

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KIMBERLY CONNOR, on behalf of herself
and on behalf of others similarly situated,
Plaintiffs

v.

PLYMOUTH COUNTY, et al.,
Defendants

Civil Action No. 00-10835-RBC

SETTLEMENT AGREEMENT

I. INTRODUCTION

The parties, by counsel, have entered into this Settlement Agreement, which they submit to the Court for approval. This agreement provides for the defendants to settle the plaintiffs' claims for \$1.35 million, to be shared among participating class members after payment of class representative bonuses, administration and litigation expenses, and attorney's fees.

II. BACKGROUND

1. The plaintiffs filed this action on May 1, 2000.
2. On September 21, 2001, this Court certified this case as a class action pursuant to Fed.R.Civ.P. 23(b)(3), with the following sub-classes:
 - a. Marshfield Sub-Class: women who were taken to the Plymouth County Regional Lockup Facility located in the Marshfield Police Station for detention and strip searched without determining whether there was individualized reasonable suspicion for the strip search; and/or

- b. PCCF Sub-Class: women who were taken to the Plymouth County Correctional Facility for arraignment where they were strip searched without determining whether there was individualized reasonable suspicion for the strip search.

3. The Marshfield sub-class period runs from May 20, 1997, when the facility opened, through January 31, 2000, the last day before the county implemented a written policy ending automatic strip searches. The PCCF sub-class period runs from February 23, 1998, when the arraignment session began there, through October 11, 1999, the last day before a written notation was made in the matron's log that pre-arraignment strip searches would no longer take place.

4. For the purposes of this case, the term "strip search" includes any exposure or observation of a portion of a person's body where that person had a reasonable expectation of privacy.

5. After the class was certified, an approved class action notice was sent to every potential class member at her last known address. Eight class members asked to be excluded by the deadline. They will not be sent settlement notices.

III. COURT SUPERVISION

6. The Court will retain jurisdiction over the settlement and may enter orders as appropriate to enforce it, to adjudicate the rights and responsibilities of the parties, and to effect fair and orderly administration.

7. Any deadlines, dates, or other details in this Settlement Agreement may be changed by the Court on a showing of good cause.

IV. HEARING

8. The Court will hold a hearing on October 31, 2003 to decide whether to grant preliminary approval to the settlement. If preliminary approval is granted, the parties will begin to implement the settlement. The defendants will make their payment, and the plaintiffs will send the approved notice to the class.

9. The Court will hold the final fairness hearing to decide whether to grant final approval to the settlement.

V. ESTABLISHMENT OF THE FUNDS

10. The defendants, collectively, will pay one million three hundred and fifty thousand dollars (\$1,350,000.00) to settle all claims brought by the plaintiffs in this action.

11. The defendants will each pay their respective share of the settlement amounts by check made out to the "Connor Settlement Fund" and delivered to class counsel no later than 12:00 noon on the seventh day following the Court's order granting preliminary approval.

12. If any defendant does not pay all or part of its obligation on time, the amount owed by that defendant will accrue interest at the rate of 12% per year, compounded daily. The obligation to pay interest will apply only to the defendant that failed to pay its obligation in full. Interest will only apply to the unpaid portion of the defendants' obligation.

13. Class counsel will deposit the money into two interest-earning escrow accounts at LaSalle Bank National Association (135 South LaSalle Street, Suite 1960, Chicago, Illinois). Of the money, 70.59% (\$952,965) will be deposited for the Marshfield sub-class; the principal plus all accrued interest will comprise the "Marshfield Fund." The remaining 29.41% (\$397,035) will be deposited for the PCCF sub-class; the principal plus all accrued interest will comprise the "PCCF Fund." These percentages are based on the formula agreed to in mediation. These funds will be invested in the Dreyfus Government Cash Management Fund or other money market funds similarly composed of instruments secured by the full faith and credit of the United States.

14. If the Court does not give final approval to the settlement, the plaintiffs will return the amounts paid to the defendants.

15. If the Court does approve the settlement, the Marshfield Fund and the PCCF Fund will belong to the plaintiffs, and the defendants will no longer have any right to, title to, or interest in the funds.

VI. CLAIMS ADMINISTRATOR AND SPECIAL MASTER

16. Class counsel will recommend that the firm of Blackman Kallick Bartelstein LLP (300 South Riverside Plaza, Suite 660, Chicago, Illinois) be approved by the Court as Claims Administrator.

17. Class counsel recommends that attorney Robert J. Berks (Brockton, Massachusetts) be approved by the Court as Special Master for the purpose of hearing

appeals of decisions by the claims administrator regarding class membership and for distributing checks to class members who elect to pick up their checks.

18. Class counsel will oversee settlement administration and will provide direction to the Claims Administrator and Special Master as needed.

VII. NOTICE, OBJECTIONS, AND CLAIMS

19. Class counsel will send a Notice of Class Action Settlement and of the Hearing to Approve the Settlement ("Notice of Settlement"), a Settlement Claim Form, a Frequently Asked Questions sheet, and a confirmation card, by first class mail postage prepaid to all potential class members at their last known addresses no later than 21 days after the Court's order granting preliminary approval. If any mail is returned by the post office with notice of a more current address, class counsel will resend the notice to that address. Class counsel is not required to make any further efforts to send mail directly to class members.

20. The Notice of Settlement will include the terms of the settlement and the class member's right to contest the settlement. The proposed Notice of Settlement is attached as Exhibit A.

21. The Settlement Claim Form requests the class member's contact information, affirmation that she meets the class definition, instructions for check delivery, and a Form W-9. The proposed Settlement Claim Form and Form W-9 is attached as Exhibit B.

22. The confirmation card, if properly completed by the claimant, will be date-stamped and remailed upon receipt by the Claims Administrator. This will inform class members that their Settlement Claim Form was received by the Claims Administrator.

23. The Frequently Asked Questions sheet will explain the settlement terms and answer anticipated questions. This form is attached as Exhibit C.

24. Class counsel will also publish notice of the settlement in *The Brockton Enterprise*. This notice is attached as Exhibit D.

25. In order for a class member to claim a share of the settlement, she must submit a valid and complete Settlement Claim Form postmarked no later than 90 days after the Court's order granting preliminary approval. This deadline is the "Claims Deadline."

26. In order for a class member to object to the proposed settlement, she must first submit to the Claims Administrator a letter of objection postmarked no later than 90 days after the Court's order granting preliminary approval. She must then appear in person or through counsel at the final fairness hearing to have her objection considered by the Court. The Claims Administrator will forward all letters of objection to the Court and to counsel for all parties. (The class member must also submit a Settlement Claim Form if she wishes to be eligible to share in the settlement should it be approved despite her objection.)

27. Settlement Claim Forms received by the Claims Administrator no later than 14 days after the Claims Deadline will be treated as if postmarked by the Claims Deadline. This 14-day grace is the Amnesty Period.

28. In order for a class member to file a claim after the expiration of the Amnesty Period, she must petition directly to the Court for permission to file late and must establish excusable neglect. The Court will consider only petitions received by the Court no more than 30 days after the Amnesty Period.

VIII. APPROVAL AND APPEALS

29. The Claims Administrator will verify whether each claimant is a class member by confirming (a) that her Settlement Claim Form is timely and valid, (b) that the information on the form is consistent with the booking information provided by the defendants, and (c) that she affirms that she meets the class definition.

30. For any claimant who cannot be verified as a class member, the Claims Administrator will send a Notice of Claim Denial to the claimant no more than 14 days after the Court grants final approval of the settlement.

31. In order to object to the Claims Administrator's determination that she is not a class member, a claimant must file a written appeal to the Special Master postmarked no later than 14 days after the date of the mailing of her Notice of Claim Denial. She must include a written statement and documentation that shows that she is a class member. The evidence may include her criminal offender's record information (CORI) or certified Court documents from her criminal case. A claimant who has used

an alias must prove that she used such an alias. The Special Master may rule using the documentary evidence or may require the class member to attend a hearing. The Special Master will make a determination on any appeals no later than 30 days after the deadline for class members to file such appeals. The Special Master will report the determination to the Claims Administrator and class counsel. The Claims Administrator will inform the class members of the Special Master's determination. Rulings by the Special Master will be final and binding.

32. The Claims Administrator will send a Notice of Claim Approval and Sub-Class Membership ("Notice of Claim Approval") to each approved claimant no more than 14 days after the Court grants final approval of the settlement. The Notice of Claim Approval will tell each claimant her membership status in each sub-class and an estimate of her settlement amount.

33. A class member may contest a decision that she is a member of only one sub-class. In order to do so, she must file a written appeal to the Special Master postmarked no later than 14 days after the date of the mailing of her Notice of Claim Approval. She must include a written statement and documentation that shows that she is a member of the other sub-class. A claimant who has used an alias must prove that she used the alias. The Special Master may rule using just the documentary evidence or may require the class member to attend a hearing. The Special Master will make a determination on each woman's appeal no later than 60 days after the deadline for class members to file such appeals. The Special Master will report the determination to the

Claims Administrator and class counsel; the Claims Administrator will inform the class member in writing of the Special Master's determination. Rulings by the Special Master will be final and binding. Each claimant who loses such an appeal will be penalized at the time of settlement distribution by a deduction of 20% of the amount of her award. The deducted amount will be redistributed amongst members of the sub-class who did not lose appeals.

34. If any claimants successfully appeal claim denial or get permission from the Court to file a claim after the Claims Deadline, they will go through a similar but expedited process of class membership determination, notification, and opportunity to appeal. The Claims Administrator will set reasonable deadlines to balance fairness to the late claimant with the interest of class members in a prompt distribution.

IX. EXPENSES AND ATTORNEY'S FEES

35. Administrative costs, including the Claims Administrator's fees and expenses and the Special Masters' fees and expenses, will be paid from the settlement funds subject to approval by the Court. Class counsel will submit requests for the approval of such costs from time to time.

36. Class counsel will ask the Court to approve payment of plaintiffs' litigation expenses from the settlement funds to be paid at the same time as the distribution of the settlement funds to the class members.

37. Class counsel will ask the Court to approve an attorney's fee of 31% of the defendants' total payment and all accrued interest, to be calculated and paid at the same time as the distribution of the settlement funds to class members.

38. Administrative costs, litigation expenses, and attorney's fees will be paid in the following proportion: 70.59% will be paid from the Marshfield Fund and 29.41% will be paid from the PCCF Fund.

X. DISTRIBUTION TO CLASS MEMBERS

39. The Claims Administrator will pay bonuses from the settlement funds to compensate class representatives and one class member who spent time working with class counsel and attended the mediation to achieve the settlement. These checks will be issued at the same time as payments to class members. Class representatives will each receive bonuses of \$7,500. Class member Aisling Sutton will receive a bonus of \$3,500 for participating in the mediation. Of these bonuses, 70.59% will be paid from the Marshfield Fund and 29.41% will be paid from the PCCF Fund.

40. The Claims Administrator will make a final calculation of distribution amounts after all appeals have been resolved.

41. The Claims Administrator will calculate the amount of money in each settlement fund available to be distributed to class members after payment of bonuses, administrative costs, litigation expenses, and attorney's fees, and after setting aside a Court-approved amount to pay for post-distribution administrative costs. The Claims

Administrator will calculate each participating class member's share by dividing the available Marshfield Fund money equally amongst the participating Marshfield sub-class members and the available PCCF Fund money equally amongst the participating PCCF Fund sub-class members.

42. Each class member's check will be made payable only in her name or in the name of her estate. The check will be mailed to her or will be held for her to pick up at the office of the Special Master.

43. If a participating class member asks to pick up her check or does not provide a mailing address, or if the settlement check is returned as undeliverable, the class member will be required to appear in person before the Special Master to present verification of her identity.

44. The Special Master will determine the time and place for pickup. Participating class members who pick up a check in person must present one of the following forms of identification to establish their identity: (a) a driver's license or a state identification card, (b) a passport or a green card, or (c) some other photographic identification card not readily subject to forgery such as a military or student identification card. Other forms of similarly reliable identification may be considered by the Special Master.

45. If a participating class member is confined in a prison, hospital, or other institution and has provided the address of such institution for her payment, the settlement check will be sent to that address.

XI. POST-DISTRIBUTION ADMINISTRATION

46. Class members will be informed that all settlement checks must be cashed within 90 days. If any settlement check is not cashed or not claimed by the time the settlement fund accounts are closed, which will be more than 90 days after the date of distribution, the funds will be sent to the State Treasury in accordance with the Massachusetts Abandoned Property Act. The class member or her legal representative may later claim the money from the Treasurer pursuant to 960 C.M.R. 4.04.

47. LaSalle Bank will prepare all 1099s for class members who received a settlement check during the bank's next regular tax-form processing period following the distribution. The Claims Administrator will prepare all other necessary tax forms relating to the settlement fund account.

48. The Claims Administrator will provide a report to the Court and to counsel for all parties accounting for the distribution of settlement funds, including attorney's fees and expenses, once the distribution is complete.

49. The Claims Administrator will receive final payment for any outstanding fees and expenses no more than 30 days after the Claims Administrator completes the administration of the settlement.

50. Any balance in the Marshfield Fund or the PCCF Fund after all settlement checks have been distributed and all bonuses, expenses, and attorney's fees have been paid will be distributed under the cy pres doctrine to a non-profit group working on behalf of incarcerated prisoners.

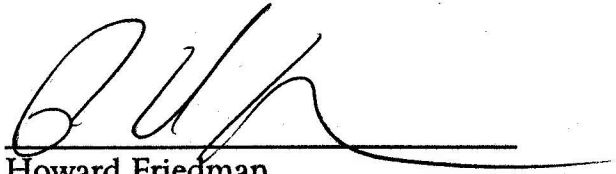
XII. DECEASED CLASS MEMBERS

51. If a class member is deceased, an authorized representative may file a Settlement Claim Form on her behalf. However, the representative must provide to the Claims Administrator documentation that an estate has been established in accordance with the law and that he or she is the duly appointed administrator or executor by one month before the date of distribution or the claim will be denied.

XIII. RELEASE

52. In exchange for payment of the settlement amount, defendants, Plymouth County, Town of Marshfield, Peter Forman, Debra Morrison, Linda Tilley, Robin Bell, Diane Gosselin, Diane Goulette, Marie Clark, Wendy Cope-Allen, Jeane Lincoln, Sally Clark, Karen Madden, Deborah Valler, Elaine Boidi, Sally Robertson, Linda Felix, Tammy Dellorusso, and Amy Sheppard, along with Continental Casualty, Great American Insurance Company, General Star Insurance Company, and Summit Risk Services will be released from all liability for the class members' claims for unlawful strip searches that were part of this lawsuit, except for any class members who requested exclusion and filed a claim within the statute of limitations.

For the plaintiffs,



Howard Friedman

BBO #180080

Myong J. Joun

BBO #645099

Law Offices of Howard Friedman, P.C.

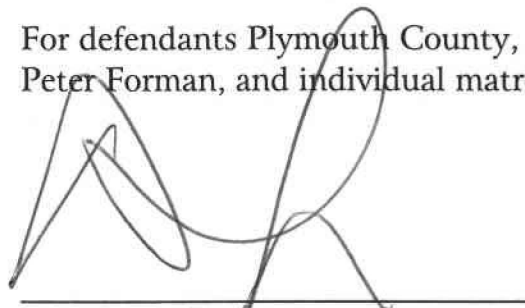
90 Canal Street, 5th Floor

Boston, MA 02114-2022

(617) 742-4100

Date: _____

For defendants Plymouth County,
Peter Forman, and individual matrons,



Douglas I. Louison

BBO #545191

Merrick, Louison & Costello

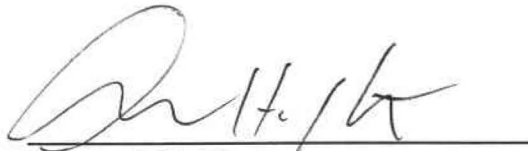
67 Batterymarch Street

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(617) 439-0305

Date: _____

For defendant Town of Marshfield:



Leonard H. Kesten

BBO #542042

Brody, Hardoon, Perkins & Kesten

One Exeter Plaza

Boston, MA 02116

(617) 880-7100

Date: 10/22/03

Attached Exhibits:

- A: Notice of Class Action Settlement and of the Hearing to Approve the Settlement
- B: Settlement Claim Form, Form W-9, and Confirmation Card
- C: Frequently Asked Questions sheet
- D: Notice for Publication