

**SETTLEMENT AGREEMENT; STIPULATION OF SETTLEMENT
AND DISMISSAL**

This is a class action arising under § 1983 of the Civil Rights Act of 1871, 42 U.S.C. § 1983, California Civil Code §§ 815.6 and 52.1, and Penal Code § 4030. Plaintiffs filed a complaint seeking monetary damages for allegedly unlawful strip search policies and practices of the County of San Bernardino [hereafter “County”].

The plaintiffs are present and former inmates of the San Bernardino County Jail who fit into one or more of the five categories defined herein.

In the interest of avoiding expense, delay and inconvenience of further litigation of issues raised in this action, without any admission of liability by or on the part of defendants, and in reliance upon the representations contained herein, and in consideration of the mutual promises, covenants and obligations in this Agreement, and for good and valuable consideration, plaintiffs and defendants, through their undersigned counsel, agree and stipulate/ as follows. This Settlement Agreement is not an order of the Court, except as, and to the extent, it may be adopted by a court. It is a contract, and all of its provisions are enforceable by the parties under contract law.

This settlement provides for dismissal of this case with prejudice in exchange for consideration of approximately \$25,500,000 to class members and their attorneys, and for San Bernardino County’s change in policy regarding the handling of the classes covered by this settlement, as defined herein.

DEFINITIONS AND GENERAL PROVISIONS

The listed terms used throughout this Stipulation of Settlement and Dismissal are intended to have the following meanings:

1. **Allocation and Distribution Plan.** The Plaintiffs' proposed plan for the allocation and distribution of the Class Fund, set out in the Final Order of Approval and Settlement.
2. **Class.** All Class Members.
3. **Class Administrator or Administrator.** The person or organization designated by Class Counsel to administer the settlement proceeds, that is, Rosenthal & Company, 300 Bel Marin Keys Blvd., Suite 200, Novato, Calif. 94949.
4. **Class Administration Plan.** The Class Administrator's proposed notice plan, with estimated costs. (See Exhibit D.)
5. **Class Claim Form.** The Class Administrator's proposed Claim Form, to be sent out with the Class Notice and returned by claimants **who want** to make claims. (See Exhibit E.)
6. **Class and Settlement Notice.** The Notice of Class Action, Proposed Class Settlement and Hearing, in substantially the form attached as Exhibit "C," in both Spanish and English. The dates contained in Exhibit "C" (which are the same as the dates attached in Exhibit E, which is the proposed Preliminary Approval Order) regarding the time in which to file opt-outs, to file objections to the settlement, to file objections to the Class Counsel's claim for attorney's fees, and to file a class claim are incorporated by this reference and shall be the operative dates for each.
7. **Class Counsel or Plaintiffs' Counsel.** As used herein Class Counsel refers to Barrett S. Litt and Paul Estuar of Litt, Estuar, Harrison & Kitson, and Robert F. Mann and Donald W. Cook, of Mann & Cook.

8. **Class Distribution.** The portion of the Class Fund available for distribution to class members who have filed claims, less attorneys' fees and administrative expenses.
9. **Class Fund or Class Settlement.** Lump sum payment to be paid by and/or on behalf of the County of San Bernardino, totaling approximately \$25,500,000, subject to an accounting by the County of San Bernardino, which will be paid and/or distributed and allocated as further described in this Agreement.
10. **Class Fund Attorney Fees.** That portion of the Class Fund awarded as attorney fees and costs to Class Counsel. Litigation costs and the costs of class notice and administration shall constitute a separate cost and will be paid separately from the attorney fees. The amount of these fees, which will be determined by the Court, will be paid from the Settlement Fund.
11. **Class Members.** The members of the classes described in Paragraphs 28-32.
12. **Court.** The Honorable Stephen G. Larson, Judge of the United States District Court of the Central District of California.
13. **Claimant(s).** Class members who actually file claims pursuant to the procedures set forth in this Agreement.
14. **Counsel for the parties.** Counsel for plaintiffs and counsel for the defendant.
15. **Defendants.** The County of San Bernardino, including but not limited to the San Bernardino Sheriff's Department, and Sheriff Gary Penrod.
16. **County Jail.** The San Bernardino County Jail (inclusive of all of its facilities, the current names of which are listed in Footnote 2).

17. **Effective Date for Payment.** This date is the date when Defendants' obligation to pay the Class Fund of approximately \$25,500,000 (minus sums advanced for costs of notice) becomes effective. It is the date, following the conduct of a Fairness Hearing, on which the Settlement Agreement has been finally approved by the District Court, and affirmed on appeal if an appeal has been filed by someone who filed an objection in District Court (or any appeal has been dismissed or the time for taking any appeal has expired without an appeal having been taken), and affirmed by the Supreme Court if a petition for certiorari has been filed (or the time for filing a petition for certiorari has expired without any petition having been filed or any such petition for certiorari has been denied).
18. **Fairness Hearing.** The hearing on the fairness of this Settlement described herein, which date will be set by the court.
19. **Fee Motion.** Class Counsel's application for Class Fund Attorneys' Fees and the bases and arguments in support thereof.
20. **Final Order of Approval and Settlement.** An order substantially in the form of the Final Order of Approval and Settlement attached hereto as Exhibit B, or in such form as is modified by the Court and further agreed to by the parties (which may also be referred to herein as "Final Order").
21. **Lawsuit.** The action in the United States Central District Court, styled Craft et al. v. County of San Bernardino et al., Case No. EDCV 05-0359 SGL.
22. **Named Plaintiffs or Class Representatives.** The named plaintiffs in the Third Amended Complaint to this suit, who are: Karen Craft,

Ranette Sanchez, Rosemary Ryan, Georgina Frost, Elroy Hardy, Betty Welch, and Veronica Williams.

23. **Named Plaintiffs' Distribution.** The amount of the Class Fund to be distributed to the Named Plaintiffs.
24. **Preliminary Approval.** The Court's determination that the Settlement is within the range of possible approval and therefore that a notice should be sent to the Class and a hearing should be held with respect to fairness.
25. **Preliminary Approval Order.** The Preliminary Approval Order is an order in a form attached hereto as Exhibit F, or in such form as is modified by the Court and further agreed to by the parties.
26. **Settlement.** The settlement set forth in this agreement.
27. **Settlement Fund.** An interest bearing account to be established at some bank for the benefit of the Class (which may include an account established by the Class Administrator, Class Counsel or a combination thereof). The Defendants will pay all moneys they are obligated to pay under Stipulated Order Granting Preliminary Approval to Class Settlement and the settlement approved by the Court, if any, into the Settlement Fund. Settlement Fund also includes the amount of money in the Settlement Fund at any time.
28. **Pre-Arrestment Strip Search Class.** San Bernardino County Jail arrestees booked on offenses not involving weapons, violence or drugs who were transferred from a Type 1 jail (a Type 1 jail is a local detention facility used for the detention of persons for not more than 96 hours excluding holidays after booking) to a Type 2 jail (a Type 2 jail is a local detention facility used for the detention of persons pending arraignment, during trial, and upon a sentence of commitment), prior to arraignment and were, at the time of

admission to the Type 2 jail, subjected to a strip search or visual body cavity search without reasonable suspicion or probable cause to believe they were in possession of weapons or drugs, pursuant to a blanket policy, practice or custom of Defendants of strip searching all such arrestees. The class period for this class is May 3, 2003 - December 11, 2006.

29. **US Marshal [aka USMI] Strip Search Class.** San Bernardino County Jail inmates who were in federal custody and who, pursuant to agreement between the United States and San Bernardino County, were housed in a San Bernardino jail facility, and who, upon being taken from federal to San Bernardino custody, were strip searched by the San Bernardino County Sheriff's Office without reasonable suspicion or probable cause to believe they were in possession of weapons or drugs, pursuant to a blanket policy, practice or custom of Defendants of strip searching all such transferees. The class period for this class is May 3, 2003 - December 11, 2006.
30. **Transport Strip Search Class.** San Bernardino County Jail inmates who were in the custody of another law enforcement agency, and who were transferred to San Bernardino County custody to be arraigned on charges in San Bernardino County, and who, upon being taken into San Bernardino County custody, were strip searched by the San Bernardino County Sheriff's Office without reasonable suspicion or probable cause to believe they were in possession of weapons or drugs, pursuant to a blanket policy, practice or custom of Defendants of strip searching all such transferees. The class period for this class is May 3, 2003 - December 11, 2006.

31. **Post-Release Strip Search Class.** San Bernardino County Jail inmates who appeared in court, and, at the conclusion of their court appearance, were entitled to release and, prior to release, were subjected to a strip search or visual body cavity search without reasonable suspicion or probable cause to believe they were in possession of weapons or drugs, pursuant to a blanket policy, practice or custom of Defendants of strip searching all such inmates. The class period for this class is May 3, 2003 - December 11, 2006.
32. **Group Strip Search Class.** County jail inmates who are not members of either the Pre-Arrestment or Post-Release Strip Search Classes who were subjected to a strip search or visual body cavity search in a group, pursuant to the blanket policy, custom or practice of the San Bernardino County Jail of strip searching inmates in a group. The class period for this class is May 3, 2003 - March 7, 2007.

PRIMARY SETTLEMENT TERMS

1. As part of this agreement, it is understood that the costs of preparing and publishing the Class and Settlement Notice shall be paid by Defendants as an advance from the Settlement Fund. Within two weeks after this Preliminary Approval Order is signed by the Court, the Defendants shall deposit or cause to be deposited into an account designated by the Class Administrator by wire an amount of same day available funds equal to the amount requested by the Class Administrator to cover the costs of notice agreed to by the parties and/or ordered by the court (which amount is \$345,000), and will provide additional funds to the Class Administrator as requested, except that the total of said funds shall not exceed \$ 870,000. Prior to entry of the Final Order of Approval of Settlement, the Class Administrator will not accrue any costs for figuring points for Claimants or

any other activities beyond the “Notice Procedures” and “Claims Processing” described in Exhibit D.1. Any such payments shall be credited against the approximately \$25,500,000 Class Settlement. If the Court does not enter the Final Order of Approval of Settlement, then all such funds paid to the Class Administrator, to the extent they are available after payment of all accrued class administration expenses, shall be returned to Defendants.

2. Subject to the provisions of Paragraph 3, within thirty (30) calendar days of the Effective Date For Payment, but no earlier than January 15, 2008, the Defendants shall deposit or cause to be deposited into the Settlement Fund by wire an amount of same day available funds equal to approximately \$25,500,000, less the amount already advanced under the terms of the immediately preceding paragraph, and less the amount awarded to Class Counsel as attorney’s fees and costs, which sum of attorney fees and costs will be deposited by wire to the trust account of Litt, Estuar et al. on the same date.

3. In the event that the settlement is approved by the District Court at the Fairness Hearing in a Final Order and Approval of Settlement, but the funds are not to be immediately paid due to objection or appeal (see definition of “Effective Date for Payment”), the defendants will place the funds in an interest bearing escrow account, and the interest accrued shall be added to the Settlement Fund for the benefit of the Class in the event that the settlement is finally approved. Should the settlement not be finally approved after exhaustion of all appellate avenues, all such funds, including interest earned on them, shall be returned to the Defendants (except to the extent of any Class Administration costs).

4. The parties agree that the settlement amount includes all attorney fees and costs. Plaintiffs intend to submit a petition for attorney fees and costs to the Court requesting 25% of the Class Fund as attorney

fees, plus costs. Defendants take no position on the amount of the fees and costs being requested by Class Counsel in Plaintiffs' petition for attorney fees and costs.

5. The portion of the Class Fund not used to pay attorney fees and costs, and Class Administration Fees, shall be used for the compensation of the Class Members who file timely, valid claims. The Claims Administrator and Class Counsel will distribute this money according to the Allocation and Distribution Plan, set out in the Final Order and Approval of Settlement.

6. The County represents that to the best of its knowledge, it has provided all the electronic data in its possession regarding class members necessary to both identify and contact class members. Within thirty (30) days of the Court's grant of the Preliminary Approval of this settlement, the County shall provide, to the extent that such information has not already been provided, any such additional information in its possession. Such information shall be confidential, and may not be disclosed to anyone except counsel of record, the Class Administrator, and designated representatives of the Parties.

CERTIFICATION OF CLASS ACTION

7. The Court has already certified all of the classes at issue in this Settlement Agreement, pursuant to noticed motion, and after opposition by the Defendants, as an opt-out class under Fed. R. Civ. P. 23(b)(3), and thereby also appointed the Plaintiffs' Counsel as Class Counsel.

8. The parties have agreed to stipulate to the identification of members of each class, based on the County's records, for purposes of this settlement. Defendants' stipulations are for purposes of settlement only, and if this Settlement is not finally approved or does not become effective for any reason, Defendants retain their right to contend that persons agreed on as class members for this settlement are not in fact class members.

9. The Strip Search Classes resolved herein are defined as they are in the Definitions section, above. These definitions supersede the definitions contained in the Court's class certification order of October 11, 2006. These definitions are partially based on the classes found unlawful by the Court in its December 7, 2006, summary judgment order, and partially based on agreement between the parties based on an analysis of the strip search practices of the Defendants that, as a result of this litigation, to the best of their knowledge have stopped. They have been slightly expanded based upon negotiations between the parties. The original class definition adopted by the court encompassed all pre-arraignment arrestees, but, based on the discovery conducted in the case, not all pre-arraignment arrestees were routinely strip searched. Similarly, some groups – such as the USM and Transport Strip Search Classes – were not necessarily encompassed by the original strip search class definition, but, based on the discovery conducted in the case, are included within the settlement's scope.

10. Notwithstanding the class definitions contained herein, the parties have analyzed the County data and reached agreement regarding who belongs in each class for purposes of this settlement. Only persons who have been jointly identified by the parties through this process qualify as class members for purposes of this settlement. This process has entailed reaching agreement on the computer programming logic to be applied to the Defendants' data to determine who fits the class definitions. Anyone not so identified is not a member of the classes, and is only a member of the classes into which s/he has been placed through this computer analysis. Any person not so included is free to pursue whatever legal remedies may be available to him or her, but s/he is not entitled to receive funds from this settlement.

FUTURE PRACTICES REGARDING STRIP SEARCHES

11. As a result of this litigation, and partially on summary judgment orders entered by the Court in the course of this litigation, Defendants have discontinued the following practices:

- a. Strip search those who meet the definition above of Pre-Arrest Strip Searches. (See “Pre-Arrest Strip Search Class” Definition.)
- b. Strip search those who meet the definition above of US Marshal Strip Searches. (See “USM Strip Search Class” Definition.)
- c. Strip search those who meet the definition above of Transport Strip Searches. (See “Transport Strip Search Class” Definition.)
- d. Strip search those who meet the definition above of Post-Release Strip Searches. (See “Post-Release Strip Search Class” Definition.)
- e. Engage in group strip searches (i.e., from here on, those being strip searched will be searched individually in a private area, with only those necessary to the strip search present. (See “Group Strip Search Class” Definition.)

CLASS NOTICE ISSUES

12. The Class Administrator will send by United States mail a copy of the Class Notice attached as Exhibit C to all prospective class members who have been identified through the joint efforts of Plaintiffs and Defendants as class members.

13. The Class Administrator shall publish a summary Class Notice in newspapers and periodicals widely disseminated in San Bernardino County and on the internet, and by any other appropriate means of distribution. Notice shall be as provided in the attached Exhibit D, including

publication in a newspaper list that includes the San Bernardino Newspaper Group (the *San Bernardino County Sun*, *Inland Valley Daily Bulletin* and the *Redlands Daily Facts*) for broad market coverage, the *Inland Valley News* for African American coverage and *La Prensa* for Hispanic market coverage.

14. Within one week of Preliminary Approval of the Settlement, Defendants shall post the Class and Settlement Notice on each Unit of each San Bernardino County Jail. Each such facility shall have extra copies of the Claim Form, and shall make them available to any inmate upon request. The Notice shall remain posted until the period for class members to return the Claim Form has expired.

15. The Class Administrator has submitted a Notice Plan, whose terms are approved by this Settlement, a copy of which is attached as Exhibit D and D.1 to this Agreement. This Notice Plan is without prejudice to additional steps being taken to insure adequate notice to the Class in the event that Class Counsel and the Class Administrator consider it advisable. Any expenditure in excess of \$50,000 beyond the amounts set forth in Exhibit D.1 shall require either approval of the Defendants or Court Order.

**ADMINISTRATIVE OBLIGATIONS OF THE PLAINTIFFS AND
HANDLING OF OPT OUTS**

16. Plaintiffs, acting through Class Counsel and the Class Administrator, shall have sole responsibility for distribution of the Class Fund, in a manner approved by the Court.

17. Class Counsel agree to oversee the Class Distribution (the portion of the Class Fund to be distributed to individual class members who file claims), which will be distributed according to the point system described in the Allocation and Distribution Plan, as set forth in the Final Order and Approval of Settlement.

18. Each class member's points, as defined in the Allocation and Distribution Plan, shall be based solely on the information obtained from the Defendants' records. The total points will be divided into the available funds, so that a value per point will be determined. Each person will receive the value of his or her points.

19. In the event that more than 75 class members opt out of the settlement pursuant to the opt out provisions of the Final Order of Approval and Settlement, Defendants may opt out of this settlement.

20. In the event that anywhere between 1 and 75 class members opt out of the settlement, a reserve fund and a sub-reserve fund from the Class Fund composed of what the unspent portion of the County's Self-Insured Retention ("SIR") funds, shall be established, hereafter referred to as "Reserve Fund," and "Sub-Reserve Fund." This Reserve Fund and Sub-Reserve Fund will be maintained by the Class Administrator in a separate interest bearing account. The Sub-Reserve Fund shall be established in the amount of \$10,000 to be used for future defense attorney fees and costs. Defendants' counsel will present a statement of its fees and costs to the Class Administrator for payment upon approval by Class Counsel. Class Counsel will not unreasonably withhold payment of Defendants' counsel's future fees and costs. Upon the resolution of each opt out case, 50% of the combined costs of defense and damages for that opt out case shall be paid to the County by the Class Administrator upon presentation of a statement of the funds incurred to resolve that opt out. (The other 50% will be paid by the County directly.) This process shall continue until the Reserve Fund is exhausted, or all opt outs are resolved.

21.

The parties have an unresolved difference of opinion over how to handle class administration costs paid by defendants should the settlement not be finally approved or otherwise not consummated for any reason. The defendants are of the view that they should receive a credit for those costs against any future judgment or settlement. Plaintiffs are of the view that certain of those costs would be incurred in any event in order to provide notice to the class whether there is a settlement or not, in which case they should be borne solely by the defendants, and such costs that would not be fit into that category should be borne equally by plaintiffs and defendants. (the practical effect of which would be that defendants would receive a credit for 50% of such costs. The parties have agreed to attempt to resolve this issue between now and the hearing on September 14, and have further agreed that, if they cannot do so, the court will resolve the issue, and the parties will be bound by it. As a result of this unexpected issue, the parties consider it likely that the dates in the various papers will have to be extended one week, or possibly two. The resolution of this issue will necessitate a new round of final documents, and will almost certainly necessitate additional language in the notice as well.

22. After the final resolution of all filed or negotiated opt outs, or, for those opt outs who neither filed nor negotiated cases upon the passage of a period of two years from the time of the opt out, any funds remaining in the Reserve Fund shall revert to the Class Fund and shall be used as part of the final distribution to class members.

23. There will be up to four rounds of distribution of the Class Fund, as follows.

- a. First Round of Distribution.* The first round shall be sent at a date set by the Court after final approval of the Settlement, and after the time for appeals in the event of any objections runs. This round will be sent to all class members who file timely, valid class claims.
- b. Second Round of Distribution.* The second round will be sent nine months after the first round. [If there are no opt outs, the second round will include amounts designated as part of the Reserve Fund.]
- c. Third Round of Distribution.* If there are opt outs, the third round cannot be sent until after two years from the last opt out date, or after the final resolution of all opt outs, i.e., it cannot be sent until after a time that any funds remaining in the Reserve Fund that revert to the Class Fund so revert. Alternatively, it may be sent once all funds in the Reserve Fund have been depleted without the final resolution of all opt outs. [If there are no opt outs, or if the terms set forth in this paragraph have been met, the Third Round will be sent six months after the Second Round.]
- d. Fourth Round of Distribution.* If, after the Fourth Round of Distribution, there remain available funds, those funds shall be a) awarded to Class Counsel as an additional fee, b) distributed to the Named Plaintiffs in proportion to the amounts initially paid to them. [Court to choose one]

24. Experience indicates that approximately 10% of people who file claims do not cash the checks sent to them for one reason or another. At the

time of the Second Round of Distribution, checks will be only sent to those who cashed their First Round check; anyone not cashing his or her First Round check shall forfeit his or her claim to call settlement funds. Checks sent out during the First Round of Distribution and not cashed within 90 days shall be voided (except that, before the subsequent round of distribution, the Class Administrator may re-issue such checks if it has reason to believe that they will be cashed). Similarly, at the time of the Third Round of Distribution, checks will only be sent to those who cashed their Second Round check, following the same procedure as described from the First to the Second Round.

25. For each Round of Distribution, the allocation system set forth in the Final Order of Approval and Settlement shall be used to determine the amounts due to each class member. To ensure that all class members receive a meaningful amount of funds during each round of distribution, no qualifying class member shall be issued a check for less than \$50 during any round of distribution, and the distribution formula used by the Class Administrator shall be set such that, despite the amount any individual would otherwise be allocated, the minimum amount of distribution shall be \$50. If, during the Second or Third Rounds of Distribution, there are insufficient funds to distribute \$50 to each qualifying class member, then the class members with the lowest points shall be eliminated until there are sufficient funds available to pay each remaining class member \$50.

RELEASES GIVEN HEREUNDER

26. Plaintiffs agree to the dismissal of the Third Amended Complaint with prejudice as part of the Final Order of Approval and Settlement in this case. The effect of that dismissal shall be to bar any and all claims that were asserted in this action, *Craft et. al, v. County of San Bernardino et al*, Case No. EDCV05-0359 SGL, including the claims of any

of the Named Plaintiffs, for all claims encompassed within the definition of the classes contained in this Agreement (and correspondingly reflected in the Final Order of Approval and Settlement). The Final Order of Approval and Settlement shall include a release of all claims against Defendants, including the employees, agents and insurers of Defendants, to the extent permissible by law, including a waiver of *California Civil Code section 1542*, which shall be entered by the Court. The Named Plaintiffs and each Class Member waive all rights or benefits which he or she now has or in the future may have under the terms of California Civil Code section 1542, which reads:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

NO ADMISSIONS

27. Nothing in this Stipulation of Settlement and Dismissal shall constitute either an admission of liability or an affirmation or acknowledgement of the validity of any claim or defense to any claim or counterclaim arising from or relating to the Lawsuit or arising from or relating to any other proceedings that have taken place among the parties.

28. The plaintiffs allege in their Third Amended Complaint that the Department has engaged in a pattern and practice of unlawful strip searching. Defendants deny those allegations. This Agreement, and any stipulation related to this settlement, do not operate as an admission of liability by the Defendants of Plaintiffs' allegations.

29. If the settlement is not finally approved by the Court, then this Stipulation of Settlement and Dismissal, and all proceedings thereunder, shall be considered of no force or effect, except as expressly indicated otherwise above.

SUCCESSORS

30. All of the terms of this Stipulation of Settlement and Dismissal shall apply to, be binding upon, and inure to the benefit of the parties and of their respective heirs, agents, personal representatives, predecessors, subsidiaries, successors, and assigns.

EFFECTIVE DATE

31. This agreement becomes effective on the date on which the last signatory signs the agreement.

DATED: September 7, 2007

LITT, ESTUAR, HARRISON,
MILLER & KITSON, LLP

ROBERT MANN
DONALD W. COOK

LAW OFFICES OF CYNTHIA
ANDERSON BARKER

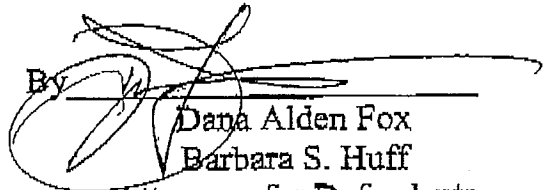
By



Barrett S. Litt

DATED: _____, 2007

LYNBERG & WATKINS
A Professional Corporation

By 
Dana Alden Fox
Barbara S. Huff
Attorneys for Defendants

DATED: _____, 2007

COUNTY OF SAN BERNARDINO

By _____