

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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ANTHONY DODGE, PETER A. MACHADO and
JOSEPH PETRIELLO, individually and on behalf of all
others similarly situated,

Plaintiffs,

02 Civ. 769 (CM)

- against -

COUNTY OF ORANGE and SHERIFF H. FRANK
BIGGER, in his individual and official capacity,
Defendants.

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SAMUEL RANGO, JARROD H. MANN, and ROCCO
MANNIELLO, individually and on behalf of all others
similarly situated,

Plaintiffs,

02 Civ. 8451 (CM)

- against -

COUNTY OF ORANGE and SHERIFF H. FRANK
BIGGER, in his individual and official capacity,
Defendants.

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SETTLEMENT AGREEMENT

The Parties, by and through their counsel, enter into this Settlement Agreement subject to the approval of the Court, providing for the settlement of the Plaintiffs' claims against Defendants.

WHEREAS, Plaintiffs Anthony Dodge, Peter Machado, Joseph Petriello, Samuel Rango, Jarrod Mann and Rocco Manniello, filed the above-captioned class action lawsuits against Defendants, the County of Orange and (former) Sheriff H. Frank Bigger, alleging that Defendants had violated the Constitutional rights of Plaintiffs and others similarly situated by

subjecting them to Admission Searches upon entry into the Orange County Correctional Facility (“OCCF”).

WHEREAS, Plaintiffs further alleged that, in violation of law and pursuant to the policy of Orange County, all persons such as Plaintiffs and the members of the class they purport to represent, who enter the OCCF charged with felony and non-felony offenses are subject to illegal Admission Searches absent any particularized suspicion that they possess weapons or other contraband.

WHEREAS, Defendants have vigorously denied and continue to deny Plaintiffs’ claims, and Defendants deny any wrongdoing or liability of any kind to Plaintiffs or to any Class Members.

WHEREAS, the Parties to this Settlement Agreement have conducted a thorough examination and investigation of the facts and law relating to the matters in this Litigation.

WHEREAS, Plaintiffs recognize the costs and risks of prosecution of this Litigation, and believe that it is in their interest, and the interest of all Class Members, to resolve this Litigation, and any and all claims against Defendants, as well as all current and former employees and elected officials of the County of Orange.

WHEREAS, Defendants have concluded that settlement is desirable in order to avoid the time, expense, and inherent uncertainties of defending protracted litigation and to resolve finally and completely all pending and potential claims of the Plaintiffs and all Class Members relating to alleged conduct involved in this Litigation.

WHEREAS, this Settlement Agreement is the result of substantial settlement negotiations between the Parties, and is subject to the Court approval process.

WHEREAS, Plaintiffs' counsel believe that this Settlement Agreement offers significant benefits to Class Members and is fair, reasonable, adequate and in the best interest of Class Members.

WHEREAS, this Settlement Agreement is made and entered into by and among Defendants and Plaintiffs, Anthony Dodge, Peter Machado, Joseph Petriello, Samuel Rango, Jarrod Mann and Rocco Manniello, individually and on behalf of a national class of similarly situated persons defined as:

All persons who were detained on non-felony or felony charges during the period January 31, 1999 through and including August 6, 2002 and who were subjected to an admission search on their initial arrival at the OCCF pursuant to the facility's alleged policy of subjecting all newly-arrived pre-trial detainees to an admission search without making any individualized assessment of the likelihood that they would be carrying weapons, drugs or other contraband.

WHEREAS, the Parties agree that this is class definition comports with the classes/subclasses certified by the Court in its January 31, 2005 decision. Dodge v. County of Orange, 226 F.R.D. 177 (S.D.N.Y. 2005).

NOW, THEREFORE, it is hereby stipulated and agreed, by and between the undersigned as follows:

I. DEFINITIONS

As used in this Settlement Agreement, the following terms shall have the meaning set forth below. Where appropriate, terms used in the singular shall be deemed to include the plural and vice versa.

A. Admission Search. "Admission Search" shall mean a visual body search of the person of a newly arriving inmate to the OCCF as part of the initial admissions process. An

Admission Search requires the inmate to disrobe and expose his/her genitals and other body parts to inspection by correctional staff.

B. Claim Form. “Claim Form” shall mean the Pro of of Claim form in substantially the same form as Exhibit A attached to this Settlement Agreement.

C. Claims List. “Claims List” shall mean a written list of the names of all Class Members who submit timely Claim Forms.

D. Claims Period. “Claims Period” shall mean the time period during which claims may be made by Class Members, extending from the Notice Date until a date not later than thirty (30) days from when the Summary Notice was last published in the Times Herald Record, including weekends and holidays, provided that if the last day of the Claims Period falls on a weekend or federal holiday, then the end of the Claims Period shall be the next following day that is not a weekend or federal holiday.

E. Class Counsel. “Class Counsel” shall mean: James E. Monroe, Esq., The Law Offices of Dupee & Monroe, P.C. and Robert N. Isseks, Esq., c/o The Law Offices of Dupee & Monroe, P.C.

F. Class Member. “Class Member” shall mean any person who was initially detained on a felony or non-felony charge during the period January 31, 1999 through and including August 6, 2002 and subjected to an Admission Search on his or her initial arrival at the OCCF.

G. Class Notice. “Class Notice” shall mean the Court-approved form of notice in substantially the same form as Exhibit B attached to this Settlement Agreement.

H. Class Representatives. “Class Representatives” shall mean Anthony Dodge, Peter Machado, Joseph Petriello, Samuel Rango, Jarrod Mann and Rocco Manniello.

I. Court. “Court” shall mean the United States District Court for the Southern District of New York, The Honorable Colleen McMahon, or her duly appointed or designated successor.

J. Defendants. “Defendants” shall mean the County of Orange and (former) Sheriff H. Frank Bigger, and shall include all current and former employees and elected or appointed officials of the County of Orange.

K. Defendants’ Counsel. “Defendants’ Counsel” shall mean David L Darwin, Acting County Attorney, Department of Law, County of Orange, Robert S. Groban, Jr., Epstein Becker & Green, P.C. and James M. Fedorchak, Gellert & Klein, P.C.

L. Effective Date. “Effective Date” shall mean the date on which this Settlement Agreement and the Final Judgment become “Final” in that all of the following conditions have been satisfied: (1) the Final Judgment has been entered; and (2) (a) if an appeal or review is not sought from the Final Judgment, the thirty-first day after the entry of the Final Judgment, or (b) if an appeal or review is sought from the Final Judgment, the day after the Final Judgment is affirmed and the Final Judgment is no longer subject to judicial review or the day after the appeal or review is dismissed or denied, a mandate has issued pursuant to Federal Rules of Appellate Procedure 41, and the Final Judgment is no longer subject to judicial review.

M. Eligible Felony Detainee. An “Eligible Felony Detainee” shall mean a Felony Detainee eligible to participate in and receive a payment from the Settlement Fund.

N. Eligible Non-Felony Detainee. An “Eligible Non-Felony Detainee” shall mean a Non-Felony Detainee eligible to participate in and receive a payment from the Settlement Fund.

O. Exclusion Criteria. “Exclusion Criteria” shall mean the circumstances under which a Felony Detainee or Non-Felony Detainee who timely submitted a Claim Form and who

did not otherwise submit a Request for Exclusion may nevertheless be found to be ineligible to receive a Settlement Payment or participate in the Settlement Fund. A Felony Detainee or a Non-Felony Detainee shall be excluded from participating in the Settlement Fund if she or he meets one of the following criteria; (a) the individual was known to be a member of a gang, (b) the individual was known to have an escape charge filed against him or her at any correctional facility, (c) the individual was remanded into custody pursuant to a drug or weapons charge, (d) the individual displayed assaultive or dangerous behavior either at the OCCF or during or following the individual's arrest, (e) the individual had a prior or current contraband charge, (f) the individual activated the metal detector and/or BOSS Chair and was found to be in possession of contraband or a weapon, or (g) the individual was a parole or probation violator. In addition, any Non-Felony Detainee shall be excluded from participating in the Settlement Fund if she or he meets two or more the Reduction Criteria set out in Section I(CC), below.

P. Felony Detainee. "Felony Detainee" shall mean a Class Member arrested and remanded to the OCCF on a felony charge.

Q. Final Approval Hearing. "Final Approval Hearing" shall mean the hearing at which the Court will consider and finally decide whether to enter the Final Judgment.

R. Final Judgment. "Final Judgment" shall mean the Court order that gives final approval of this Settlement Agreement, approves payment of attorneys' fees and expenses, dismisses the action with prejudice, and makes such other final rulings as are contemplated by this Settlement Agreement in substantially the same form as Exhibit C attached to this Settlement Agreement.

S. Litigation. “Litigation” shall mean the above-captioned lawsuits pending in the United States District Court for the Southern District of New York, bearing index numbers 02 Civ. 769 and 02 Civ. 8451.

T. Non-Felony Detainee. “Non-Felony Detainee” shall mean a Class Member arrested and remanded to the OCCF on a non-felony charge, including but not limited to misdemeanors, civil violations, family court violations, contempt and immigration violations.

U. Notice Program. “Notice Program” shall mean the program for disseminating the Class Notice to Class Members, including public dissemination of the Summary Notice, in accordance with the terms set forth in this Settlement Agreement.

V. Notice Date. “Notice Date” shall mean the date not later than twenty (20) days after the Court enters the Preliminary Approval Order, upon which Class Notice (as defined above) is mailed to known Class Members and the first date that the Summary Notice (as defined below) is published for four consecutive weeks in the Times Herald Record in accordance with the terms set forth in this Settlement Agreement.

W. Objection Date. “Objection Date” shall mean the date not later than thirty (30) days after the Summary Notice is last published in the Times Herald Record, unless otherwise set by the Court, by which Class Members must submit any objection to the Settlement Agreement’s terms or provisions and submit any required statements, proof, or other materials and/or submissions.

X. Opt-Out Deadline. “Opt-Out Deadline” shall mean the date not later than thirty (30) days after the Summary Notice is last published in the Times Herald Record, unless otherwise set by the Court, by which any Class Members who do not wish to be bound by,

included under or participate in this Settlement Agreement must complete the acts necessary to properly effect an election to opt out of the Settlement Agreement.

Y. Opt-Out List. “Opt-Out List” shall mean a written list of the names of all Class Members who submit timely Requests for Exclusion.

Z. Parties. “Parties” shall mean the Plaintiffs and the Defendants.

AA. Plaintiffs. “Plaintiffs” shall mean Anthony Dodge, Peter Machado, Joseph Petriello, Samuel Rango, Jarrod Mann and Rocco Manniello, individually and on behalf of all others similarly situated.

BB. Preliminary Approval Order. “Preliminary Approval Order” shall mean the order of the Court preliminarily approving this Settlement Agreement in substantially the same form as Exhibit D attached to this Settlement Agreement.

CC. Reduction Criteria. “Reduction Criteria” shall mean the circumstances under which a Non-Felony Detainee timely submitting a Claim Form and who did not otherwise submit a Request for Exclusion will have his or her Settlement Payment reduced to two hundred and fifty dollars (\$250.00), (subject to being prorated as set forth in Sections III(B)(2) and III(C)(1)). The amount to be paid to any Non-Felony Detainee shall be reduced if (a) the individual was identified as having a suicidal ideation, (b) the individual activated the BOSS Chair after June 1, 2001, or (c) the individual appeared to be under the influence of drugs or narcotics (but not alcohol). In the event a Non-Felony Detainee meets two or more of the Reduction Criteria set out in this paragraph, the Non-Felony Detainee shall not be eligible to participate in or receive any payment from the Settlement Fund.

DD. Request for Exclusion. “Request for Exclusion” shall mean any request by any Class Member for exclusion from the Settlement Agreement in compliance with Section V herein, i.e., to “opt out” of the Settlement Agreement.

EE. Settlement Agreement. “Settlement Agreement” shall mean this Settlement Agreement between the Parties to resolve the Litigation, including any amendment(s), and all the exhibits attached to the Settlement Agreement.

FF. Settlement Amount. “Settlement Amount” shall mean the amount of six hundred twenty-four thousand and eight hundred dollars (\$624,800) to be funded by the Defendants which includes: (i) six hundred fourteen thousand and eight hundred dollars (\$614,800) for the payment of all timely claims filed by Class Members, and (ii) a ten thousand dollar (\$10,000) payment to represent an incentive award to be distributed equally to the Class Representatives.

GG. Settlement Fund. “Settlement Fund” shall mean a fund, which shall be utilized to administer the monetary requirements of the Settlement Agreement.

HH. Settlement Payment. “Settlement Payment” shall mean the amount each Eligible Felony Detainee or Eligible Non-Felony Detainee shall be paid under the terms of this Settlement Agreement, as set forth in this paragraph and in III(C): (i) Any Eligible Felony Detainee shall be paid the sum of one hundred dollars (\$100.00), (subject to being prorated as set forth in Sections III(B)(2) and III(C)(1)). A Felony Detainee shall not be deemed an Eligible Felony Detainee if she or he meets one of the Exclusion Criteria set out in Section I(O). (ii) Any Eligible Non-Felony Detainee shall be paid the sum of one thousand Dollars (\$1000.00), (subject to being prorated as set forth in Sections III(B)(2) and III(C)(1)), unless subject to a reduction based on the Reduction Criteria set out in Section I(CC), in which case the Eligible Non-Felony Detainee shall be paid the sum of two hundred and fifty dollars (\$250.00), (subject

to being prorated as set forth in Sections III(B)(2) and III(C)(1)). A Non-Felony Detainee shall not be deemed an Eligible Non-Felony Detainee if she or he meets one of the Exclusion Criteria set out in Section I(O).

JJ. Summary Notice. “Summary Notice” shall mean a notice in substantially the same form as that which appears at Exhibit E attached to this Settlement Agreement, which is published for four consecutive weeks in the Times Herald Record and shall appear as close to the front of the Times Herald Record as may be accomplished upon request without additional cost.

II. REQUIRED EVENTS

A. Promptly after execution of this Settlement Agreement by all Parties:

1. The Parties shall jointly move for entry of a Preliminary Approval Order in substantially the same form as Exhibit D, which by its terms shall:

- a. Preliminarily approve the terms of the Settlement Agreement;
- b. Approve the contents of the Class Notice and methods in the Notice Program; and
- c. Schedule a Final Approval Hearing for a date not less than 99 days from the Notice Date to: (i) review comments regarding the proposed Settlement Agreement; (ii) consider the fairness, reasonableness and adequacy of the proposed Settlement Agreement; (iii) consider the fairness, reasonableness and adequacy of the award of attorneys’ fees and reimbursement of expenses; and (iv) consider whether the Court should enter a Final Judgment (in substantially the same form as Exhibit C) approving the Settlement Agreement, granting Class Counsel’s application for fees and expenses, and dismissing the Litigation with prejudice.

2. In the event that the Court fails to issue the Preliminary Approval Order or fails to issue the Final Judgment, Class Counsel and Defendants’ Counsel agree to act in good

faith, consistent with this Settlement Agreement, to cure any defect identified by the Court; provided, however, that in no event shall any Defendant be required to agree to any act or cure that would materially increase the costs or burdens of the Settlement Agreement to such Defendant.

3. The County or its designee shall send out Class Notice no later than twenty (20) days after the Court enters its Preliminary Approval Order.

4. Class Members will have until the Objection Date and the Opt-Out Deadline to submit any objection to the Settlement Agreement or make a Request for Exclusion.

5. Not later than thirty (30) days after the Opt-Out Deadline, the County or its designee shall provide an Opt-Out List to Class Counsel together with copies of the Requests for Exclusion, which list, along with the underlying exclusion requests, shall be confidential and shall not be disclosed by either party.

6. Class Members will have the Claims Period to submit a Claim Form.

7. Not later than thirty (30) days after the end of the Claims Period, the County or its designee shall provide a Claims List to Class Counsel together with copies of the returned Claims Forms, which list and forms shall be confidential and not disclosed by either party.

8. The County or its designee shall have no later than thirty (30) days after providing the Claims List to Class Counsel to determine the Settlement Payments for each Eligible Felony Detainee and Non-Felony Detainee and provide such determinations to Class Counsel. In addition, the County or its designee shall notify each person submitting a claim of the determination as to whether the individual is eligible to receive a Settlement Payment. The Settlement Payments will be determined based upon a review of the records maintained by the

OCCF. Settlement Payments to Felony Detainees and Non-Felony Detainees will be made consistent with the provisions of Section I(HH) of this Settlement Agreement.

9. The determination as to who is an Eligible Felony Detainee and/or an Eligible Non-Felony Detainee and the Settlement Payment for each, is final, unless Class Counsel or an individual objects to that determination, in writing, within twenty (20) days after receiving the determination. The County or its designee shall complete its review of and issue a final determination as to any such objections within thirty (30) days of receiving such objection.

10. Class Counsel or an affected individual may challenge the County or its designee's final determination within thirty days of the date of that final determination. Any such challenge must be made to the Court in the above-captioned matter.

11. The parties agree to request the Court to retain jurisdiction over this matter after it enters a Final Judgment approving the Class Settlement for the purpose of adjudicating appeals from the final determination of the County or its designee. The Court's adjudication shall be final. The parties waive any rights that they may have to further appellate review of such determination.

12. Following the final determination of eligibility as set forth in subsections 1 through 11, and no sooner than twenty (20) days after the Effective Date, Defendants' Counsel will deposit the Settlement Fund in to an interest bearing account, with interest payable to the County of Orange.

13. The Parties acknowledge that prompt approval, consummation, and implementation of this Settlement Agreement are essential. The Parties shall cooperate with each other in good faith to carry out the purposes of and effectuate this Settlement Agreement; shall promptly perform their respective obligations set out in this Settlement Agreement; shall

promptly take any and all action, execute and deliver any and all additional documents; and shall provide other documents or information reasonably necessary to carry out the terms of this Settlement Agreement.

III. SETTLEMENT TERMS

A. Injunctive and Declaratory Relief: The Parties agree to request the Court to enter an order dismissing with prejudice all claims for injunctive and declaratory relief. Nothing in this Settlement Agreement shall be construed as constituting injunctive or declaratory relief for Plaintiffs. Should the Court fail to enter an order dismissing with prejudice all claims for injunctive and declaratory relief, this Settlement Agreement shall become null and void, and of no force or effect whatsoever.

B. Settlement Fund

1. Defendants will fund the Settlement Fund, in the manner prescribed in this Settlement Agreement, in an amount not to exceed six hundred twenty-four thousand and eight hundred dollars (\$624,800).

2. Following the final determination of eligibility as set forth in subsections 1 through 9 and no sooner than twenty (20) days after the Effective Date, Defendants will deposit into the Settlement Fund an amount to be determined, such that the total does not exceed six hundred twenty-four thousand and eight hundred dollars (\$624,800). If the amount payable to Class Members exceeds the Settlement Amount, then each individual payment to Class Members will be reduced pro rata. The amount to be deposited at this time will be determined by adding (i) the total of the filed claims that must be paid, and (ii) a ten thousand dollar (\$10,000) payment, to represent an incentive award to be distributed equally to the Class Representatives. Defendants shall not be responsible for any additional fees or expenses of any type.

3. The Parties expressly agree that all sums remaining in the Settlement Fund following payment of the claims of eligible Felony Detainees and eligible Non-Felony Detainees shall be promptly returned to the County of Orange.

C. Payments to Class Members

1. For each Class Member who submits a timely Claim Form, the County or its designee shall review the Class Member's entitlement, if any, to receive a Settlement Payment. The decision will be based upon the records that were available to corrections officers at the time the Class Member was subjected to an Admission Search at the OCCF. If the amount payable to Class Members exceeds the Settlement Amount, then each individual payment to Class Members will be reduced pro rata. Class members will receive payments according to the following:

a. An Eligible Felony Detainee shall receive a Settlement Payment equal to one hundred dollars (\$100.00), unless otherwise subject to being pro rated pursuant to Sections III(B)(2) and III(C)(1) or excluded pursuant to Section I(O).

b. An Eligible Non-Felony Detainee shall receive a Settlement Payment Equal to one thousand dollars (\$1,000.00), unless the Eligible Non-Felony Detainee (i) meets one of the Reduction Criteria set out in Section I(CC), in which case the Eligible Non-Felony Detainee shall receive a Settlement Payment equal to two hundred and fifty dollars (\$250.00); or (ii) is subject to the exclusions pursuant to Section I(O), in which case the Eligible Non-Felony Detainee shall not receive a Settlement Payment. Amounts to be paid under this Settlement Agreement are subject to being pro rated pursuant to Sections III(B)(2) and III(C)(1).

2. No Felony Detainee or Non-Felony Detainee shall be entitled to more than one Settlement Payment regardless of the number of times he or she has been admitted to the OCCF and/or subjected to an Admission Search.

3. No portion of the Settlement Amount shall be disbursed before the Effective Date.

4. Defendants do not waive any rights with respect to any claims against the Class Members' share of the Settlement Fund.

5. In recognition of the risks incurred by the Class Representatives and the time and effort expended by these Class Representatives in assisting in the prosecution of this litigation, in addition to such compensation as they may be entitled to as an Eligible Misdemeanor Detainee or an Eligible Felony Detainee (subject to applicable Exclusions and Deductions), each will receive the following,

- | | |
|----------------------|------------|
| a. Anthony Dodge: | \$1,666.66 |
| b. Peter A. Machado: | \$1,666.66 |
| c. Joseph Petrillo: | \$1,666.66 |
| d. Samuel Rango: | \$1,666.66 |
| e. Jarrod Mann: | \$1,666.66 |
| f. Rocco Manniello: | \$1,666.66 |

6. Plaintiffs in this Litigation do not contest the legality of strip searches conducted after a detainee's admission to the OCCF because they agree that these searches by Defendants are constitutional and lawfully undertaken under its policies and practices.

D. Attorneys' Fees and Expenses

1. Not later than twenty (20) days after the Effective Date, Defendants will pay Class Counsel attorneys' fees in the amount of six hundred thousand Dollars (\$600,000). The award shall be divided by and among Class Counsel and Class Counsel represents that no one else has any claim to or lien on such award. Class Counsel shall not seek recovery of any additional fees or expenses that they might incur subsequent to the award by the Court and any

claim by anyone to the award shall be resolved by the Court, but in no event shall the resolution of the claim result in any additional payment by the Defendants.

2. Defendants will pay the notice and settlement administration costs.

E. Defendants' Option to Withdraw: If the County determines in its sole discretion that Requests for Exclusion have been filed by a material number of Class Members, the County shall have the right to terminate this Settlement Agreement. Such option shall be exercised, if at all, within ten (10) business days of the day the Opt-Out List is forwarded to the Defendants by the County or its designee in accordance with Section V herein.

IV. NOTIFICATION TO CLASS MEMBERS

A. On the Notice Date, the County or its designee will provide notice to the Class Members by a direct mailing of a Class Notice and a Claim Form to all individuals at their last known or readily ascertainable address and by publication in the Times-Herald Record on at least one day per week for four consecutive weeks commencing on the Notice Date.

B. The County or its designee shall also provide a copy of the Class Notice and Claim Form to anyone who requests notice through a dedicated internet website, and through a toll-free telephone number to be established by the County or its designee.

C. There will be no notice broadcast either by radio or television.

D. Defendants have already cooperated in the Notice Program by providing in electronic form, to the extent possible, the last known addresses of each person believed to be a Class Member, together with any other information (e.g. social security numbers, dates of birth) that is in the Defendants' possession as needed to facilitate proper notice. Defendants will also utilize the information contained in the OCCF records (which includes but is not limited to social

security numbers, dates of birth and last known addresses etc.), along with a National Database Locator to verify the last known addresses of each person believed to be a Class Member.

E. If, after the initial mailing, the Class Notice is returned as undeliverable, the County or its designee will attempt to locate the Class Member by way of a national locator database or service and, if another address is found, remail the Class Notice to that new address. The parties agree that this process, when completed and coupled with the publication above shall be deemed to be fair and reasonable Class Notice to the Class Members.

V. REQUESTS FOR EXCLUSION BY CLASS MEMBERS

A. Any Class Member may make a Request for Exclusion by mailing or delivering such request in writing to the County or its designee at an address to be established. Any Request for Exclusion must be postmarked not later than the Opt-Out Deadline. Any Request for Exclusion shall state the name, address and telephone number of the person requesting exclusion and contain a clear statement communicating that such person elects to be excluded from the Settlement Agreement, does not wish to be a Class Member and elects to be excluded from any judgment entered pursuant to this Settlement Agreement.

B. Any Class Member who submits a timely Request for Exclusion may not file an objection to the Settlement Agreement and shall be deemed to have waived any rights or benefits under this Settlement Agreement. No Claim Form will be processed unless the Class Member has submitted a timely Request for Exclusion.

C. Not later than thirty (30) business days after the Opt-Out Deadline the County or its designee shall provide an Opt-Out List to Class Counsel together with copies of the Requests for Exclusion. The Opt-Out List along with the underlying Requests for Exclusion, shall be confidential and shall not be disclosed by either party.

D. Class Counsel or an affected individual may challenge the County or its designee's Opt-Out List within thirty days of the date that it is served. The County or its designee shall have thirty (30) days to issue a final determination in response to such a challenge. Class Counsel or an affected individual may appeal this final determination to the Court in the above-captioned matter.

E. The parties agree to request the Court to retain jurisdiction over this matter after it enters a Final Judgment approving the Class Settlement for the purpose of adjudicating appeals from the final determination of the County or its designee. The Court's adjudication shall be final. The parties waive any rights that they may have to further appellate review.

F. Class Counsel will not represent any Class Member who makes a Request for Exclusion from the Settlement Agreement.

VI. OBJECTIONS BY SETTLEMENT CLASS MEMBERS

A. Any Class Member who wishes to be heard orally at the Final Approval Hearing, or who wishes for any objection to be considered, must file a written notice of objection by the Objection Date. Such objection shall state the name, address and telephone number of the person and provide proof that the objector is a Class Member, as well as a detailed statement of each objection asserted, including the grounds for objection and reasons for appearing and being heard, together with any documents such person wishes to be considered in support of the objection.

B. The agreed-upon procedures and requirements for filing objections in connection with the Final Approval Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Class Members' objections to the Settlement Agreement, in accordance with such Class Members' due process rights. The Preliminary Approval Order and

Class Notice will require all Class Members who have any objections to file such notice of objection or request to be heard with the Clerk of the Court, and serve by mail or hand delivery such notice of objection or request to be heard, including all papers or evidence in support thereof, upon Class Counsel and Defendants' Counsel, at the addresses set forth in the Class Notice, no later than the Objection Date. The Preliminary Approval Order will further provide that objectors who fail to properly or timely file their objections with the Clerk of the Court, along with the required information and documentation set forth above, or to serve them as provided above, shall not be heard during the Final Approval Hearing, nor shall their objections be considered by the Court.

C. Class Counsel will not represent any Class Member who objects to the Settlement Agreement.

VII. REPRESENTATIONS, WARRANTIES AND COVENANTS

A. Class Counsel, who are signatories hereof, represent and warrant that they have the authority, on behalf of Plaintiffs, to execute, deliver, and perform this Settlement Agreement and to consummate all of the transactions contemplated hereby. This Settlement Agreement has been duly and validly executed and delivered by Class Counsel and Plaintiffs and constitutes their legal valid and binding obligation.

B. Defendants, through their undersigned attorneys, represent and warrant that they have the authority to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Defendants of this Settlement Agreement and the consummation by them of the actions contemplated hereby have been duly authorized by all necessary action on the part of

Defendants. This Settlement Agreement has been duly and validly executed and delivered by Defendants and constitutes their legal, valid, and binding obligation.

C. Class Counsel and Defendant's Counsel agree to defend the Settlement Class and Settlement Agreement.

VIII. MISCELLANEOUS PROVISIONS

A. The Parties agree that this Settlement Agreement, and the exhibits and related documents hereto, are not, and shall not at any time be construed or deemed to be, or to evidence, any admission against or concession by Defendants with respect to any wrongdoing, fault, or omission of any kind whatsoever, regardless of whether or not this Settlement Agreement results in entry of a Final Judgment as contemplated herein. Any payment of moneys, or any other action taken, by any of the Defendants pursuant to any provision of this Settlement Agreement, shall not at any time be construed or deemed to be, or to be evidence, any admission against or concession by Defendants with respect to any wrongdoing, fault, or omission of any kind whatsoever, regardless of whether or not this Settlement Agreement results in entry of a Final Judgment as contemplated herein. Defendants deny any liability to Plaintiffs and to all Class Members. This provision shall survive the expiration or voiding of the Settlement Agreement.

B. Plaintiffs and Class Counsel agree and acknowledge that they are not prevailing parties for this Litigation or any other purpose.

C. This Settlement Agreement is entered in to only for purposes of resolving the Litigation. In the event that the Effective Date does not occur for any reason or the Final Judgment is not entered, then this Settlement Agreement is cancelled, except for the provisions of paragraph VIII-A. In the event this Settlement Agreement is cancelled or deemed cancelled,

no term or condition of this Settlement Agreement, or any draft thereof, with the exception of paragraph VIII-A, or of the discussion, negotiation, documentation or other part or aspect of the Parties' settlement discussions, shall have any effect, nor shall any such matter be admissible in evidence for any purpose, or used for any purposes whatsoever in the Litigation or in any other litigation, and all Parties shall be restored to their prior rights and positions as if the Settlement Agreement had not been entered into.

D. The headings of the sections and paragraphs of this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.

E. This Settlement Agreement, including all exhibits attached hereto, may not be modified or amended except in writing signed by all of the Parties.

F. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

G. This Settlement Agreement shall be governed by and construed in accordance with the substantive laws of the State of New York, without giving effect to any choice or conflict of law provision, or rule that would cause the application of the laws of any other jurisdiction.

H. Except as otherwise provided in this Settlement Agreement, the Parties to this Settlement Agreement shall each bear his or its own costs of the Litigation.

I. If any clause, provision or paragraph of this Settlement Agreement shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision or paragraph of this Settlement Agreement, and this

Settlement Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable clause, paragraph, or other provisions had not been contained herein.

J. The Parties to this Settlement Agreement reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

K. All applications for Court approval or Court orders required under this Settlement Agreement shall be made on notice to Plaintiffs and Defendants.

L. The determination of the terms of, and the drafting of, this Settlement Agreement, including its exhibits, has been by mutual agreement after negotiation, with consideration by and participation of all Parties and their counsel. Since this Settlement Agreement was drafted with the participation of all Parties and their counsel, the presumption that ambiguities shall be construed against the drafter does not apply. Each of the Parties was represented by competent and effective counsel throughout the course of settlement negotiations and in the drafting and execution of this Settlement Agreement, and there was no disparity in bargaining power among the Parties to this Settlement Agreement. In entering into this Settlement Agreement, none of the Parties relied on advice received from any other Party or any other Party's counsel.

M. Integrated Agreement

1. All of the exhibits to this Settlement Agreement are material and integral parts hereof, and are fully incorporated herein by reference.

2. This Settlement Agreement and the exhibits thereto constitute the entire, fully integrated agreement among the Parties and cancel and supersede all prior written and unwritten agreements and understandings pertaining to the settlement of the Litigation.

N. Notice

1. Any notice, request or instruction or other document to be given by any party to this Settlement Agreement to any other party to this Settlement Agreement (other than Class Notice) shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid:

If to Defendants to:
ACTING
County
Departm
255
Goshen,
(845)

David L. Darwin (DD-8340)
COUNTY ATTORNEY
Of Orange
ent of Law
Main Street
New York 10924
291-3150

Robert

S. Groban, Jr. (RG-6160)
EPSTEIN BECKER & GREEN, P.C.
Attorneys for Defendant County of Orange
250 Park Avenue
New York, New York 10177-1122
(212) 351-4500

and

James M. Fedorchak (JF-9214)
GELLERT & QUARTARARO, P.C.
Attorney for Defendant Sheriff H. Bigger
75 Washington Street
Poughkeepsie, New York 12601
(845) 454-3250

If to Class Counsel or Plaintiffs to:
DUPEE

James E. Monroe (JM-2266)
DUPEE & MONROE, P.C.
Attorneys for Plaintiffs
Office and P.O. Box Address
30 Matthews Street, P.O. Box 470
Goshen, New York 10924
(845) 294-8900

c/o

Robert N. Isseks (RI-0241)
DUPEE DUPEE & MONROE, P.C.
Attorneys for Plaintiffs
Office and P.O. Box Address
30 Matthews Street, P.O. Box 470
Goshen, New York 10924

(845) 294-8900

IN WITNESS WHEREOF, Plaintiffs and Defendants and their respective counsel have executed this Settlement Agreement as of the date(s) indicated on the lines below.

ATTORNEYS FOR PLAINTIFFS

By: _____
James E. Monroe (JM-2266)
DUPEE DUPEE & MONROE, P.C.
Attorneys for Plaintiffs
Office and P.O. Box Address
30 Matthews Street, P.O. Box 470
Goshen, New York 10924
(845) 294-8900

Date: _____

Robert N. Isseks, Jr.
c/o DUPEE DUPEE & MONROE, P.C.
Attorneys for Plaintiffs
Office and P.O. Box Address
30 Matthews Street, P.O. Box 470
Goshen, New York 10924
(845) 294-8900

Date: _____

ATTORNEYS FOR DEFENDANTS

By: _____

Date: : _____

David L. Darwin (DD-8340)
ACTING COUNTY ATTORNEY
County of Orange
Department of Law
255 Main Street
Goshen, New York 10924
(845) 291-3150

By: _____

Date: : _____

Robert S. Groban, Jr. (RG-6160)
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250 Park Avenue
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GELLERT & QUARTARARO, P.C.
Attorney for Defendant Sheriff H. Bigger
75 Washington Street
Poughkeepsie, New York 12601
(845) 454-3250

Date: _____