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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CHERYL AICHELE, ET AL.,

Plaintiffs,

vs.

CITY OF LOS ANGELES, et al.,

Defendants.

Case No CV 12-10863-DMG (FFMx)

PRELIMINARY APPROVAL ORDER

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1 Upon review and consideration of the Settlement Agreement and the
2 exhibits attached thereto, between the Class Representatives in the above-
3 captioned action, individually and as representatives of the classes certified in this
4 case, on the one hand (collectively “Plaintiffs”); and defendant City of Los
5 Angeles and the individual defendants, affiliated with the City (collectively, the
6 “City”), and defendant Los Angeles County (the “County”) (City and County
7 Defendants collectively referred to as “Defendants”),

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

9 **I. PRELIMINARY APPROVAL OF SETTLEMENT**

10 1. Plaintiffs asserted, and the Court ultimately certified, a class and
11 several subclasses of persons who were allegedly subjected to violation of their
12 First, Fourth and Fifth/Fourteenth Amendment due process rights, as well as other
13 federal constitutional rights and rights under California state law, as a result of
14 actions by Defendants surrounding the arrest, detention and release of Plaintiffs on
15 November 30, 2011, in or around the vicinity of City Hall, as defined in the class
16 definition. Plaintiffs allege that some or all of the Defendants violated their rights
17 by, among other things, declaring an unlawful assembly, making unlawful arrests,
18 holding Plaintiffs in unconstitutional conditions of confinement and unlawfully
19 denying Plaintiffs release from custody on their own recognizance (“OR”).

20 2. The parties have now entered into a settlement subject to the approval
21 of the Court. This Order incorporates by reference the definitions in the
22 Settlement Agreement (Exhibit A), and also incorporates Exhibits B through D
23 thereto. All terms defined therein shall have the same meaning in this Order. This
24 Order is not intended to modify any of the terms or provisions of the Settlement
25 Agreement.

26 3. The Settlement Agreement provides for a total of \$2,675,000,
27 inclusive of all attorneys’ fees and costs of class administration. The portion of
28 the Class Fund to be paid by the County is \$225,000 (“County Payment”). The
portion of the Class Fund to be paid by the City is \$2,450,000 (“City Payment”).

1 Plaintiffs' counsel who are signatories to the Settlement Agreement (Exhibit A)
2 have warranted that (1) they have authority from each Represented Individual
3 whom they represent to settle the case on the terms set forth herein, (2) each of the
4 Named Plaintiffs is aware of and has authorized the amount each will receive from
5 the settlement, and (3) each of the Named Plaintiffs is aware of and has approved
6 the attorneys' fee arrangement between counsel and client.

7 4. The Court is advised that the settlement includes a component for
8 attorneys' fees amounting to less than the hours recorded and spent on the case
9 multiplied by Plaintiffs' counsel's hourly rates, to be taken from the \$2,675,000
10 Class Fund. This fee, not to exceed \$668,750 (exclusive of litigation costs), will
11 be presented to the Court in the form of a motion for approval of attorneys' fees
12 ("Fee Motion"), to be considered and ruled on by the Court at the same time as the
13 Fairness Hearing.

14 5. The Court is aware that this matter was mediated by Magistrate Judge
15 Carla Woehrle, and that this settlement was reached at arm's length.

16 6. The Settlement Agreement is hereby preliminarily approved, subject
17 to further consideration thereof at the Fairness Hearing provided for below. The
18 Court finds that the Settlement Agreement is within the range of what would
19 constitute a fair, reasonable, and adequate settlement in the best interests of the
20 class as a whole.

21 7. The Court approves the process for notifying possible class members
22 of the settlement, and the claims process, as set forth in the Settlement Agreement.

23 8. The Court approves the publication of summary Class Notice, as set
24 forth in the Settlement Agreement and modified by the Court.

25 9. The Court has previously certified classes and sub-classes under
26 Federal Rules of Civil Procedure 23(b)(2) and 23(b)(3). The Court hereby
27 reaffirms the class definitions as set forth in its order of August 26, 2013.
28

1 **II. DEADLINES FOR NOTICE, FILING OBJECTIONS AND OPT-**
2 **OUTS, AND DATE OF FAIRNESS HEARING**

3 10. The Court has set the following dates for purposes of this class action:

- 4 (a) Distribution of Class Notices to participating organizations as
5 provided in the Settlement Agreement – to begin as soon as
6 practicable, but no later than May 4, 2015;
- 7 (b) Publication of summary notice as provided in the Settlement
8 Agreement (Exhibit B): to begin by the week of May 11, 2015;
- 9 (c) Filing of Plaintiffs’ Motion for Award of Attorneys’ Fees and Costs:
10 Must be filed by June 8, 2015;
- 11 (d) Filing of class members’ Objections to any aspect of the Settlement
12 (including Plaintiffs’ Motion for Approval of Settlement of
13 Attorneys’ Fees and Costs): Must be filed by July 2, 2015;
- 14 (e) Deadline to opt-out: Must be postmarked or received by July 2, 2015;
- 15 (f) Deadline for filing class claims: Must be postmarked or received by
16 July 6, 2015;
- 17 (g) Opposition or Reply to Objections (including to objections to award
18 of attorneys’ fees and costs): Must be filed by July 24, 2015;
- 19 (h) Proposed Final Order of Approval of Settlement: Must be filed by
20 August 14, 2015; and
- 21 (i) Fairness Hearing: August 28, 2015 at 10:00 a.m.

22 11. In the event that the Class Notice is not distributed and initially
23 published within the time specified herein, the subsequent dates referenced herein
24 will be deferred for the number of additional days before such notice occurs
25 without the need for additional court approval. However, the Court must approve
26 any change of the date of the Fairness Hearing.

27 12. Pursuant to the terms of the Settlement Agreement, if the total number
28 of Opt-Outs exceeds 3 persons, the City, in its sole discretion, may rescind the
Settlement Agreement. The City, in exercising a right of rescission under the

1 terms of this paragraph, shall provide the Administrator and Class Counsel with
2 written notice of rescission (1) within 20 days after receipt of the Administrator's
3 report providing the total number of Opt-Outs, and/or (2) within 20 days after the
4 Bar Date or date of any Represented Individual's exclusion from the settlement,
5 whichever is later. In the event the City exercises a right of rescission under the
6 terms of this paragraph, any funds paid or deposited pursuant to this Settlement
7 Agreement shall be returned to the City within 10 days of the exercise of the right
8 to rescind, less any expenses, fees and costs incurred by the Administrator, and the
9 case shall return to active litigation status.

10 **III. CLASS REPRESENTATIVES**

11 13. The Class and/or Sub-Class Representatives are: Cheryl Aichele;
12 James Weitz; Jonathan Alexander; Michael Prysner; and Carmina Clemente (per
13 the Court's August 26, 2013 class certification order).

14 **IV. CLAIMS ADMINISTRATOR**

15 14. The Court approves Class Counsel's retention of Gilardi & Co. LLC
16 as Administrator to administer the distribution of the Class Notice and publication
17 of summary Class Notice, and to distribute the proceeds of the settlement to all
18 eligible class members pursuant to the terms set forth in the Settlement Agreement
19 (Exhibit A) should the Court grant final approval. Gilardi & Co. LLC was chosen
20 by the parties' counsel jointly after a bid process, and is a reputable, experienced
21 Third Party Administrator that is in the business of class administration.

22 15. The Administrator's responsibilities shall include publishing notice,
23 processing claims and otherwise engaging in the activities needed to administer
24 the class claims. The specific duties of the Administrator are set forth in this
25 Order, in Paragraphs 27-29 of the Settlement Agreement, and in the approved
26 Class Administrator Bid (Exhibit D), the provisions of which are incorporated
27 herein and approved.

28 16. The Administrator shall be compensated for its services out of the
Class Fund. The City and County, in the proportions set forth in ¶ 20 of the

1 Settlement Agreement, shall advance no more than \$23,000 for class notice,
2 processing, and administration, on a schedule requested by the Class
3 Administrator.

4 **V. CLASS COUNSEL**

5 17. Barrett S. Litt, Carol A. Sobel, Paul L. Hoffman and Dan Stormer are
6 re-confirmed as counsel for the Class Representatives and the Class (“Class
7 Counsel”).

8 18. Class Counsel are authorized to act on behalf of the class with respect
9 to all acts or consents required by, or which may be given pursuant to, the
10 Settlement Agreement, and such other acts reasonably necessary to consummate
11 the Settlement Agreement.

12 19. At the Fairness Hearing, Class Counsel shall make an application for
13 approval of Class Attorneys' Fees not to exceed \$668,750, plus litigation costs.

14 **VI. CLASS AND SETTLEMENT NOTICE**

15 20. In these cases, there are City and County records allowing
16 identification of potential class members. The most practical way to locate
17 potential class members is the use of such records supplemented by information
18 Plaintiffs’ counsel has obtained in interacting with various class members.

19 21. The Class Notice shall include a Proof of Claim Form to be used in
20 connection with any claims made against the Class Fund. It shall require a
21 statement, made under penalty of perjury, that the individual claimant qualifies as
22 a class member, and as a sub-class member (as applicable).

23 22. The Court approves the substance of the draft Class Notice attached as
24 Exhibit B to Plaintiffs’ motion for class action settlement approval, with minor
25 modifications.

26 23. The Court approves the substance of the draft Proof of Claim Form
27 attached as the last page of Exhibit B to Plaintiffs’ motion for class action
28 settlement approval, with minor modifications.

24. The Administrator shall be responsible for publishing a summary

1 Class Notice once a week for three consecutive weeks in the Los Angeles Weekly,
2 which the parties agree is the publication of general circulation as likely as any
3 other to reach class members and is the most economical.

4 25. The Court finds that the notice required by the foregoing provisions of
5 this Order is the best notice practicable under the circumstances and shall
6 constitute due and sufficient notice of the settlement and the Fairness Hearing to
7 all class members and other persons affected by, or entitled to participate in, the
8 settlement, and is in full compliance with the notice requirements of Rule 23 of the
9 Federal Rules of Civil Procedure and due process of law.

10 26. Except for publication in the Los Angeles Weekly, preparation of
11 class notices, and providing class notices to those who request them from the
12 Administrator, the Administrator's responsibility shall be to process and pay class
13 claims, to provide documents required by court orders to finalize the class
14 settlement, and to engage in other activities assigned to the Administrator in
15 Exhibit A of the Settlement Agreement.

16 27. A Proof of Claim Form shall be deemed timely submitted when
17 received by the Administrator, or postmarked, on or before the Claim Date.

18 28. An Unrepresented Class Member's objection or request for exclusion
19 shall be deemed timely submitted when received by the Administrator, or
20 postmarked, on or before the Bar Date.

21 **VII. THE FAIRNESS HEARING**

22 29. A Fairness Hearing shall be held on August 28, 2015 at 10:00 a.m., to
23 consider: (a) the fairness, reasonableness, and adequacy of the settlement; and (b)
24 the application by Class Counsel for approval of the settlement of attorneys' fees
25 and expenses.

26 30. The date and time of the Fairness Hearing shall be subject to
27 adjournment by the Court without further notice to the class members other than
28 that which may be posted at the Court and on the Court's web site.

31. Any class member who objects to the approval of the Settlement

1 Agreement, or the Fee Motion, and has filed a timely objection (i.e., by June 26,
2 2015), may appear at the Fairness Hearing and show cause why the Settlement
3 Agreement or the Fee Motion should not be approved as fair, reasonable, and
4 adequate; except that no such class member may appear at the Fairness Hearing
5 unless the class member timely, i.e., by July 2, 2015, (a) serves upon the
6 Administrator, either by mail or personal delivery, a notice of such person's
7 intention to appear, a statement that indicates the basis and grounds for such
8 person's objection to the Settlement Agreement or the Fee Motion, and all
9 documentation, papers, or briefs in support of such objection (a copy of which will
10 be provided by the parties to the Court at the time of their motion for final
11 approval of the class settlement); and by the same date (b) serves upon all Counsel
12 to the Parties (as listed in the Notice of Proposed Settlement), either in person or
13 by mail, copies of such notice of intention to appear, statement of objections and
14 all documentation, papers, or briefs that such person files with the Court. The
15 required documentation shall include information demonstrating that the objector
16 is a class member, including name, address, date of birth, and a description of the
17 class member's experiences on November 30, entitling him or her to qualify as a
18 class member. Final determination as to whether any such objector is a class
19 member who has standing to object shall be made by the Court if any party
20 contests the issue. In the absence of the timely filing and timely service of the
21 notice of intention to appear and all other materials required by this paragraph, any
22 objection shall be deemed untimely and denied.

23 32. Pending final approval of the Settlement Agreement, no class member
24 shall, either directly, representatively, or in any other capacity, commence,
25 prosecute against any Defendant or participate in any action or proceeding in any
26 court or tribunal asserting any of the matters, claims, or causes of action that are to
27 be released by the Settlement Agreement upon final approval.

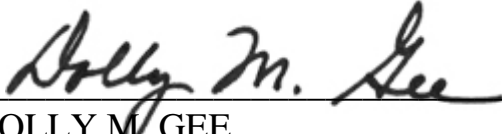
28 33. In the event of final approval of the Settlement Agreement, all class
members (except those who have requested exclusion and been excluded) shall be

1 forever enjoined and barred from asserting any of the matters, claims or causes of
2 action released by the Settlement Agreement, and all such class members shall be
3 deemed to have forever released any and all such matters, claims and causes of
4 action as provided for in the Settlement Agreement.

5 **VIII. OTHER PROVISIONS**

6 34. In the event the settlement is not finally approved or is otherwise
7 terminated in accordance with the provisions of the Settlement Agreement, the
8 settlement and all proceedings had in connection therewith shall be null and void,
9 except insofar as expressly provided to the contrary in the Settlement Agreement,
10 and without prejudice to the *status quo ante* rights of Plaintiffs, Defendants, and
11 class members.

12 DATED: April 24, 2015



DOLLY M. GEE
UNITED STATES DISTRICT JUDGE