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15 UNITED STATES DISTRICT COURT

16 EASTERN DISTRICT OF CALIFORNIA: FRESNO DIVISION

17
18 Pamela Kincaid, Doug Deatherage, Charlene
Clay, Cynthia Greene, Joanna Garcia, Randy
19 Johnson, Sandra Thomas, Alphonso Williams,
and Jeannine Nelson, Individually on Behalf of
20 Themselves and All Others Similarly Situated,

21 Plaintiff,

22 v.

23 City of Fresno, Alan Autry, Jerry Dyer, Greg
Garner, Reynaud Wallace, John Rogers, Phillip
24 Weathers, Will Kempton, James Province, Daryl
Glenn, Individually and in Their Official
Capacities; DOES 1-100, inclusive,

25 Defendant.

Civil Action No.: 06-CV-1445-OWW

**ORDER RE: NOTICE OF
PENDENCY OF CLASS ACTION
AND PLAN FOR DISTRIBUTION
OF CLASS NOTICE**

1 This matter came before the Court at a Hearing on Class Notice on September 17,
2 2007, at 11:00 a.m., pursuant to this Court's Decision And Order Granting Plaintiffs'
3 Motion To Certify Class of August 14, 2007.

4 Approval of the form and content of the Class Notice is HEREBY GRANTED
5 and IT IS HEREBY ORDERED as follows:

6 **1. Proposed Form and Content of Notice.** On September 17, 2007, at 11:00
7 a.m., all parties appeared before the Court for the Hearing on Class Notice. The Class
8 Notice attached as Exhibit A shall be distributed to Class Members as a one-page notice
9 with text on both sides of the page, and an attached form of election to be excluded from the
10 Class. This Notice shall also be translated into Spanish, which all Defendants shall have the
11 opportunity to review prior to distribution.

12 **2. Plan for Communicating Notice to the Class.** Plaintiffs shall distribute the
13 Notice in the following manner:

14 (a) Plaintiffs shall make a reasonable and diligent effort to personally
15 provide the Notice to potential class members at the tents or other shelters of homeless
16 people that can be located with reasonable effort in the City of Fresno;

17 (b) Plaintiffs shall provide copies of the Notice to the St. Benedict Catholic
18 Worker, the Poverello House, Naomi's House and the Fresno Rescue Mission for
19 distribution to homeless persons who come into contact with those organizations;

20 (c) Plaintiffs shall publish the Notice in the Community Alliance, a free
21 newspaper that is generally distributed to and read by homeless persons, among others; and

22 (d) To the extent that Class Members have a known mailing address,
23 Plaintiffs shall mail the Notice to that known address by first class mail.

24 **3. Timing of Notice.** Plaintiffs shall begin providing notice in the manner
25 described above within five (5) days after receiving the Court's Order approving the form
26 and content of the Notice and will complete their efforts to provide notice within
27 approximately sixty (60) days thereof. Plaintiffs' counsel shall advance the costs of notice,
28 which they will claim as a recoverable cost in this matter.

1 **4. Certification That Notice Has Been Completed.** Within thirty (30) days of
2 the conclusion of the mailing, distribution, posting, and publishing of all notice, Class
3 Counsel shall file and serve a sworn declaration specifying that Class Notice has been
4 provided to members of the Class in the manner identified in Section Two *supra*.

5 **5. Administration of Notice.** Class Counsel shall record any opt-outs that are
6 received and maintain copies of any opt-out forms that are received. Class Counsel shall
7 notify the Court and the Defendants of the identity of any potential Class member who
8 requests to opt out as a Class member. Class Counsel shall retain copies of any
9 communications it receives in response to the Class Notice until the final conclusion of the
10 litigation. The Class may apply to seek and send supplemental notice in the event that
11 additional potential Class members are discovered who should be included in the Class as
12 approved by the Court's Order dated August 14, 2007.

13 **6. Miscellaneous.** To avoid confusion among class members, and by the
14 agreement of all parties, this case shall remain titled *Kincaid, et al. v City of Fresno, et al.* ,
15 despite Ms. Kincaid's death.

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17 IT IS SO ORDERED.

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19 Dated: September 28, 2007

_____/s/ OLIVER W. WANGER_____
UNITED STATES DISTRICT JUDGE

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[Exhibit A]