

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

1. The Court approves the parties' agreed protective order as modified and will enter it.

2. The Court appreciates the joint reports and proposed notice. The Court's first thoughts on the notice are attached. Should the fairness hearing information be broken out in a separate heading? The Court is thinking mid to late September for the fairness hearing. Revised draft notice due by 1 May 2015.

3. Considering all the material circumstances, the Court concludes that notice of the proposed settlement should be mailed and given in radio ads, in the Helena Daily World, and posted as before. The ads should be spread across June and July. The posted notice should go up as soon as we finalize the document and remain up until 1 August 2015. CAA should mail notice by

1 June 2015 to the last known address of all potential class members.

4. The parties have agreed to reimburse class counsel for the previous notice costs. *No 188 at 2*. The Court directs the City and the County to pay Sutter & Gillham, P.L.L.C., \$1,400.00 for the radio ad and \$972.00 for the newspaper ad. *No 187*. If the City or County objects to reimbursing Sutter & Gillham for the \$8,776.61 already paid to CAA, then it should file an objection by 28 April 2015.

* * *

Status reports addressed. Any objection to CAA expenses due by 28 April 2015. Revised proposed notice due by 1 May 2015. Joint motion, *No 191*, granted.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

21 April 2015

Draft Notice
13 March 2015

NOTICE TO COVINGTON CLASS MEMBERS

To: All pretrial detainees at the Phillips County Jail who were denied a prompt first appearance in the three years before this case was filed on 22 June 2012.

You may be eligible for compensation. A tentative settlement has been reached. The City of Helena-West Helena and Phillips County will contribute to a settlement pool in the amount of \$275,000, plus reasonable attorney fees and costs. This agreement caps the City and County liability to \$275,000, plus reasonable attorneys' fees and costs. All Class members' fines and costs within control of the City and County will be forgiven as of the date of Judgment. Court costs are controlled by the State of Arkansas and cannot be bound by this agreement. The County and City will make best efforts to see that court costs will also be alleviated for all members of the class.

at

1. Class Action Claims

Your rights may be affected by this Class Action. Gary Covington has brought this lawsuit against Phillips County and the City of Helena-West Helena. He alleges that the County and the City failed to provide a prompt first appearance in court (within 72 hours of arrest) to pretrial detainees at the County jail. Covington claims the City and the County violated the U.S. Constitution. He seeks damages for himself and others who were allegedly denied a prompt first appearance. The Court has held Phillips County liable for its violation of the Constitution, and will set the matter for a trial on damages owed. The City denies that it violated the Constitution and denies any liability to Covington and other pretrial detainees. A trial was scheduled to resolve the City's potential liability. However, the parties have negotiated a settlement, subject to the Court's approval and any objections Class Members may have.

2. Location of Lawsuit

This Class Action is pending in the United States District Court for the Eastern District of Arkansas. The purpose of this Notice is to tell you about the Class claim described in paragraph 1. This Notice is sent for the sole purpose of informing you that this case is pending—so you can decide whether to participate in this case or not. If you wish to participate in this settlement, you must file a claim by August 1, 2015.

all

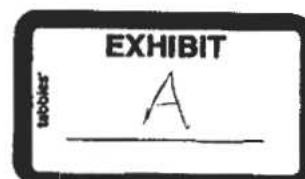
and a tentative settlement has been reached.

3. Attorney Fees & Costs

Under the settlement, the County and the City have agreed to pay Class Counsel reasonable attorney's fees and costs, as approved by the Court. No other fees or costs will be charged to Class members.

4. Class Representatives & Class Attorney

The Court has approved Gary Covington as Class Representative. Under the Settlement, the parties propose to pay him a Class Incentive of \$35,000.00. Mr.



Draft Notice
17 December 2014

Covington has also agreed to release all claims he may have against the County and the City. The Court has also approved a Class Attorney. He is:

Luther Sutter
SUTTER & GILLHAM, P.L.L.C.
Attorneys at Law
Post Office Box 2012
Benton, Arkansas 72018
(501) 315-1910

If you decide to remain a member of the Class and wish to communicate with the Class Attorney, you may do so by writing to him.

5. Proposed Settlement

A. As a Class Member, any claims you have against the County or the City for damages will be decided as follows:

1. Class members who didn't get a timely first appearance, but were released upon first appearance or otherwise released. Persons in this subclass will receive \$600 per day. (72 hours after arrest until release). Covington will receive this amount for his days.

2. Class members who did not receive a timely first appearance within 72 hours, were released after first appearance, and sentenced to time served. Persons in this subclass will receive \$150 per day. (72 hours after arrest until release).

3. Class members who did not receive a timely first appearance within 72 hours but were lawfully detained after first appearance (held for other reasons or unable to make bond). Persons in this subclass will get \$1.

Regardless of whether a claim is filed, all Class members fines and costs within control of the City and County will be forgiven as of the date of Judgment. Court costs are controlled by the State of Arkansas and cannot be bound by this agreement. The County and City will make best efforts to see that court costs will also be abated for all members of the class.

B. If you choose to be excluded from the Covington Class, you must mail a written request to _____ postmarked on or before August 1, 2015. By making this election to be excluded: You will not be bound by any decision in this lawsuit; you may present any claims you have against the County or the City by filing your own lawsuit; or you may seek to intervene in this lawsuit through your own counsel.

resolved

But Forgiven

[exist claims Admin. NAME/address]

choosing

Draft Notice
17 December 2014

6. Rights and Obligations of Class Members

A. Gary Covington has acted as your Class Representative and Luther Sutter of Sutter & Gillham, P.L.L.C. has acted as your Class Attorney for the presentation of the claims against the City and the County. If you desire, you may appear at any proceeding in person or by an attorney you have selected. You may also seek to intervene individually and may advise the Court if at any time you consider that you are not being fairly and adequately represented by the Class Representative or Class Attorney.

B. Your participation in any recovery that may be obtained from the County or the City through ~~trial~~ or settlement will depend on whether you timely file a claim and what class you fall in. YOU MUST FILE A CLAIM BY AUGUST 1, 2015 TO RECEIVE ANY MONEY FROM THE CLASS FUND. IN ORDER TO OBJECT TO THE SETTLEMENT, YOU MUST FILE AN OBJECTION BY BY AUGUST 1, 2015.

C. You are entitled to notice and an opportunity to be heard regarding the proposed settlement of the Class claims. For this reason, and to participate in any recovery, you are requested to notify _____ of your full name and current address.

convert
to
initial
caps

claims Admin
NAME /address/ telephone/
website

Draft Notice
17 December 2014

7. Further Proceedings

If you fail to file a claim postmarked or received by August 1, 2015, you will receive nothing. Once a claim is filed, all claims will be verified. **YOU MUST FILE A CLAIM BY AUGUST 1, 2015 TO RECEIVE ANY MONEY FROM THE CLASS FUND. IN ORDER TO OBJECT TO THE SETTLEMENT, YOU MUST FILE AN OBJECTION BY BY AUGUST 1, 2015.** Under the terms of the settlement, Plaintiff is entitled to a refuse to settle, should the pool be insufficient to fund the verified claims or Plaintiff can ask Judge Marshall to prorate the claims. If the Plaintiff does not ask for proration or Judge Marshall refuses to prorate the claims, then the City or County can walk away, if the claims exceed the fund. You have every right to be heard at this Hearing. This hearing is scheduled for _____.

with the Court

convert to initial cops

8. Contact Information

Any questions you have concerning the matters contained in this Notice should not be directed to the Court. They should be directed in writing to _____. You may write to the Claims Administrator at _____. Additionally, you may learn more about the Class Action online at _____ or by calling 1-888-287-1637. The pleadings and other records in this case may be examined and copied at any time during regular office hours at the office of the Clerk of the United States District Court, 600 West Capitol Avenue, Little Rock, Arkansas.

insert claims adm. details

9. Reminder as to Time Limit

If you wish to receive any money from the Covington Class fund described in paragraph 1, return the completed Claim Form to _____, by mail postmarked on or before _____. [Form Missing]
YOU MUST FILE A CLAIM BY AUGUST 1, 2015 TO RECEIVE ANY MONEY FROM THE CLASS FUND. IN ORDER TO OBJECT TO THE SETTLEMENT, YOU MUST FILE AN OBJECTION BY BY AUGUST 1, 2015.

The Court will hold a hearing to evaluate the fairness of the proposed settlement.