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11  
 12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA

14 DENNIS BUTLER on behalf of himself and all  
 15 those similarly situated;

16 Plaintiff,

17 v.

18 SANTA CRUZ COUNTY; SANTA CRUZ  
 COUNTY SHERIFF STEVE ROBBINS, in his  
 19 Individual and Official Capacities; SANTA  
 CRUZ COUNTY SHERIFF'S DEPUTIES DOES  
 20 1 THROUGH 50; and ROES 1 THROUGH 20,

21 Defendants.

Case No. C 07-00941 JF

**[PROPOSED] ORDER AND JUDGMENT OF  
 DISMISSAL**

**DATE:** January 16, 2009

**TIME:** 9:00 a.m.

**CTRM:** 3 (San Jose Division)

**JUDGE:** Hon. Jeremy Fogel

22 This matter came on regularly for a Fairness Hearing on January 16, 2009, in Courtroom 3 of the  
 23 above-entitled Court, San Jose Division, the Honorable Jeremy Fogel presiding. Plaintiff Class was  
 24 represented by Class Counsel Mark E. Merin of the Law Office of Mark E. Merin; Defendants were  
 25 represented by Jason M. Heath of the Santa Cruz County Counsel's Office.

26 After considering the submissions of the parties, including the Stipulated Motion for Preliminary  
 27 Approval of Provisional Settlement Class and Settlement of Class Action, together with the extensive  
 28 exhibits attached thereto; the unopposed Application of Plaintiff's Class Counsel for Award of Attorneys'

1 Fees and Costs; the Joint Submission of the Parties in Support of Final Approval of the Amended  
2 Stipulation of Settlement; the arguments of counsel; the submission from the Class Claims  
3 Administrator, and the objections to the settlement filed with the Court,

4 IT IS NOW ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

5 1. On July 7, 2008, this Court entered its order preliminarily approving settlement of the  
6 above-captioned class action. Since the entry of the Court's Preliminary Order, in accordance with the  
7 Amended Stipulation of Settlement as proved to the satisfaction of the Court, the requisite notice of the  
8 Settlement, with opt-out and objection information, was published in the Santa Cruz Sentinel on August  
9 14, 21 and 28, 2008, in the San Jose Mercury News on August 14, 21, and 28, 2008, and in the Good  
10 Times (a free newspaper) on August 21, 28, and September 4, 2008. The notice of the Settlement and  
11 approved claim forms, were posted by First Class Mail to the last-known address of each person in the  
12 Settlement Class. Both the published notice and the mailed notice specified that Claim Forms had to be  
13 delivered to the Claims Administrator, postmarked no later than December 18, 2008.

14 2. Both the published and mailed notices specified that any person who chooses to object to  
15 the Settlement, either personally or through counsel, and desired to appear at the Fairness Hearing, was  
16 required to submit a Notice of Intention to appear, together with written arguments in support of any  
17 objection, by December 18, 2008. One (1) written objection was received by counsel and filed with the  
18 Court.

19 3. The Court finds that the Class should be and hereby is certified under Rule 23(a) and Rule  
20 23(b)(3) because it satisfies all of the requirements for certification as recited by the Court in the hearing  
21 on the fairness of the settlement on January 16, 2009.

22 4. The Court is satisfied from all of the memoranda of law, declarations, and exhibits  
23 submitted to the Court, that the Stipulation of Settlement is fair, and the Court now finds for the reasons  
24 stated on the record at the hearing on January 16, 2009, that the Stipulation of Settlement is fair and  
25 finally approves it as such. The Stipulation of Settlement is incorporated herein by this reference as if set  
26 out in full.

27 5. The "Settlement Class" means all of those persons who are members of the following  
28 defined classes:

1           a.       **PRE-ARRAIGNMENT STRIP SEARCH CLASS:**

2                   The following persons shall be referred to as the “PRE-ARRAIGNMENT STRIP  
3 SEARCH CLASS”: (1) All arrestees booked into a Santa Cruz County  
4 correctional facility during the Class Period on non-VDW Felony Offenses or non-  
5 VDW Misdemeanor Offenses, who were assigned to a housing unit and who  
6 underwent one or more STRIP SEARCHES prior to arraignment on the charges on  
7 which they were booked excluding: 1) persons who, at the time of such Class  
8 Period booking were on parole and, 2) persons who, within the seven (7) years  
9 prior to such Class Period booking, had been arrested in SANTA CRUZ  
10 COUNTY on two (2) or more occasions on VDW offenses, whether Felony or  
11 Misdemeanor Offenses.

12           b.       **POST RELEASE STRIP SEARCH CLASS:**

13                   The following persons shall be referred to as the “POST RELEASE STRIP  
14 SEARCH CLASS”: Any person who, during the Class Period, was ordered  
15 released by the Court within eight (8) days of his or her booking in any Santa  
16 Cruz County correctional facility and was strip searched upon return to a Santa  
17 Cruz County correctional facility after the Court ordered that person to be  
18 released.

19           6.       Persons who previously commenced civil litigation challenging the legality of any strip  
20 search at the Santa Cruz County jails during the class period and have prevailed, settled or had their  
21 complaints denied on their merits, and persons who have given timely notice of their election to be  
22 excluded from the Settlement Class are not included in the Settlement Class.

23           7.       All claims and complaints of the named Representative Plaintiff, together with all persons  
24 in the Settlement Class, are now dismissed with prejudice as to all of the Released Persons, defined to  
25 include all Defendants, their predecessors, successors, and/or assigns, together with past, present and  
26 future officials, employees, representatives, attorneys and/or agents of the County of Santa Cruz. Claims  
27 and complaints of such persons are now forever barred, and all Settlement Class Members are enjoined  
28 from asserting against any Released Persons any and all claims which the Settlement Class Members

1 had, have, or may have in the future arising out of the facts alleged in the complaints.

2 8. Each Released Person is released from the claims which any Settlement Class Member  
3 has had or may in the future have against any such Released Persons arising out of the facts in the  
4 complaint.

5 9. This Court explicitly finds that the Stipulation of Settlement, which is now made final by  
6 this Judgment, was entered into in good faith, is fair and reasonable, and adequate, and is in the best  
7 interest of the Class. The Court expressly finds the amount of attorney's fees and costs sought to be fair  
8 and reasonable and expressly approves payment to class counsel, Mark E. Merin of the Law Office of  
9 Mark E. Merin, in the amount of Nine Hundred Fifty Thousand Dollars (\$950,000), as and for attorney  
10 fees and costs, for the representation of Settlement Class Members herein, to be paid as provided in the  
11 Stipulation of Settlement.

12 10. The Court further explicitly approves payment from the payment fund of a total of  
13 Seventy-Five Thousand Dollars (\$75,000.00) to be distributed to the Representative Plaintiff, Dennis  
14 Butler, as specified in the Amended Stipulation of Settlement. The Court finds the amount is fair and  
15 adequate in view of the damages suffered by the Representative Plaintiff and the efforts he expended in  
16 litigating this case in the more than two years from the time the original claim was filed.

17 11. Claims have been submitted and, in accordance with the claims processing procedure  
18 specified in the Stipulation of Settlement, will be reviewed, valued, and paid by the Claims Administrator  
19 from funds provided by the Defendants as soon as practicable following the effective date of this  
20 Judgment, meaning the date it is entered and becomes final. Such Judgment will be deemed final only  
21 upon the expiration of the time to appeal or, if a notice of appeal is filed in this matter, upon exhaustion  
22 of all appeals and petitions for writ of certiorari.

23 12. The Court reserves continuing and exclusive jurisdiction over the parties in this action,  
24 including Defendants and all Settlement Class Members, to administer, supervise, construe and enforce  
25 the Settlement in accordance with the terms for the mutual benefit of all of the parties.

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1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the complaint in this action be  
2 dismissed with prejudice and that judgment be and the same hereby is entered pursuant to the terms of  
3 this Order.

4 Dated: 1/28/09

  
HON. JEREMY FOGEL  
Judge, United States District Court  
Northern District of California, San Jose Division

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