

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

**GARY COVINGTON, on behalf of
himself and all others similarly situated**

PLAINTIFF

v.

No. 2:12-cv-123-DPM

**ULESS WALLACE, HERMAN HALL, and
NEAL BYRD, all in their official capacities**

DEFENDANTS

ORDER

Covington has moved for various things.

1. Covington's individual jail-conditions claim is dismissed without prejudice. The January trial on that issue is cancelled. The parties' December 19th pretrial filings are cancelled. *№ 127.*

2. The draft notice is a good start. The Court has made proposed changes, *see attached*, to refine the class definition and respond to the City's concerns. Overall, the notice needs to be plainer, shorter, and easier to understand. Joint report with a further-revised draft, based on collaboration by all parties, due by 23 December 2014.

3. The Court doubts whether notice will be expensive. Processing claims may be. The Court grants Covington permission to file a petition for interim fees and expenses against Byrd only. The County's liability is established; the

City's (through Wallace and Hall) is not. Covington's request to hire a claims administrator is denied without prejudice: the Court needs more information (for example, about the number of likely claims and the cost of administration) before it can make a judgment about an administrator.

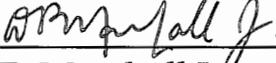
4. Covington's request to have the first-appearance trial on 20 January 2015, the date held for the conditions claim, is denied based on the City's objections. *No 137 & 138*. Are all counsel available for trial the week of 9 February 2015? This may be a possibility. What about the week of 9 March 2015, either before or after any trial in the related excessive-force case? We should be able to do both in one week.

5. Covington's new motion, *No 135*, is a bit puzzling. The Court thought everyone agreed that we needed a trial soon solely on the City's liability, with damages issues left hanging until liability for the City and the County is resolved.

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Motion, *No 129*, granted in part and denied in part. Motion, *No 135*, denied as moot because there will be bifurcation.

So Ordered.



D.P. Marshall Jr.
United States District Judge

17 December 2014