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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

DAVID COLE, et al.,  
Plaintiffs,  
v.  
COUNTY OF SANTA CLARA, et al.,  
Defendants.

Case No. 16-CV-06594-LHK  
**ORDER GRANTING MOTION FOR  
PRELIMINARY APPROVAL OF  
CLASS SETTLEMENT AND NOTICE  
TO THE CLASS**  
Re: Dkt. Nos. 66, 72

The parties have entered into a Consent Decree that was filed with their Joint Motion for Preliminary Approval of Consent Decree and Notice to the Class on November 13, 2018, which would settle all claims in this case. *See* ECF No. 66. The parties also submitted a proposed Notice to the class, attached as Exhibit B to the Consent Decree.

On December 6, 2018, this Court held a Preliminary Approval hearing in the above-captioned action. *See* ECF No. 70. During the hearing, the Court ordered the parties to (1) file a declaration affirming that Defendant complied with the notice requirements of the Class Action Fairness Act (“CAFA”) of 2005; (2) file a corrected Consent Decree that fixed a typographical error that resulted in the Consent Decree § VIII citing to 28 U.S.C. § 3626 instead of 18 U.S.C. §

1 3626; and (3) file a revised Notice that provided that objectors must also include their name,  
2 address, and signature in any objections. In addition, the parties stated that they wished to add  
3 language from the Northern District of California’s Procedural Guidance for Class Action  
4 Settlements that the Court could only approve or reject the settlement and could not change the  
5 terms of the settlement.

6 On December 6, 2018, Defendant filed a declaration affirming that it provided the requisite  
7 CAFA notice on December 6, 2018. ECF No. 71. On December 7, 2018, Plaintiff filed a  
8 declaration that attached as Exhibit 1 a corrected version of the Consent Decree that fixed the  
9 typographical error (referred to below as the “corrected Consent Decree”). ECF No. 72, Ex. 1  
10 (“corrected Consent Decree”). Additionally, the corrected Consent Decree included as Exhibit B  
11 the revised Notice that updated the original proposed Notice to require that objectors include their  
12 name, address, and signature in any objections and added language that the Court may only  
13 approve or deny the Consent Decree and cannot change the terms of the Consent Decree (referred  
14 to below as the “revised Notice”). ECF No. 72, Ex. B to Ex. 1 (“revised Notice”). The corrected  
15 Consent Decree and the revised Notice are the operative documents that the Court approves  
16 below.

17 After reviewing all of the pleadings, records, and papers on file, the Court finds that, good  
18 cause appearing, IT IS ORDERED AS FOLLOWS:

19 1. This action is determined to be properly maintained as a class action pursuant to  
20 Rule 23(b)(2) of the Federal Rules of Civil Procedure. The Court has already certified a class  
21 defined as “All individuals with mobility disabilities who are now, or will be in the future,  
22 incarcerated in the Santa Clara County Jails, which consist of three facilities: (1) the Santa Clara  
23 County Main Jail Complex (“Main Jail”), consisting of Main Jail North and Main Jail South, in  
24 San Jose, California; (2) facilities for male inmates at the Elmwood Correctional Complex in  
25 Milpitas, California (“Elmwood”); and (3) the Elmwood Complex Women’s Facility in Milpitas,  
26 California.” ECF No. 38.



1 of the United States, due process and any other applicable rule(s) of this Court. The County must  
2 file and serve on Class Counsel a declaration affirming that notice was published as required in  
3 this order.

4 7. Any member of the class may enter an appearance on his or her own behalf in this  
5 action through that class member's own attorney (at their own expense) but need not do so. Class  
6 members who do not enter an appearance through their own attorneys will be represented by Class  
7 Counsel. Any member of the class may object to the corrected Consent Decree by February 28,  
8 2019, more than 35 days after the January 22, 2019 deadline for posting of notice at the Jails and  
9 on Class Counsel's webpage. Class Counsel and/or the County, as appropriate, will respond to any  
10 timely-filed objections not later than March 14, 2019.

11 8. The Court will consider written objections when deciding whether to approve the  
12 corrected Consent Decree. Objections must include at the top of the first page the case name, *Cole*  
13 *v. County of Santa Clara* and case number (5:16-cv-06594-LHK). Objections must also include  
14 the name, address, and signature of the objector. Objections must be postmarked no later than  
15 February 28, 2019, and sent to the following address:

16 Clerk of the Court  
17 United States District Court  
18 Northern District of California  
280 South 1st Street  
San Jose, CA 95113

19 9. A hearing is appropriate to consider whether this Court should grant final approval  
20 to the corrected Consent Decree, and to allow adequate time for members of the class, or their  
21 counsel, to support or oppose this settlement.

22 10. A final approval hearing pursuant to Rule 23(e), Federal Rules of Civil Procedure,  
23 will be in the Courtroom of undersigned on March 21, 2019 at 1:30 p.m. in the United States  
24 District Court for the Northern District of California, to determine whether the proposed  
25 settlement is fair, reasonable and adequate, and whether it should be finally approved by the Court.  
26 The hearing may be continued from time to time without further notice. The motion for final  
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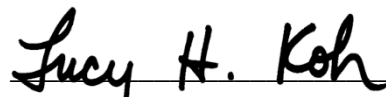
1 approval and the motion for attorneys' fees and costs shall be filed on or before January 14, 2019,  
2 and the replies in support of final approval and of attorney's fees and costs shall be filed by March  
3 14, 2019.

4 11. A summary of the deadlines set by the Court is included in the chart below:

Event	Date
Class Counsel Motion for Final Approval and Motion for Attorneys' Fees and Costs	January 14, 2019
Post of Settlement Revised Notice in English, Spanish, and Vietnamese and Consent Decree in English in a Binder in all Intake, Housing, and Programming Units of the Jails; and Creation of Webpage by Class Counsel Electronically Publishing Notice	January 22, 2019
Deadline for Objections by Class Members	February 28, 2019
Replies in Support of Motion for Final Approval and Attorneys' Fees and Costs (and Response to Objections)	March 14, 2019
Final Approval Hearing	March 21, 2019 at 1:30 p.m.

15 **IT IS SO ORDERED.**

16 Dated: December 7, 2018

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19 LUCY H. KOH  
20 United States District Judge