

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

**DONTEL THOMAS and  
DALTON JACKSON, on  
behalf of Themselves and all Others  
Similarly Situated**

**PLAINTIFFS**

v.

**No. 2:15-cv-95-DPM**

**NEAL BYRD, in his Official Capacity;  
JOHN THOMAS, individually and in his  
official capacity as an employee of City of  
Helena-West-Helena; and SENTENCING  
OPTIONS SPECIALISTS, INC.**

**DEFENDANTS**

**ORDER**

1. The Court appreciates the parties' joint status report, *No* 52. These papers reflect hard work and much collaboration.

2. For purposes of considering the proposed settlement, the Court certifies the following class pursuant to Federal Rule of Civil Procedure 23(c)(1):

All those arrested in Phillips County, Arkansas between 9 October 2012 and 10 November 2016 who did not receive a Rule 8 appearance within seventy-two hours of arrest; and indigent people jailed by Phillips County or the City of Helena-West Helena during the same period for money owed to the City, County, or Sentencing Operations Specialists for traffic tickets, child support, monitor device fees, or other minor offenses where no inquiry was conducted into the person's ability to pay and without informing the person of their right to counsel or appointed representation.

The class satisfies all of Rule 23(a)'s requirements—numerosity, commonality, typicality, and adequacy of representation. This case is almost identical to *Covington v. Byrd*, No. 2:12-cv-123-DPM, in which this Court certified a class. See Order No. 119 in that case. The dates of the alleged conduct have changed, but the reasons for certification are the same. Thomas and Jackson allege they were denied prompt first appearances; and Jackson alleges he was held for a minor debt without knowing about his right to counsel. They say this kind of thing happened to one hundred or more others. All these people allegedly suffered the same injury as a result of the two practices of the defendants. *Bennett v. Nucor Corp.*, 656 F.3d 802, 814 (8th Cir. 2011). So the named plaintiffs' grievances are typical of the class members. *Paxton v. Union National Bank*, 688 F.2d 552, 562-63 (8th Cir. 1982). And Thomas and Jackson will adequately represent the common class interests through their qualified and experienced lawyer. *Ibid.*

Questions of law and fact common to class members predominate over questions affecting only individuals. There are lots of individual details, of course. But the big questions—the City/County practices—are common core for everyone. A class is the best way to fairly and efficiently adjudicate the

controversy. FED. R. CIV. P. 23(b)(3).

The Court appoints Dontel Thomas and Dalton Jackson as class representatives. They've prosecuted this case diligently and can stand in for all the affected individuals. And the Court appoints Luther Sutter of Sutter & Gillham, PLLC as class counsel. He handled the *Covington* case and has shown himself zealous in seeking justice for those affected by these City/County practices. FED. R. CIV. P. 23(g).

3. The Court preliminarily approves the parties' proposed settlement agreement, *No 52-1*, and all related draft notices and papers.

4. The Court schedules a fairness hearing for 6 March 2017 at 9:00 am in Helena Courtroom 314.

5. This case was randomly assigned to Chief Judge Miller and Magistrate Judge Ray when filed. On plaintiffs' notice about *Covington*, the case was reassigned to me. Magistrate Judge Joe J. Volpe was deeply involved in *Covington* too. To promote judicial economy, and get the benefit of Magistrate Judge Volpe's experience on these issues, the Court therefore directs the Clerk to reassign the case from Magistrate Judge Ray to Magistrate Judge Volpe. And the Court refers all issues that may arise during the claims

period, and the administration of the proposed settlement between now and the fairness hearing, to Magistrate Judge Volpe.

So Ordered.

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

*10 November 2016*