

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

**ANDREA DUNN, on behalf of herself and
all others similarly situated,**

Plaintiff;

v.

**COUNTY OF WILL and MIKE KELLEY,
Sheriff of Will County, individually and in
his official capacity.**

Defendants.

Case No. 18 CV 6304

Hon. Charles P. Kocoras

Hon. Young B. Kim

**ORDER GRANTING PRELIMINARY APPROVAL OF CLASS SETTLEMENT, CERTIFYING CLASSES,
APPOINTING CLASS REPRESENTATIVE AND CLASS COUNSEL, AND APPROVING NOTICE TO THE
CLASSES**

Upon review and consideration of the Motion for Preliminary Approval of Class Action Settlement and the proposed Settlement Agreement in the above-captioned action, between the proposed Settlement Classes (“Plaintiffs”) and the County of Will and Sheriff of Will County Mike Kelley, in his official capacity (“Defendants”), the Court finds as follows:

Findings

1. Plaintiff seeks preliminary certification of the following two proposed settlement classes:

Settlement Class I:

All persons detained at the Will County Adult Detention Facility between September 14, 2016 and the date of execution of this Agreement, and who were detained in a booking cell for more than 24 hours or who were detained in a

booking cell throughout the period of 10:00 p.m. on one day through 6:00 a.m. the following day.

Settlement Class II:

All persons detained at the Will County Adult Detention Facility between September 14, 2016 and the date of execution of this Agreement, who were arrested without an arrest warrant or other judicial process, and who were not released within 48 hours of their arrest or who did not receive a judicial determination of probable cause within 48 hours of their arrest.

2. With respect to Class I, the Court finds the class to be sufficiently numerous as it contains approximately 10,000 individuals, rendering joinder impossible. All Class I members share common issues of law and fact, namely whether the conditions of confinement during the class period at the ADF violated the Fourth Amendment and/or Fourteenth Amendment. Plaintiff Dunn's claims are typical of Class I because she and they were all held in the same conditions and area of the ADF. The Court finds that these issues of law and fact predominate over any individual issues and that a class action is a superior method of adjudicating these claims. Finally, Dunn will adequately represent Class I. As such, the Court certifies Class I for purposes of settlement under Rule 23, specifically under Rule 23(b)(3), and appoints Andrea Dunn as the class representative.

3. With respect to Class II, the Court finds the class to be sufficiently numerous as it contains approximately 400 individuals, rendering joinder impossible. All Class II members share common issues of law and fact, namely whether holding them in excess of 48 hours without a hearing to determine probable cause for arrest violates the Fourth Amendment and whether this was done pursuant a practice or policy of the Defendants. Plaintiff Dunn's claims are typical of Class II because she and they were all held in excess of 48 hours without a probable-cause hearing. Finally, Dunn will adequately represent Class II. As such, the Court

certifies Class II for purposes of settlement under Rule 23, specifically under Rule 23(b)(3), and appoints Andrea Dunn as the class representative.

4. The Court finds that the firms of Heffner Hurst and the Law Office of Jordan Marsh should be appointed class counsel for Class I and II. Combined, the two firms have extensive experience in the substantive legal issues here and class-action litigation. Furthermore, both firms have worked together thus far to prosecute this litigation and negotiate the Settlement Agreement at issue in this Order.

5. The Court preliminarily finds the terms of the Settlement Agreement are within a range constituting a fair, reasonable, and adequate settlement in the best interest of the Settlement Classes as a whole, and the terms of the Agreement appear to satisfy Federal Rule of Civil Procedure 23(e) and due process requirements.

6. The Court finds the Notice Plan proposed by the Motion for Preliminary Approval of the Settlement Agreement, the Mailed Notice, attached as Exhibit 2 to the Motion, and the Published Notice, attached as Exhibit 3 to the Motion (1) is the best practicable notice; (2) is reasonably calculated, under the circumstances, to apprise potential Class Members of the pendency of this Action and of their right to object to this Agreement; (3) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) meets all applicable requirements of due process and federal law.

IT IS HEREBY ORDERED AS FOLLOWS:

7. This Order incorporates by reference all defined terms in the Agreement and incorporates all Exhibits to the Agreement. All terms defined in the Agreement shall have the same meaning in this Order.

8. The Agreement is hereby preliminarily approved, subject to further consideration at the Fairness Hearing, which shall be conducted as provided herein.

APPROVAL OF FORMS OF NOTICE

9. The Court approves the form of Mailed Notice, attached as Exhibit 2 to the Motion.

10. The Court orders within thirty (30) days of the entry of this Order, the Claims Administrator shall send notice by first class U.S. Mail (“Mailed Notice”), in the form of Exhibit 2 to the Motion, to the last-known address of each Class Member, whose names and last known addresses are reasonably ascertainable from Will County Sheriff arrest records, records from other arresting agencies, or public records, as agreed to by the Parties and previously used by Defense Counsel to send previous notices in this Action. Prior to the mailing, the Claims Administrator shall attempt to find updated addresses and verify the accuracy of the addresses of the Settlement Class members, the costs of which are included in the administration costs described in, and it shall:

- a. Inform the Class Member of the Settlement Class, the proposed Class Settlement, and the Fairness Hearing;
- b. Inform the Class Member to contact Class Counsel with questions regarding the Settlement Class or terms of the Settlement Agreement;
- c. Inform the Class Member of their right to object to the Settlement Agreement and/or its terms; and

- d. Inform the Class Member of the specific requirements for making a timely objection and that failure to meet such requirements shall be deemed a waiver of the objection.

11. If as a result of the mailing, a forwarding address is provided by the postal Service or Class Counsel, but the Mailed Notice is not forwarded by the Postal Service, the Claims Administrator will re-mail the Mailed Notice to the forwarding address. In the event that any Mailed Notice is returned as undeliverable a second time, no further mailing of the Notice shall be required.

12. The Court approves the form of Published Notice, attached as Exhibit 3 to the Motion.

13. The Court orders, within thirty (30) days of the entry of this Order, Claims Administrator shall issue published notice (“Published Notice”), in the form of Exhibit 3 to the Motion, in the (i) the Chicago Tribune, (2) the Herald-News, and (3) the Joliet Patch newspapers.

14. The Court orders the Claims Administrator to file proof of publication of the Published Notice with the Court within 30 days of the publication date.

DEADLINES

15. The Court has set the following dates for purposes of this Action:
 - a. Plaintiff’s Motion for Attorneys’ Fee Award must be filed by April 28, 2020; and
 - b. Class Member objections to the Agreement must be mailed to Claims Administrator and filed with the Court within sixty (60) days of the

postmarked date of Mailed Notice and no later than 15 days before the Fairness Hearing.

16. In the event that Mailed Notice and Published Notice is not made within the time specified herein, the subsequent dates contained herein will be deferred by the number of additional days before such notice occurs without the need for additional Court approval. However, the Court must approve any change in the date of the Fairness Hearing.

FAIRNESS HEARING DATE

17. A Fairness Hearing is set to occur on May 19, 2020, before Judge Charles P. Kocoras at 219 S. Dearborn, Chicago, Illinois in courtroom 2325 at 9 :30 A.M.

ADMINISTRATION OF THE AGREEMENT

18. Claims Administrator, Strategic Claims Services, is appointed to administer the Agreement.

19. Claims Administrator shall issue Mailed Notice and Published Notice, pursuant to the Agreement, and shall receive all objections, notices of intention to appear, and any other non-privileged communications. If any privileged communications are disclosed to Claims Administrator by Class Members, the Court determines the privilege has not been waived by such disclosure.

20. Claims Administrator shall file a proof of mailing and proof of publication, for the Mailed Notice and Published Notice respectively, with the Court thirty (30) days after the deadline to mail and publish the notice.

21. Claims Administrator shall furnish Class Counsel, Defense Counsel, and other counsel of record for Class Members, with copies of all objections, notices of intention to

appear, and other related communications by Class Members that come into the possession of Defense Counsel.

22. The costs of preparing, publishing, and serving Notice, and all other related expenses incurred by the Claims Administrator, shall be paid from the Settlement Fund. Claims Administrator shall provide an estimate of such costs, which shall be paid to the Claims Administrator from the Settlement Fund at Class Counsel's direction and supplemented in the event Claims Administrator provides a supplemental estimate. All original payments and supplemental payments shall be credited against the Settlement Fund.

PROCEDURES FOR OBJECTIONS AND THE FAIRNESS HEARING

23. At the Fairness Hearing, the Court shall consider:

- a. The fairness, reasonableness, and adequacy of the Agreement;
- b. Whether to certify the Classes;
- c. Determine an appropriate incentive award to Named Plaintiff;
- d. Determine appropriate attorneys' fees and costs for Class Counsel; and
- e. Any other issues related to this litigation or the Settlement.

24. The date and time of the Fairness Hearing shall be set forth in the Notice, but shall be subject to continuance by the Court without further notice to the Class Members other than by such notice which may be posted at the Court.

25. Objections to the Agreement by Class Members must be filed within sixty (60) days of the postmarked date of the Mailed Notice and no later than fifteen (15) days prior to the Fairness Hearing, and must include the following information:

- a. A heading that refers to the Action by case name (Dunn v. County of Will) and case number (18-CV-6304);
- b. Information demonstrating the objector is a Class Member, specifically the objector's
 - i. Name;
 - ii. Address;
 - iii. Date(s) of arrest(s) that fall within the class period (to the extent known); and
 - iv. Last four digits of the objector's Social Security Number;
- c. A statement whether the objector intends to appear at the Fairness Hearing and whether the objector intends to make a statement at the Fairness Hearing (such appearances and statements may only be made by the objector or by objector's own counsel);
- d. A statement identifying any counsel representing the objector (other than Class Counsel), specifically counsel's
 - v. Name;
 - vi. Bar number;
 - vii. Firm Address;
 - viii. Telephone number; and
 - ix. Email address;
- e. A statement of specific legal and factual bases for each objection;

- f. A description of any and all evidence the objector may offer at the Final Approval Hearing; and
- g. The objector's signature.

26. If the objector fails to timely serve or file their objection or fails to provide all required information, then the objection shall be deemed untimely, waived, and denied.

27. The right to object to this Agreement may be exercised individually by a Class Member or Class Member's personal attorney. This right may not be exercised as a member of a group or class, or, except in the case of a deceased or incapacitated Class Member, by a third party acting, or purporting to act, in any other representative capacity on behalf of the Class Member.

28. Final determination as to whether an objector is a Class Member with standing to object shall be determined solely by Defendant's records, including the Will County Sheriff's records as supplemented by other arresting agencies' records.

29. Claims Administrator shall forward all objections, notices of intention to appear, and other communications which come into its possession, to Class Counsel and Defense Counsel within two (2) Business Days of receipt.

30. Class Counsel and Defense Counsel shall report to the Court, within fifteen (15) days of the closing of the period for objections, their joint or respective responses to each timely objection.

OTHER PROVISIONS

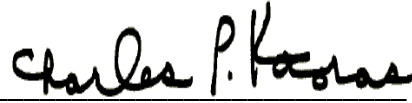
31. Pending the Final Approval Order, no Class Member shall directly, representatively, or in any other capacity, commence, prosecute, or participate in any action or

proceeding against Defendant in any court or tribunal, asserting any of the matters, claims, or causes of action that are to be released by the Agreement upon the Final Approval Order.

32. If the Final Approval Order is issued, then all Class Members shall be forever enjoined and barred from asserting any of the matters, claims, or causes of action released by the Agreement, and all Class Members shall be deemed to have forever released all such matters.

33. If the Agreement is not finally approved, or is otherwise terminated pursuant to the Agreement, the Agreement, and all proceedings had in connection therewith, shall be null and void, except as expressly provided in the Agreement, and without prejudice to the status quo ante rights of the Named Plaintiff, Defendant, and Class Members.

Dated: 1/23/2020



Honorable Charles P. Kocoras
United States District Court Judge