

1 Mark E. Merin (State Bar No. 043849)  
2 **LAW OFFICE OF MARK E. MERIN**  
3 1010 F Street, Suite 300  
4 Sacramento, California 95814  
5 Telephone: (916) 443-6911  
6 Facsimile: (916) 447-8336  
7 E-Mail: mark@markmerin.com

8 Alan Schlosser (State Bar No. 049957)  
9 Michael T. Risher (State Bar No. 191627)  
10 Linda Lye (State Bar No. 215584)  
11 Novella Coleman (State Bar No. 281632)  
12 **AMERICAN CIVIL LIBERTIES UNION**  
13 **FOUNDATION OF NORTHERN CALIFORNIA**  
14 39 Drumm Street  
15 San Francisco, California 94111  
16 Telephone: (415) 621-2493  
17 Facsimile: (415) 255-1478  
18 E-Mail: aschlosser@aclunc.org  
19 mrisher@aclunc.org  
20 llye@aclunc.org  
21 ncoleman@aclunc.org

22 Meredith Wallis (State Bar No. 261457)  
23 1057 East 33<sup>rd</sup> Street  
24 Oakland, California 94610  
25 Telephone: (713) 724-4047  
26 E-Mail: mewallis@stanford.edu

27 *Attorneys for Plaintiffs*

28 **CROWELL & MORING LLP**

29 J. Daniel Sharp (CSB No. 131042, dsharp@crowell.com)  
30 Kevin P. O'Brien (CSB No. 215148, kobrien@crowell.com)  
31 Suzanne E. Rode (CSB No. 253830, srode@crowell.com )  
32 275 Battery Street, 23rd Floor  
33 San Francisco, CA 94111  
34 Telephone: 415.986.2800  
35 Facsimile: 415.986.2827

36 **P O R T E R | S C O T T**

37 **A PROFESSIONAL CORPORATION**

38 Nancy J. Sheehan, (CSB No. 109419, nsheehan@porterscott.com )  
39 Terence J. Cassidy, (CSB No. 099180, tcassidy@porterscott.com )  
40 Katherine L.M. Mola, (CSB No. 264625, kmola@porterscott.com )  
41 350 University Avenue, Suite 200  
42 Sacramento, California 95825  
43 (916) 929-1481 (telephone)  
44 (916) 927-3706 (facsimile)

45 *Attorneys for Defendant*

46 **THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**

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2  
3 UNITED STATES DISTRICT COURT  
4 EASTERN DISTRICT OF CALIFORNIA

5 ENOSH BAKER, *et al.*, ,

6 Plaintiffs,

7 v.

8 THE REGENTS OF THE UNIVERSITY OF  
9 CALIFORNIA,

10 Defendant.

Case No. 2:12-cv-00450 JAM EFB

<sup>JAM</sup>  
11 ~~PROPOSED~~ ORDER GRANTING  
12 PRELIMINARY APPROVAL OF  
13 PROPOSED SETTLEMENT,  
14 CERTIFYING THE SETTLEMENT  
15 CLASS, APPROVING CLASS NOTICE  
16 AND SCHEDULING FINAL  
17 APPROVAL HEARING

12 The Court having reviewed and considered the Joint Application for Preliminary Approval  
13 of Settlement (“Joint Application”), filed on September 26, 2012, by Plaintiffs Enosh Baker,  
14 David Buscho, Alyson Cook, Adam Fetterman, Sarena Grossjan, Deanna Johnson, Sophia  
15 Kamran, Elizabeth Lara, Ian Lee, Soo Lee, Evan Loker, Thomas Matzat, Darren Newell, Charles  
16 Parker, William Roberts, Fatima Sbeih, Evka Whaley-Mayda, Kase Wheatley, Edward Geoffrey  
17 Wildanger, Noah Wiley, and Jordan Wilhelm (collectively “Plaintiffs”); and Defendant The  
18 Regents of the University of California (the “Regents”) (all collectively the “Parties”), and having  
19 reviewed and considered the terms and conditions for the proposed settlement (the “Settlement”)  
20 as set forth in the Stipulation for Settlement dated September 26, 2012, a copy of which has been  
21 submitted as Exhibit A to the Joint Application, and on the basis of such submissions, together  
22 with any other submissions in support of the Joint Application, and for good cause shown, it is  
23 hereby ORDERED:

24 **PRELIMINARY APPROVAL OF SETTLEMENT**

25 1. The terms of the Settlement are preliminarily approved, subject to further  
26 consideration at the Final Approval Hearing provided for below. The Court concludes that the  
27 Settlement is sufficiently within the range of reasonableness to warrant the preliminary  
28

1 certification of the proposed class described in the Stipulation for Settlement, the scheduling of a  
2 hearing for final approval of the settlement, and the circulation of the notice to the putative class  
3 members, each as provided for in this order.

4 **PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS**

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6 2. For purposes of settlement only, pursuant to Federal Rules of Civil Procedure  
7 23(a) and 23(b)(3), the action titled *Baker, et al. v. The Regents of the University of California*,  
8 Case No. 12-cv-00450-JAM-EFB, is preliminarily certified as a class action on behalf of the  
9 following persons (collectively, the “Class” and each of the Class a “Class Member”):

10 All persons who were arrested or directly sprayed with pepper  
11 spray by police officers working for or on the behalf of the  
12 University of California, Davis Police Department on November  
13 18, 2011, on the area known as “the Quad,” on the University of  
14 California, Davis campus.

15 3. Plaintiffs Enosh Baker, David Buscho, Alyson Cook, Adam Fetterman, Sarena  
16 Grossjan, Deanna Johnson, Sophia Kamran, Elizabeth Lara, Ian Lee, Soo Lee, Evan Loker,  
17 Thomas Matzat, Darren Newell, Charles Parker, William Roberts, Fatima Sbeih, Evka Whaley-  
18 Mayda, Kase Wheatley, Edward Geoffrey Wildanger, Noah Wiley, and Jordan Wilhelm  
19 (hereinafter “Representative Plaintiffs”) are appointed as representatives of the Class.

20 4. Mark Merin of the Law Office of Mark E. Merin, the American Civil Liberties  
21 Union Foundation of Northern California (“ACLU”), and Meredith Wallis are appointed and  
22 designated as counsel for the Class.

23 5. This certification of the Class, appointment of the Representative Plaintiffs and  
24 appointment and designation of Class Counsel are solely for purposes of effectuating the  
25 Settlement. If the Stipulation for Settlement is terminated or is not consummated for any reason,  
26 the foregoing certification of the Class, appointment of the Representative Plaintiffs and  
27 designation of Class Counsel shall be void and of no effect and the Parties to the Stipulation for  
28 Settlement shall be returned to the status each occupied before entry of this order without  
prejudice to any legal argument that any of the Parties to the Stipulation for Settlement might  
have asserted but for the Stipulation for Settlement.

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2 6. Based on the Court's review of the Joint Application and supporting materials, the  
3 Court preliminarily finds that the proposed Class satisfies Rules 23(a), 23(b)(2) and 23(b)(3).

4 **FINAL APPROVAL HEARING**

5 7. A hearing shall be held in Courtroom 6, United States District Court, Eastern  
6 District of California, at 9:30 a.m. on January 9, 2013, to consider whether the  
7 settlement should be given final approval.

8 8. Objections by class members who do not timely elect to exclude themselves from  
9 the class to the proposed settlement should be considered if filed in writing with the clerk on or  
10 before November 12, 2012.

11 9. At the hearing, class members who do not timely elect to exclude themselves from  
12 the class may be heard orally in support of or in opposition to the settlement, provided such  
13 persons file with the clerk by November 12, 2012 written notification of the desire to appear  
14 personally, indicating (if in opposition to the settlement) briefly the nature of the objection.

15 10. Counsel for the Class and for the Defendant should be prepared at the hearing to  
16 respond to objections filed by such class members and to provide other information, as  
17 appropriate, bearing on whether or not the settlement should be approved.

18 **NOTICE TO SETTLEMENT CLASS**

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20 11. By October 11, 2012 Defendant's counsel shall cause to be sent via electronic mail  
21 in the name of the clerk to all students enrolled in one or more classes at the Davis campus during  
22 the Fall Quarter of 2011 for whom the Regents have a valid e-mail address, the Notice attached as  
23 Exhibit B to the Joint Application.

24 12. By October 11, 2012 Defendant's counsel shall cause to be published once each in the  
25 UC Davis *Aggie* and the Davis *Enterprise* the Publication Notice in substantially the same style  
26 and format as the summary notice attached as Exhibit C to the Joint Application.  
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IT IS SO ORDERED.

Dated: September 27, 2012

  
UNITED STATES DISTRICT COURT JUDGE

Approved as to form:

Dated: September 26, 2012

LAW OFFICE OF MARK E. MERIN

By: /s/ "Mark E. Merin"  
Mark E. Merin  
Attorneys for Plaintiffs

Dated: September 26, 2012

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF NORTHERN CALIFORNIA

By: /s/ "Alan Schlosser"  
Alan Schlosser  
Michael Risher  
Attorneys for Plaintiffs

Dated: September 26, 2012

MEREDITH WALLIS

By: /s/ "Meredith Wallis"  
Meredith Wallis  
Attorneys for Plaintiffs

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Dated: September 26, 2012

CROWELL & MORING LLP

By: /s/ "J. Daniel Sharp"  
J. Daniel Sharp  
Attorneys for Defendant The Regents of the  
University of California

Dated: September 26, 2012

PORTER SCOTT LLP

By: /s/ "Nancy J. Sheehan"  
Nancy J. Sheehan  
Terence J. Cassidy  
Attorneys for Defendant The Regents of the  
University of California