

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. Motion, *No 194*, granted as modified. Please make the noted changes to the draft Notice and the draft claim form and proceed. We need to be more explicit about the fairness hearing and objections. Those concerns prompted most of the changes.

2. No one has objected to paying now the expenses incurred to date for the Claims Administrator. *No 192 at 2*. The Court therefore orders the City and the County to reimburse Sutter & Gillham \$8,776.61, split 50/50, by 1 June 2015.

So Ordered.



D.P. Marshall Jr.
United States District Judge



19 May 2015

The proposed

Covington, v. Byrd, et al.
Case Number 2:12-CV-00123
In the United States District Court for the Eastern District of Arkansas

NOTICE TO COVINGTON CLASS MEMBERS

Field Code Changed

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~~ from June 22, 2009 to June 22, 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 at \$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~~ resolved by this agreement. The County and City will make best efforts to see that court costs will also be ~~alleviated/forgiven~~ for all members of the class.

1. Class Action Claims

Your rights may be affected by ~~this~~ the proposed settlement of 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, all 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 and a tentative settlement has been reached—so you can decide whether to participate in this ~~case~~ settlement or not. If you wish to participate in this settlement, you must file a claim Claim Form by August 1, 2015.

If you wish to object to this settlement, you must file an objection by August 1, 2015.

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. 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.

Questions? Visit www.PhillipsCountyClassActionSettlement.com or call toll-free 1-844-360-8307.

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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, but 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~~ City and ~~county~~ County will be forgiven as of the date of Judgment. Court costs are controlled by the State of Arkansas and cannot be ~~bound~~ resolved by this agreement. ~~But The the~~ County and City will make best efforts to see that court costs will also be ~~abated~~ forgiven for all members of the class.

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.** You must file a Claim Form **postmarked by August 1, 2015** to receive any money from the class fund. ~~A~~ The Claim Form is available at the website listed below.

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.

7. Further Proceedings

If you fail to file a claim postmarked or received by August 1, 2015, you will receive ~~nothing~~ not receive any money. 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.** You must file a Claim Form **postmarked by August 1, 2015 to receive any money from the class fund.** 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. ~~The Court will hold a hearing to evaluate the fairness of the proposed settlement.~~ You have every right to be heard at this ~~Hearing~~ hearing. This hearing is scheduled for ~~_____~~

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C. You have the right to object to the proposed settlement. But you must do so in writing to the Claims Administrator ~~_____~~ ~~_____~~ postmarked by August 1, 2015. The Claims Administrator's address is listed below in section 9. You can also get this address from the website listed below. Include your name, the case name and number (see above) in any objection. And explain why you believe the proposed settlement is unfair, inadequate, or unreasonable.

sub-group

available at the website listed below.

8. Fairness Hearing

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The court will hold a hearing to evaluate the fairness of the proposed settlement. You have every right to be heard at this hearing. The court will hold the hearing on September 11, 2015. The hearing will start at 9:00 a.m. You must be present then if you want to be heard about the proposed settlement. The hearing will be held in Courtroom 1A of the Richard Sheppard Arnold United States Courthouse, 600 West Capitol Avenue, Little Rock, Arkansas, 72201.

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9. 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 the Class Administrator. You may write to the Claims Class Administrator at Covington Class Administrator, c/o Class Action Administration, Inc., PO Box 6878, Broomfield, CO 80021. Additionally, you may learn more about the Class Action online at by visiting www.PhillipsCountyClassActionSettlement.com or by calling 1-888-287-1637/1-844-360-8307. 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.

10. Reminder as to Time Limit & Deadlines

If you wish to receive any money from the Covington Class fund described in paragraph ~~one~~, return the ~~a~~ completed Claim Form to the Class Administrator, by mail **postmarked on or before August 1, 2015**. ~~Form Missing~~
YOU MUST FILE A CLAIM FORM BY AUGUST 1, 2015 TO RECEIVE ANY MONEY FROM THE CLASS FUND.

If you wish to object to the proposed settlement, you must do so in writing to the Claims Administrator, postmarked on or before August 2, 2015.

YOU MUST FILE A WRITTEN OBJECTION BY AUGUST 1, 2015 FOR THE COURT TO CONSIDER YOUR OPPOSITION TO THE PROPOSED SETTLEMENT.

bold last phrase, like above

All caps, like above