign and return to class counsel a

satisfaction of judgment, in a form to be agreed to by counsel for the parties. The satisfaction shall be signed by the personal representative, if any, or if there is no personal representative, shall be signed in the name of deceased class members by the person entitled under Illinois law to execute a small estate affidavit. Class counsel shall provide the signed satisfaction of judgment to the attorneys for the defendants.

2. Following delivery to defendants' counsel of the satisfaction form referred to in the preceding paragraph, class counsel shall prepare checks for the amount due to each class member under the settlement.

3. Unless otherwise instructed by the class member, class counsel shall distribute the proceeds of the settlement to each class member by certified mail, return receipt requested, to the address last provided to class counsel. A class member who desires to pick up her check in person or who wishes that her check be mailed to another address, or that her share of the settlement be wire transferred to an established account, must notify class counsel in writing of this desire.

ATTORNEYS' FEES AND EXPENSES

1. Class counsel has submitted seven interim fee petitions through this litigation, summarizing the total number of hours performed by each attorney, clerk, and paralegal who has worked on behalf of the plaintiff class.

2. The parties are in agreement that a percentage award of thirty percent of the common fund for the fees and expenses which have been and which will be rendered and incurred for the class is neither excessive nor unreasonable.

MISSING CLASS MEMBERS

1. The parties are aware that approximately 10 class members have lost contact with class counsel.

2. Class counsel shall use reasonable efforts to locate the above described class members and may incur reasonable investigative expenses in attempting to locate these class members.

3. Compensation for the services rendered and reimbursement for the expenses incurred in attempting to locate the above described class members shall be in an amount set by the Court, to be paid out of the missing class members' funds.

4. When an above described ("missing") class member has been located, class counsel shall obtain from the class member and provide to defendants' counsel a signed satisfaction of judgment form. Following delivery to defendants' counsel of the satisfaction form, class counsel shall prepare checks for the amount due to each "missing" class member under the settlement and distribute such checks in manner set out in paragraph 3 of "distribution and payment of settlement" above.

5. On December 15, 1993, or on such later date as may be set by the Court on motion for good cause shown of counsel, all funds due to missing class members shall be distributed to the remaining members of the class, in proportion to the original payout.

RESERVATION OF JURISDICTION

The parties agree that the Court will reserve jurisdiction to enforce the provisions of this agreement.
Agreed to, this 10th day of September, 1993

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