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April 18, 2011

The Honorable Gary L. Sharpe
United States District Judge
United States District Court
for the Northern District of New York
James T. Foley United States Courthouse
445 Broadway
Albany, NY 12207

Re: *McDaniel v. County of Schenectady*, No. 04-CV-757 (GLS/RFT)

Dear Judge Sharpe:

I am lead counsel in the above-captioned action. Currently, the settlement administrator has a limited number of unclaimed and/or uncashed payments in the settlement escrow account. Presently, approximately 270 class members have not received some or all of their settlement payment, and the total amount of these unclaimed funds is \$ 179,163.77. Given that the Court has ruled that the administrator cannot be compensated for additional efforts on behalf of the class after class counsel's unsuccessful appeal on attorneys' fees, the settlement administrator has asked my office to take over this account and address any remaining payments to class members. With permission from the Court, I plan to do so. As the Court is aware, many class members are currently expressing dissatisfaction with not being able to receive their supplemental settlement payments, and I hope to address this problem in short order.

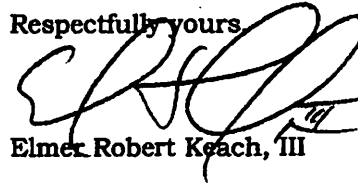
I have discussed this issue with the Defendants' counsel, William Greagan, and we have agreed on a plan to address outstanding payments due to class members. Class Counsel requests leave of Court to have the settlement administrator close their bank account, and to have those funds deposited in a bank account with my office entitled the "SCJ Escrow Account." This bank account will be handled in a manner identical to that provided under the Rules of Professional Conduct for attorney escrow accounts. My office will then endeavor to locate and pay all remaining claimants. The County will provide my office with any new booking information for class members admitted to the Schenectady County Jail after the first distribution following an initial effort by my office to locate these individuals. The County's attorney, and the Court, will have access to information about the bank account, and I will provide the Court with a report on December 1, 2011 regarding any funds remaining in the account. Attorney Greagan and I have not reached an agreement about how to address any unclaimed funds, but plan to discuss the matter later in the year. Should the parties not be able to agree on this point, we will seek a conference with the Court in due course.

I respectfully suggest that Your Honor adopt this proposal, and I have provided a proposed form order at the end of this letter. Thank you for your consideration of this letter.

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Should Your Honor require anything further, please do not hesitate to contact me.

Respectfully yours



Elmer Robert Keach, III

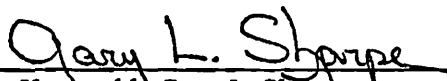
cc:

By *ECF*
William Greagan, Esquire
Class Counsel

THE COURT, HAVING CONSIDERED CLASS COUNSEL'S PROPOSAL, HEREBY ORDERS AS FOLLOWS:

1. THE SETTLEMENT ADMINISTRATOR MAY CLOSE ITS BANK ACCOUNT, AND PAY ALL REMAINING MONIES TO ATTORNEY KEACH FOR CONTINUING ADMINISTRATION.
2. ATTORNEY KEACH WILL DEPOSIT THESE FUNDS INTO A SPECIAL ESCROW ACCOUNT, TO BE ENTITLED THE "SCJ ESCROW ACCOUNT," FOR THE PURPOSE OF LOCATING AND PAYING ALL REMAINING CLASS MEMBERS. ATTORNEY KEACH WILL MAKE ANY BANK STATEMENTS AND CANCELLED CHECKS AVAILABLE TO DEFENDANTS' COUNSEL, AND WILL BEAR THE COSTS OF OPENING AND MAINTAINING THIS BANK ACCOUNT. THIS ACCOUNT WILL BE HANDLED IN A COMPARABLE MANNER TO ATTORNEY ESCROW ACCOUNTS UNDER THE NEW YORK RULES OF PROFESSIONAL CONDUCT.
3. SCHENECTADY COUNTY WILL PROVIDE CLASS COUNSEL WITH BOOKING RECORDS FOR ALL INDIVIDUALS WHO HAVE NOT BEEN FULLY PAID UNDER THE SETTLEMENT WITHIN A REASONABLE TIME AFTER RECEIVING A WRITTEN LIST FROM CLASS COUNSEL OF INDIVIDUALS WHO ARE NOT ABLE TO BE LOCATED.
4. CLASS COUNSEL SHALL MAKE REASONABLE EFFORTS TO LOCATE AND PAY ALL REMAINING CLASS MEMBERS, AND WILL HAVE SIGNATURE AUTHORITY OVER THE "SCJ ESCROW ACCOUNT" TO FACILITATE PAYMENT TO CLASS MEMBERS.
5. CLASS COUNSEL WILL REPORT TO THE COURT ON DECEMBER 1, 2011 REGARDING THE STATUS OF ANY UNCLAIMED FUNDS, AND A PROPOSAL FOR A DISPOSITION OF THOSE FUNDS, ASSUMING THE PARTIES AGREE ON A DISPOSITION. SHOULD THE PARTIES NOT AGREE, THE PARTIES WILL SEEK A CONFERENCE WITH THE COURT ON OR BEFORE NOVEMBER 15, 2011 TO DISCUSS THE MATTER.

IT IS SO ORDERED:


The Honorable Gary L. Sharpe
United States District Judge

DATED:

May 5, 2011

