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1 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

2
3 UNITED STATES DISTRICT COURT
4 EASTERN DISTRICT OF CALIFORNIA

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6 ENOSH BAKER, *et al.*, ,

7 Plaintiffs,

8 v.

9 THE REGENTS OF THE UNIVERSITY OF
10 CALIFORNIA,

11 Defendant.

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

**SUPPLEMENTAL ORDER GRANTING
PRELIMINARY APPROVAL OF
PROPOSED SETTLEMENT,
CERTIFYING THE SETTLEMENT
CLASS, APPROVING CLASS NOTICE
AND SCHEDULING FINAL
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**

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

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

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

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

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

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

FINAL APPROVAL HEARING

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

8. Objections by class members who do not timely elect to exclude themselves from the class to the proposed settlement should be considered if filed in writing with the clerk on or before November 13, 2012.

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

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

NOTICE TO SETTLEMENT CLASS

11. By October 11, 2012 Defendant’s counsel shall cause to be sent via electronic mail in the name of the clerk to all students enrolled in one or more classes at the Davis campus during the Fall Quarter of 2011 for whom the Regents have a valid e-mail address, the Notice attached as Exhibit 1 to this Order. Exhibit 1 is a modification of the Notice attached as Exhibit B to the Joint Application.

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

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IT IS SO ORDERED.

Dated: October 3, 2012

/s/ JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE

Approved as to form:

Dated: October 2, 2012

LAW OFFICE OF MARK E. MERIN

By: /s/Mark E. Merin [authorized 10/2/12]
Mark E. Merin
Attorneys for Plaintiffs

Dated: October 2, 2012

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN CALIFORNIA

By: /s/Alan Schlosser [authorized 10/2/12]
Alan Schlosser
Michael Risher
Attorneys for Plaintiffs

Dated: October 2, 2012

MEREDITH WALLIS

By: /s/Meredith Wallis [authorized 10/2/12]
Meredith Wallis
Attorneys for Plaintiffs

1 Dated: October 2, 2012

CROWELL & MORING LLP

2

By: /s/J. Daniel Sharp [authorized 10/2/12]

3

J. Daniel Sharp
Attorneys for Defendant The Regents of the
University of California

4

5 Dated: October 2, 2012

PORTER SCOTT LLP

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By: /s/ Nancy J. Sheehan

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Nancy J. Sheehan
Terence J. Cassidy
Attorneys for Defendant The Regents of the
University of California

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