IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JULIA ANN JACKSON, ERICA BERNAL, and MARTIN MARTINEZ Individually and on Behalf of a Class of Others Similarly Situated,	)	
Plaintiffs,	)	CIVIL ACTION NO. SA-07-CV-928
v.	)	
THE COUNTY OF BEXAR,	)	
Defendant.	)	

PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND BRIEF IN SUPPORT THEREOF

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The plaintiffs, Julia Ann Jackson, Martin Martinez, and Erica Bernal, on behalf of themselves and all others similarly situated ("Plaintiffs") respectfully submit this Motion for Preliminary Approval of Class Action Settlement and Brief in Support Thereof. The defendant, Bexar County ("Defendant"), does not oppose the filing of this Motion for Preliminary Approval of Class Action Settlement and Brief in Support Thereof.[1]

I. INTRODUCTION

In a Settlement Agreement[2] executed on August 5, 2010, a true and correct copy of which is attached hereto as Exhibit A, Class Counsel (Charles J. LaDuca and Alexandra C. Warren of Cuneo Gilbert & LaDuca LLP, Washington, DC; Sam H. Lock of the Law Offices of Sam H. Lock, San Antonio, Texas; Elmer Robert Keach, III of the Law Offices of Elmer Robert Keach, III, P.C., Amsterdam, New York; Gary E. Mason and Nicholas Migliaccio of Mason LLP, Washington, DC; Kerrisa Chelkowski of the Law Office of Kerrisa Chelkowski, San Antonio, Texas; and Jim Harrington of the Texas Civil Rights Project, Austin Texas)[3] and Bexar County and have secured a proposed settlement (the "Settlement") that provides a fair, reasonable and adequate benefit to individuals admitted to the Bexar County Adult Detention Center (the "Detention Center") who were subjected to strip and/or visual cavity searches upon entry to the facility, regardless of the nature of offense or the presence of individualized reasonable suspicion. The Settlement creates a settlement fund of between $3,000,000 and $5,500,000 for

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[1] Defendant continues to deny liability and damages for its alleged actions or inactions. Defendant has agreed to the attached settlement agreement.

[2] The following documents are attached as exhibits to the Settlement Agreement: Exhibit A (Claim Form), Exhibit B (Long Form Notice), Exhibit C (Final Approval Order [Proposed]), Exhibit D (Preliminary Approval Order [Proposed]), Exhibit E (Short Form Notice), Exhibit F (Plan of Distribution), Exhibit G (Subclass Misdemeanor Offense Listing).

[3] Class Counsel's firm resumes are attached hereto as Exhibit B.

the benefit of in excess of approximately 29,400 Class Members. *See* LaDuca Cert. at ¶ 9. The specifics of this relief are set forth in a Plan of Distribution, a true and correct copy of which is attached to the Settlement Agreement as Exhibit F.

This beneficial Settlement was reached over two and a half years after the filing of this case and represents an efficient and salutary result for the Class on a claim that could have faced difficulties at trial, and which was obtained from a defendant with a circumscribed ability to pay. By virtue of the work of mediator Michael Curry, Esq., the parties were able to engage in numerous arm's-length negotiation sessions that took place over the course of two years and were aided in their positions by virtue of an efficient exchange of information relative to the merits of the case. The parties' good-faith efforts to resolve this litigation ultimately resulted in a settlement representing a thoughtful compromise, which takes into consideration the parties respective concerns -- a meaningful solution to the constitutional violations incurred by the members of the class and the County's financial status.

In short, Plaintiffs respectfully submit that this Settlement is fair, adequate, and reasonable for the Class and that the requirements for final approval will be satisfied. In considering preliminary approval, this is all that the moving party needs to demonstrate in order for class members to be notified of this settlement and for a fairness hearing to be scheduled.

Finally, Plaintiffs request that, along with granting preliminarily approval of the Settlement, the Court adopt the schedule set forth below, for the parties to effectuate the various steps in the settlement approval process under the Settlement Agreement:

	Event	***Timing***
1	Notice Date	No more than forty-five (45) days after Preliminary Settlement Approval Date.
2	Deadline for filing Requests for Exclusion	Forty-five (45) days after Notice Date.
3	Deadline for filing Objections	Forty-five (45) days after Notice Date.

4	Fairness Hearing	Approximately One Hundred and Twenty (120) days after Notice Date.
5	End of Claims Period	One Hundred and Twenty (120) days after Notice Date.

Accordingly, at this preliminary stage of the settlement process, Plaintiffs respectfully request that the Court: (i) grant preliminary approval of the proposed settlement; (ii) schedule a final fairness hearing to consider final approval, pursuant to the schedule set forth above; (iii) direct that notice of the proposed settlement and hearing be provided to absent class members in a manner consistent with the Settlement Agreement and the Notice Plan, as set forth in the above-mentioned schedule; and (iv) enter the proposed Order for Preliminary Approval.

II. PROCEDURAL BACKGROUND OF CASE

On November 15, 2007, Plaintiffs filed this class action lawsuit against Bexar County ("Defendant") regarding the Bexar County Adult Detention Center's strip search policies and practices.[4] LaDuca Cert. at ¶2.

Significant discovery was completed. In addition to written discovery exchanged between the parties, Plaintiffs deposed Col. Earl Griffin, Bexar County's Rule 30(b)(6) designee, as well as nine other Detention Center Officers Defendant, while Defendant deposed each of the three named plaintiffs. LaDuca Cert. at ¶3.

The parties attended a first mediation session with Michael Curry, Esq., on November 21-22, 2008, but were not able to resolve the case. Discovery continued. LaDuca Cert. at ¶4.

From March 31-April 1, 2009, the parties attended a second mediation session with Mr. Curry. As a result of their negotiations, the parties filed a Joint Motion to Enter Consent Decree

[4] The original Complaint named Julia Ann Jackson as the plaintiff. Plaintiffs filed an Amended Complaint on August 6, 2008 adding Martin Martinez and Erica Bernal as plaintiffs. Dkt. 46. A Second Amended Complaint was filed on November 16, 2009. Dkt. 92.

on March 31, 2009. Dkt. 62. The Consent Decree, which resolved Plaintiffs' claims for injunctive relief, was entered by the Court on April 2, 2009. Dkt. 63. Due in part to the County's coverage dispute with its insurance carriers, the parties were not able to reach an agreement as to a complete settlement at that time. LaDuca Cert. at ¶5.

Since Plaintiffs' claims for class-wide damages remained unresolved, the parties continued to litigate the case. Plaintiffs filed a motion for class certification on June 4, 2009, Dkt. 74-7. After class certification motion was fully briefed in July of 2009, the parties continued to discuss the possibility of settlement and attended a final mediation session on November 2-3, 2009. The parties spent extensive time continuing their negotiations after the conclusion of the mediation and, on April 6, 2010, the parties executed a Memorandum of Understanding regarding the settlement of this case. LaDuca Cert. at ¶6.

The Settlement Agreement was executed on August 5, 2010. LaDuca Cert. at ¶7. In connection with the execution of the Agreement, the parties prepared for the administration of the settlement, and drafted the class notices and other papers that are part of and attached to the Settlement Agreement. Through the mediation sessions and under the auspices of Mr. Curry, Plaintiffs learned that Bexar County had limited resources to fund a settlement in this matter. LaDuca Cert. at ¶ 8. Plaintiffs believe that the monetary amount obtained for the benefit of Class Members through the Settlement Agreement represents the limit of Bexar County's ability to pay. LaDuca Cert. at ¶8.

III. BRIEF FACTUAL BACKGROUND OF CASE

Plaintiffs claim that Bexar County maintained a strip search policy and practice throughout the class period, pursuant to which all newly admitted pre-trial detainees, including those admitted on misdemeanor offenses, were subjected to a strip search, often in a group

setting, after being transported to the Bexar County Adult Detention Center. It is Plaintiffs' position that this policy and practice applied all detainees, without regard to the existence of reasonable suspicion to believe that they were concealing contraband. Plaintiffs believe in some instances this action constituted an assault or threat of assault.

IV. THE PROPOSED SETTLEMENT[5]

Plaintiffs are pleased to present this application for preliminary approval of the settlement of this litigation to the Court. This Settlement is made on behalf of all persons brought to the Bexar County Adult Detention Center after being charged with misdemeanor offenses (or other minor crimes) and were subsequently strip searched upon their entry into the facility. The Class is defined in the Settlement as:

> All pre-trial detainees confined to the Bexar County Adult Detention Center between November 15, 2005 and April 9, 2009, who were subjected to a strip search before being sent to jail housing after being booked on misdemeanor charge(s). Specifically excluded from the class are pre-trial detainees who were subjected to strip search before being sent to jail housing after being booked on a felony charge, or a felony charge and misdemeanor charge.

The Settlement Class includes the following two subclasses:

> Subclass I: All persons in the Settlement Class, not in Subclass II.
>
> Subclass II: All persons in the Settlement Class who were admitted on misdemeanor charges of narcotics, shoplifting and weapons violations.

The misdemeanor offenses which qualify as those constituting charges of narcotics, shoplifting and weapons violations are defined by the parties in Exhibit G to the Settlement Agreement.

[5] If there is a conflict in the phrasing of the statements in this motion, as opposed ot the executed August 3, 2010 Settlement Agreement, the Settlement Agreement controls.

As described below, the Settlement Agreement provides for the creation of a fund to compensate class members for these constitutional violations.

A. The Settlement Fund

The Settlement creates a fund of between $3,000,000 and $5,500,000 (the "Settlement Fund"). The Settlement is structured so that an initial contribution of $250,000 will be made within 30 days of the entry of a preliminary approval order. After final approval, and no later than 10 days after the Effective Date, the sum of $1,750,000 will be provided by Bexar County's primary insurance carriers. The timing of additional contributions to the Settlement Fund will depend upon Bexar County's resolution of a coverage dispute with its excess insurance carriers.

It is Bexar County's position that its excess carriers should contribute an additional $3.5 million towards the Settlement, which would result in a total Settlement of $5.5 million. Bexar County has filed litigation to resolve this coverage dispute with its excess carriers. In the event that the coverage dispute is not resolved by 30 days after the Effective Date, or the coverage dispute is resolved against Bexar County prior to the Effective Date, Bexar County will pay the sum of $1 million into the Settlement Fund. Thus, in no event will the Settlement Fund be less than $3 million.

The Settlement Agreement provides that if Bexar County recovers funds from its excess carriers, the money will first be used to reimburse litigation expenses in connection with the insurance coverage litigation. If Bexar County *has not* made a contribution into the Settlement Fund, all remaining funds will be paid to the Settlement Fund. If Bexar County *has* made a contribution to the Settlement Fund, then one half of the sums recovered from its excess carriers shall be paid to Bexar County until it recovers the sums it paid and the other half, after payment

of litigation expenses incurred in connection with Bexar County's insurance coverage litigation, shall be paid into the Settlement Fund. Further details regarding the distribution of funds is set forth in Section 3 of the Settlement Agreement.

All administrative expenses, including the costs of settlement administration, website administration and the provision of notice to class members, as well as the amount awarded by the Court for attorneys' fees and costs and incentive awards to the class representatives, will be deducted from the Settlement Fund prior to determining the amount of distribution for class members. The exact amount of recovery to each class member, and the timing of such distribution(s), will be determined by the Plan of Distribution.

Subclass I will receive all of the distribution amount from the Settlement Fund after above-mentioned amounts are deducted, except that an additional $100,000 will be deducted to fund Subclass II. Each Class Member within Subclass I who submits a timely Claim Form will receive a *pro rata* share of the fund, except that the maximum payment to members of Subclass I will be $1,000. Members of Subclass II, in turn, will receive their *pro rata* share of the $100,000 Subclass II fund, except that their maximum payment will be $100. If a *pro rata* distribution of the Settlement Fund to members of Subclass II results in funds remaining in the Settlement Fund for Subclass II, those remaining funds will be transferred to the Settlement Fund for Subclass I for distribution. Then, if the *pro rata* share of the Settlement paid to members of Subclass I would be greater than $1,000, Defendant will receive a reverter of the remaining funds. If members of Subclass I or Subclass II have unpaid court ordered fines, fees, costs of court, or restitution ordered by a Bexar county Judge, the amount owed will be subtracted from any payment, with the maximum of any such payment being one-half of that

Class Member's payment, capped at $500.00 for Subclass I Members, and $50.00 for Subclass II Members.

B. Class Notice and Settlement Administration

Both the Class Notice and Settlement Administration provided for in the Settlement Agreement comport with the requirements of applicable law, Rule 23 of the Federal Rules of Civil Procedure and due process. First, all costs associated with publishing notice to the class members and the administration of the Settlement shall be deducted directly from the settlement amount before determining the distribution to the Class. Second, notice will be provided to the Class by direct mailing of the Long Form Notice, Short Form Notice and Claim Form, true and correct copies of which are attached to the Settlement Agreement as Exhibits B, E, and A, respectively, to all individuals at their last known or readily ascertainable address (in both Spanish and English) and by publication in the major English and Spanish newspapers in San Antonio on at least one day per week for three consecutive weeks commencing on the Notice date, and on one occasion during the last ten days of the Claims Period. The mailed notice will be provided in Spanish and English, and newspaper advertisements will provide instruction that a Spanish copy of the notice will be provided upon request. Notice will also be provided to the class by way of a limited televised notice campaign on cable television, as well as a radio campaign.

C. Attorneys' Fees and Class Representative Incentive Awards

Class Counsel will petition the Court for reasonable attorneys' fees and expenses payable from the Settlement Fund. The Settlement Agreement currently provides that Class Counsel will

seek attorneys' fees and expenses in an amount together not to exceed thirty percent of the total Settlement Fund.

Class Counsel will also petition the Court for incentive awards on behalf of Julia Ann Jackson, Martin Martinez, and Erica Bernal, in the amount of $15,000 each.

V. The Settlement Agreement Should Be Preliminarily Approved By the Court

In this motion, Plaintiffs seek preliminary approval of the Settlement Agreement between Plaintiffs and Defendant. "Compromises of disputed claims are favored by the courts." *Williams v. First Nat'l Bank,* 216 U.S. 582, 595 (1910). Settlement spares the litigants the uncertainty, delay and expense of a trial, while simultaneously reducing the burden on judicial resources. Federal Rule 23(e) provides that the Court must approve any settlement of a class action. The ultimate determination whether a proposed class action settlement warrants approval resides in the Court's discretion. *Protective Comm. for Indep. S'holders of TMT Trailer Ferry, Inc. v. Anderson,* 390 U.S. 414, 424-25 (1968). As discussed more fully below, at this stage of preliminary approval, there is clear evidence that the Settlement Agreement is well within the range of possible approval and thus should be preliminarily approved.

A. The Standards and Procedures for Preliminary Approval

Rule 23(e) of the Federal Rules of Civil Procedure provides the mechanism for settling a class action, including, as here, through a class certified for settlement purposes:

> The claims, issues, or defenses of a certified class may be settled, voluntarily dismissed, or compromised only with the court's approval. The following procedures apply to a proposed settlement, voluntary dismissal, or compromise:
>
> (1) The court must direct notice in a reasonable manner to all class members who would be bound by the proposal.
>
> (2) If the proposal would bind class members, the court may

> approve it only after a hearing and on finding that it is fair, reasonable, and adequate.
>
> (3) The parties seeking approval must file a statement identifying any agreement made in connection with the proposal.
>
> (4) If the class action was previously certified under Rule 23(b)(3), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.
>
> (5) Any class member may object to the proposal if it requires court approval under this subdivision (e); the objection may be withdrawn only with the court's approval.

Fed. R. Civ. P. 23(e); *Amchem Prods. v. Windsor,* 521 U.S. 591, 617 (1997).

In determining whether preliminary approval is warranted, the sole issue before the Court is whether the proposed settlement is within the range of what might be found fair, reasonable and adequate, so that notice of the proposed settlement should be given to class members, and a hearing scheduled to consider final approval. The Court reviews the proposal preliminarily to determine whether it is sufficient to warrant public notice and a hearing. If so, the final decision on approval is made after the hearing. *Manual for Complex Litigation*, Fourth, § 13.14, at 172-73 (Federal Judicial Center 2004) ("Manual Fourth"). The Court is not required at this point to make a final determination:

> The judge must make a preliminary determination on the fairness, reasonableness, and adequacy of the settlement terms and must direct the preparation of notice of the certification, proposed settlement, and date of the final fairness hearing.

Id. at § 21.632, at 321. Preliminary approval is the first step in a two-step process required before a class action may be finally settled. *Id.* at 320. Courts first make a preliminary evaluation of the fairness of the settlement, prior to notice. *Id.* at 320-21. In some cases this initial assessment can be made on the basis of information already known to the court and then

supplemented by briefs, motions and an informal presentation from the settling parties. *Id.* There is an initial strong presumption that a proposed class action settlement is fair and reasonable when it is the result of arm's length negotiations. In deciding whether a settlement should be approved under Rule 23, Courts look to whether there is a basis to believe that the more rigorous, final approval standard will be satisfied. "Once the judge is satisfied as to the certifiability of the class and the results of the initial inquiry into the fairness, reasonableness, and adequacy of the settlement, notice of a formal Rule 23(e) fairness hearing is given to the class members." Manual Fourth at § 21.633, at 321. Preliminary approval permits notice of the hearing on final settlement approval to be given to the class members, at which time class members and the settling parties may be heard with respect to final approval. *Id.* at 322.

B. The Settlement is Fair, Reasonable and Adequate

The standards for preliminary approval of a settlement "are not as stringent as those applied to a motion for final approval… If the proposed settlement discloses no reason to doubt its fairness, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, does not grant excessive compensation to attorneys, and appears to fall within the range of possible approval, the court should grant preliminary approval." *In re OCA, Inc. Securities and Derivative Litig.*, 2008 WL 4681369, *11 (E.D. La. Oct. 17, 2008) (citations omitted). In deciding whether there is good cause to issue notice to the class and to proceed with a fairness hearing, the district court must determine that "the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, and falls within the range of possible [judicial] approval." *In re Shell Oil Refinery*, 155 F.R.D. 552, 555 (E.D. La. 1993) (citing *Manual for Complex Litigation, Second* § 30.44 (Federal Judicial Center, 1985)); *see also,* Herbert B. Newberg & Alba Conte, *Newberg on*

Class Actions, §§ 11.24-11.25 (3rd ed. 1992); *In re Corrugated Container Antitrust Litig.,* 643 F.2d 195, 212 (5th Cir.1981).

1. The Proposed Settlement is the Product of Serious, Informed, Non-Collusive Negotiations

This Settlement is the result of arm's-length negotiations, conducted by experienced counsel for all parties.

This consideration is often shaped by the experience and reputation of counsel. *Dehoyos v. Allstate Corp.*, 2006 WL 2329417, *1 (W.D. Tex. June 2, 2006) (Biery, J.) (preliminary approval of settlement where "counsel for all Parties have significant experience in litigating and negotiating settlements of cases involving allegations of racial discrimination"); *In re OCA,* 2008 WL 4681369, *11; *McNamara v. Bre-X Minerals Ltd.*, 214 F.R.D. 424, 430-31(E.D. Tex. 2002); *Cotton v. Hinton,* 559 F.2d 1326, 1332-33 (5th Cir. 1977); *In re Coordinated Pretrial Proceedings in Antibiotic Antitrust Actions,* 410 F.Supp. 659, 667 (D.Minn. 1974) ("The recommendation of experienced antitrust counsel is entitled to great weight."); *Fisher Brothers* v. *Phelps Dodge Industries, Inc.,* 604 F. Supp. 446, 452 (E.D. Pa. 1985) ("The professional judgment of counsel involved in the litigation is entitled to significant weight.").

The Settlement was negotiated on behalf of Plaintiffs by a team of attorneys who have been vigorously prosecuting this and parallel cases for similar claims and were, therefore, well versed in the issues and how to evaluate the claims. This Settlement meets all the requirements of Rule 23 and is designed to provide administrative procedures to assure all Class Members' equal and sufficient due process rights. The parties conducted extensive discovery and research to ensure that all negotiations were informed. Class Counsel believe in the merits of this case and were willing and able to litigate the claims at issue in the event Bexar County failed to agree to a significant and valuable settlement agreement. The Settlement was agreed to after

considering all key factors, including the range of judgments that would likely be obtained by Class members, the risk that judgments could be reversed or delayed by appeals, the time required to litigate this case through trial, and Defendant's financial situation. Accordingly, the settlement was not the product of collusive dealings, but, rather, was informed by the vigorous prosecution of the case by the experienced and qualified counsel.

2. The Proposed Settlement Has No Obvious Deficiencies

The Settlement provides valuable consideration to pretrial detainees who were strip searched absent reasonable suspicion and addresses the problem at the heart of Plaintiffs' claims. There are no deficiencies. *See In re OCA*, 2008 WL 4681369, *11.

3. The Proposed Settlement Does not Improperly Grant Preferential Treatment to Class Representatives or Segments of the Class

The economic terms of the settlement are fair. The proposed Settlement does not unduly grant preferential treatment to the proposed Class Representative or to segments of the Settlement Class, and it does not provide excessive compensation to counsel.

Other than an incentive award in recognition of their considerable participation in this litigation – including being deposed and participating in drafting responses to Defendant's discovery requests – the settlement accords no special treatment whatsoever to Class Representatives.

The Settlement Agreement provides for the certification of two Subclasses. Subclass I consists of all persons admitted to the Bexar County Adult Detention Center during the proposed class period who are not members of Subclass II. Subclass II consists of all persons in the Settlement Class who were admitted on misdemeanor charges of narcotics, shoplifting and weapons violations. Members of Subclass I are expected to receive higher distributions than

members of Subclass II. Members of the subclasses are compensated differently because, while Class Counsel believes that it is clear under Fifth Circuit precedent that blanket strip searches of persons arrested on minor offenses absent reasonable suspicion are improper, the case law also suggests that individuals arrested on offenses involving charges of narcotics, shoplifting, and weapons violations may be constitutionally strip searched. *See Watt v. Richardson Police Department*, 849 F.2d 195, 199 (5th Cir. 1988) (policy of strip searching arrestees detained on weapons, shoplifting, or narcotics charges not invalidated). Thus, a different allocation is appropriate. *See e.g. In re OCA*, 2008 WL 4681369, *12 (preliminary approval granted where allocation plan differentiated between class members based on when they purchased shares of stock); *see also Boone v. City of Philadelphia*, 668 F.Supp. 2d 693 (E.D. Pa. 2009) (two subclasses, with members of Subclass I receiving approximately $1,321 and members of Subclass II receiving $85).

4. The Proposed Settlement Falls Within the Range of Possible Judicial Approval

Although the Court is only making a preliminary evaluation of the Settlement at this point and need only evaluate the four criteria discussed above, the Court may also look at the factors it will consider at the final fairness hearing on order to preliminarily assess whether the Settlement falls within the range of possible approval. In the Fifth Circuit, courts consider the following factors in assessing the fairness of a settlement: (1) the existence of fraud or collusion behind the settlement; (2) the complexity, expense, and likely duration of the litigation; (3) the stage of the proceedings and the amount of discovery completed; (4) the probability of plaintiffs' success on the merits; (5) the range of possible recovery; and (6) the opinions of the class counsel, class representatives, and absent class members." *Reed v. Gen. Motors Corp.*, 703 F.2d 170, 172 (5th Cir. 1983) (citations omitted); *see also In re Corrugated Container Antitrust Litig.*,

643 F.2d at 217. As stated above, there was no fraud or collusion whatsoever involved in the negotiation of the Settlement. *See* LaDuca Cert. at ¶8.

Given the nature of this case, continued litigation (up to and including trial and any appeals) will likely be complex, expensive, and lengthy. A trial would last for weeks, with scores of Detention Center employees being examined about their search practices and numerous class members appearing to testify regarding their experiences.

The parties are in the late stages of these proceedings and, as explained above, a significant amount of discovery has been conducted. Written discovery was exchanged, many depositions were completed, various discovery motions were filed, and motions for class certification and to exclude expert testimony were fully briefed.

The range of possible recovery strongly supports approval of this Settlement because it provides the Class with a significant package of relief. Based on the data provided, Class Counsel estimates that there are approximately 23,520 members of Subclass I and 5,880 members of Subclass II. The approximate *pro rata* share of the Settlement Fund assuming a 20% claims rate and a total settlement of $5.5 million is $734 for members of Subclass I and $93 for members of Subclass II. The approximate *pro rata* share of the Settlement Fund assuming a 20% claims rate and a total settlement of $3 million is $325 for members of Subclass I and $93 for members of Subclass II. The approximate *pro rata* share of the Settlement Fund assuming a 15% claims rate and a total settlement of $5.5 million is $979 for members of Subclass I and $100 for members of Subclass II. The approximate *pro rata* share of the Settlement Fund assuming a 15% claims rate and a total settlement of $3 million is $434 for members of Subclass

I and $100 for members of Subclass II.[6] This payment is quite fair and reasonable given the inherent risks of litigation, and awards in similar cases.[7] Class Members will receive meaningful compensation for the damages they sustained.

The likely amount to be received by Class Members is fair and reasonable given the inherent risks of litigation and in light of settlement awards in similar cases. *See e.g. Boone*, 668 F.Supp. 2d 693 (settlement award ranging from $85 to $1,321 depending upon subclass membership); *Reynolds v. County of Dauphin*, 1:07-cv-01688 (M.D. Pa.) (final approval of class action settlement paying victims of illegal strip searches approximately $600 each); *Kurian v. County of Lancaster*, 07-cv-3482 (E.D. Pa. Sept. 1, 2009) (payments ranging from $50 to $900, depending on claimants' classification in one of five categories); *Doan v. Watson,* 2002 WL 31730917 (S.D. Ind. Dec. 4, 2002) (approximately $1,000 per claimant); *Kahler v. County of Rensselaer*, No. 03-cv-1324 (N.D.N.Y. April 28, 2004) (approximately $1,000 per claimant);

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[6] These figures represent a rough approximation of the class size data and may be revised upon further review.

[7] The Ninth and Eleventh Circuits recently held that under certain circumstances blanket strip searches of pretrial detainees are constitutional *See Bull v. City and County of San Francisco*, 595 F.3d 964, 968 (9th Cir. 2010)(*en banc*)(finding that San Francisco's blanket strip search policy was reasonable under the Fourth Amendment where the policy provided that searches must be "conducted in a professional manner in an area of privacy so that the search cannot be observed by persons not participating in the search"); *Powell v. Barrett*, 541 F.3d 1298, 1314 (11th Cir. 2008)(*en banc*)(holding that rights of pretrial detainees placed in custodial housing with the general jail population "are not violated by a policy or practice of strip searching each one of them as part of the booking process, provided that the searches are no more intrusive on privacy interests than those upheld in the *Bell* case" and the searches are "not conducted in an abusive manner."). The Third Circuit is currently considering the issue. *See Florence v. Bd. Of Chosen Freeholders of Burlington,* 657 F.Supp.2d 504, 508 n. 4 (D.N.J. 2009) (certifying the following question for interlocatory appeal: "whether a blanket policy of strip searching all non-indictable arrestees admitted to a jail facility without first articulating reasonable suspicion violates the Fourth Amendment to the united States Constitution as applied to the States through the Fourteenth Amendment."). Further, by Order dated October 30, 2009, a district court in the Western District of Texas denied a motion for class certification in a strip search class action. *See Bradshaw, et al. v. McLennan County, et al.*, Case No. 6:08-cv-0026 (W.D. Tex.).

McBean v. City of New York, 233 F.R.D. 377, 388 (S.D.N.Y. 2006) (payments of $750 or $1,000, depending on number of strip searches).

Class Counsel and all of the proposed Class Representatives support the Settlement. Class Counsel are unaware of any opposition from absent Class Members and anticipate that, once the Settlement is preliminarily approved and notice is given to all Class Members, the support for the Settlement will far outweigh any opposition.

C. Certification of the Proposed Settlement Class is Appropriate to Resolve All Strip Search Claims Against Defendant

Both the Supreme Court and various circuit courts have recognized the benefits of the proposed settlement can only be realized through the certification of a settlement class. *See Amchem,* 521 U.S. at 591; *In re Prudential Ins. Co. America Sales Practice Litig. Agent Actions* ("*Prudential II*"), 148 F.3d 283, 283 (3d Cir. 1998); *Hanlon v. Chrysler Corp.,* 150 F.3d 1011 (9th Cir. 1998). Rule 23's requirements apply when certification is for settlement purposes. *See Amchem*, 521 U.S. 591; *In re OCA*, 2008 WL 4681369, *6.

A case can be certified as a class action where a plaintiff demonstrates that the threshold requirements of Fed. R. Civ. P. 23(a) (numerosity, commonality, typicality and adequacy of representation) are satisfied, and also demonstrates that the class satisfies one of three criteria set forth in Fed. R. Civ. P. 23(b). *City of San Antonio v. Hotels.com*, 2008 WL 2486043, *3 (W.D. Tex. May 27, 2008); *Vizena v. Union Pacific Railroad Co.*, 360 F.3d 496, 502-503 (5th Cir. 2004). Other federal courts, in considering the situation where cities or counties have employed blanket strip search policies, have consistently recognized the propriety of certifying such cases as class actions and the decisions certifying such cases are legion. *See e.g. Boone,* 668 F.Supp.2d 693 (granting final approval to strip search settlement); *Bizzarro v. County of Ocean,* 2009 WL 1617887 (D.N.J. June 9, 2009) (class certification of strip search class action against Ocean

County, NJ); *Reynolds v. County of Dauphin,* Civ. No. 07-cv-1688 (M.D.P.A. December 18, 2009) (granting final approval of strip search class action); *Wilson v. County of Gloucester*, 256 F.R.D. 479 (D.N.J. March 30, 2009) (certifying strip search class action against Gloucester County, NJ); *Jones v. Murphy*, 256 F.R.D. 519 (D. Md. 2009) (D. Md. March 19, 2009) (certifying strip search class against Baltimore County); *Florence v. Board of Chosen Freeholders of the County of Burlington*, 595 F.Supp. 2d 492 (D.N.J. 2009) (granting summary judgment on a class-wide basis as to liability on behalf of strip search plaintiffs against the Counties of Burlington and Essex, NJ; currently on appeal in the Third Circuit); *Pritchard v. County of Erie*, 2010 WL 2431481 (W.D.N.Y. June 11, 2010) (certifying two classes of pretrial detainees in a strip search class action); *Williams v. County of Niagara*, 2008 WL 4501918 (W.D.N.Y. Sept. 29, 2008) (certifying two classes of pretrial detainees in a strip search class action); *Mitchell v. County of Clinton*, 2007 WL 1988716 (N.D.N.Y. July 5, 2007) (class certification in strip search action); *Allison v. The Geo Group, Inc.*, 611 F.Supp.2d 433 (E.D.P.A. 2009) (denying motion to dismiss a case challenging the legality of blanket strip search policy); *Marriott v. County of Montgomery*, 227 F.R.D. 159, 169-170 (N.D.N.Y. 2005), *aff'd* 2005 WL 3117194 (2d Cir. 2005) (class certification and preliminary injunction in strip search class action); *Young v. County of Cook*, 2007 WL 1238920 (N.D. Ill. Apr. 25, 2007) (certification of strip search class action); *Young v. County of Cook*, 2009 WL 971675 (N.D. Ill. April 2, 2009) (summary judgment on liability entered on behalf of strip search class of plaintiffs); *Dodge v. County of Orange*, 209 F.R.D. 65 (S.D.N.Y. 2002); *Dodge v. County of Orange*, 226 F.R.D. 177 (S.D.N.Y. 2005); *Calvin v. Sheriff of Will County*, 2004 WL 1125922 (N.D. Ill. May 17, 2004); *Blihovde v. St. Croix County, Wis.*, 219 F.R.D. 607 (W.D. Wis. 2003); *Tardiff v. Knox County*, 218 F.R.D. 332 (D. Me. 2003), *aff'd,* 365 F.3d 1 (1st Cir. 2004); *Nilsen v. York County*, 219

F.R.D. 19 (D. Me. 2003); *Bynum v. Dist. of Colombia*, 217 F.R.D. 43 (D.D.C. 2003); *Mack v. Suffolk Co.*, 191 F.R.D. 16 (D. Mass. 2000); *Gary v. Sheahan*, 1999 WL 281347 (N.D. Ill. March 31, 1999); *Eddleman v. Jefferson Co., Ky.*, 96 F.3d 1448 (6th Cir. 1996); *Smith v. Montgomery Co.*, 573 F. Supp. 604 (D. Md. 1983); *Doan v. Watson*, 2000 U.S. Dist. LEXIS 8595 (S.D. Ind. March 4, 2000).

1. The Proposed Class Satisfies Rule 23(a)(1)

a. Numerosity

Rule 23(a)(1) requires that the class be "so numerous that joinder of all members is impracticable." To satisfy the requirement, "joinder need not be impossible, merely impracticable." *Bywaters v. United States*, 196 F.R.D. 458, 466 (E.D. Tex. 2000). A plaintiff is not required to detail, to the person, the exact size of the class or to demonstrate that joinder of all class members is impossible. *Carpenter v. Davis*, 424 F.2d 257, 260 (5th Cir. 1970). The Fifth Circuit has held that though the number of class members alone is not determinative of whether joinder is impracticable, a class consisting of 100 to 150 members is within the "range that generally satisfies the numerosity requirement." *Mullen v. Treasure Chest Casino, LLC*, 186 F.3d 620, 624 (5th Cir. 1999).

The general rule encouraging liberal construction of civil rights class action "applies with equal force to the numerosity requirement of Rule 23(a)." *Jones v. Diamond*, 519 F.2d 1090, 1100 (5th Cir. 1975). Thus, courts, in applying the numerosity requirement, must consider "the nature and intent of the Civil Rights Act, whose purpose is to provide a broad remedy for all who fit the plaintiff's class." *Id.*

Given that the Settlement Class consists of approximately 29,400 individuals, there is no question that the element of numerosity has been met. The booking records produced by Bexar

County confirm that thousands of individuals were arrested and detained in Bexar County Adult Detention Center facilities during the class period, and the numerosity requirement for certification is easily satisfied.

b. Commonality

Rule 23(a)(2) requires that there be "questions of law or fact common to the class." The test of commonality "is not demanding." *Mullen*, 186 F.3d at 625; *Forbush v. J.C. Penny Co.*, 994 F.2d 1101, 1106 (5th Cir. 1993); *J.D.* v. *Nagin*, 255 F.R.D. 414, 414-15 (E.D. La. 2009). The plaintiff need only show that there is one common question of law or fact; the interests and claims of each plaintiff need not be identical. *James v. City of Dallas*, 254 F.3d 551, 570 (5th Cir. 2001); *City of San Antonio*, 2008 WL 2486043 at *5; *Johnson v. United States of America*, 208 F.R.D. 167-168 (W.D.T.X. 2001); *1 Newberg on Class Actions,* §3:10 at 3-50; *Johnson v. American Credit Co. of Georgia*, 581 F.2d 526, 532 (5th Cir. 1978).

The central issues posed by this litigation are whether Bexar County's search regimen constitutes an unconstitutional blanket strip search policy and/or practice during the class period and whether Defendant is responsible for these constitutional violations. Given the presence of these common questions central to this litigation, Rule 23(a)(2)'s requirement of common questions of fact or law is met. *See e.g. Dodge,* 226 F.R.D. at 180-181 (commonality exists where all members of the class contend that a blanket strip search policy exists, where all members contend that the policy is illegal, and where all members of the class claim they were searched pursuant to the policy which was uniformly applied to all detainees); *Marriott,* 227 F.R.D. at 172 (finding commonality where the representative parties and the members of the proposed class had the same legal claims based upon the same official procedure); *see also Sutton* v. *Hopkins County,* 2007 WL 119892, *4 (W.D. Ky. Jan. 11, 2007) ("Plaintiffs have

alleged that the Defendants had a policy, custom, or practice of strip-searching persons on admission to and/or just prior to release from the Hopkins County Jail without regard to whether there existed the requisite individual, reasonable suspicion required by law. Given this allegation, the existence and constitutionality of the county's policy, custom or practice are common questions."); *Young v. County of Cook*, 2007 WL 1238920 at *5 (N.D. Ill. Apr. 25, 2007) ("Courts have consistently held that class actions challenging blanket strip search policies satisfy Rule 23(a)(2)'s commonality requirement.").

c. Typicality

Rule 23(a)(3) also requires that the representative plaintiff's claims be "typical" of those of other class members. The commonality and typicality requirements of Rule 23(a) "tend to merge." *Gen. Tel. Co. of Southwest v. Falcon*, 457 U.S. 147, 157 n.13 (1982). The test "is not demanding", *Mullen*, 186 F.3d at 625; *Forbush*, 994 F.2d at 1105; *J.D.*, 255 F.R.D. at 415, and "focuses on the similarity between the named plaintiff's legal and remedial theories and the theories of those whom they purport to represent." *Stirman v. Exxon Corp.*, 280 F.3d 554, 562 (5th Cir. 2002); *James*, 254 F.3d at 571. "Typicality does not require a complete identity of claims." *Stirman*, 280 F.3d at 562; *James*, 254 F.3d at 571. Instead, the question is whether the class representative's claims have "the same essential characteristics of the putative class." *Stirman*, 280 F.3d at 562. "'Even relatively pronounced factual differences' between the individual claims will not defeat typicality as long as the claims are woven from the same legal fabric and arise from the same event, practice or course of conduct." *City of San Antonio*, 2008 WL 2486043 at *6; *Feder v. Elec. Data Sys. Corp.*, 429 F.3d 125, 129-130 (5th Cir. 2005).

Here, the Representative Plaintiffs' claims against Defendant are typical of the claims of the Class. They arise from the same course of events and Plaintiffs must make the same

arguments to prosecute their claims as would be made by the members of the proposed Class in any individual case. There are no special or unique features of the named Plaintiffs' claims that make them different in any fundamental way from those of other Class members. Typicality is satisfied because the Defendant "acted pursuant to a policy that called for indiscriminate searches. If this allegation is true, then the named [P]laintiffs would be similarly situated to the other members of the class." *Blihovde,* 29 F.R.D. at 617; *Bowers v. City of Philadelphia,* 2006 WL 2818501 *2-3 (E.D.Pa. 2006) ("A plaintiff's claim is typical if it arises from the same event or course of conduct that gives rise to the claims of other class members and is based on the same legal theory."); *see also Weisfeld v. Sun Chern. Corp.,* 210 F.R.D. 136, 140 (D.N.J. 2002) ("[I]n instances wherein it is alleged that the defendants engaged in a common scheme relative to all members of the class there is a strong assumption that the claims of the representative parties will be typical of the absent class members.")(citation omitted); *Marriott,* 227 F.R.D. at 172 (finding typicality even where the claims of the representative parties involved a more detailed search than other class members, because they were conducted pursuant to the same policy); *Sutton,* 2007 WL 117892 at *4 ("Because each named Plaintiff alleges an unconstitutional strip search after arrest for a minor violation or before release from jail, the claims of the representatives are typical of the class as a whole.").

d. Adequacy

Rule 23(a)(4) requires the class representative to "fairly and adequately protect the interests of the class." "To satisfy this requirement, the interests of the class representative must not conflict with the interests of the putative class, and class counsel must be able to competently represent the class." *City of San Antonio*, 2008 WL 2486043 at *7. When evaluating whether the interests of the class will be adequately represented by the class representative and class

counsel, a court must consider the zeal and competence of the representative's counsel and the willingness and ability of the representative to take an active role in and control the litigation and to protect the interests of absentees. *Stirman*, 280 F.3d at 563; *Feder,* 429 F.3d 125, 129-130.

Plaintiffs and Class Counsel have fairly and adequately represented the Class here, especially judging by the excellent settlement achieved in this litigation. Class Counsel are competent and experienced attorneys who have invested considerable time and resources into the prosecution of this action and who have extensive experience in successfully litigating various forms of class actions (including strip search class actions) and other complex matters, including strip search cases around the country. (LaDuca Cert. Ex.2, Firm Resumes).

The adequacy of the representation element is satisfied if the named plaintiff's interests are "sufficiently aligned with those of other class members." *Jenkins v. Raymark Industries, Inc.*, 109 F.R.D. 269, 273 (E.D. Tex. 1985). Stated differently, as long as "all class members are united in asserting a common right, such as achieving the maximum possible recovery for the class, the class interest are not antagonistic for representative purposes." *San Antonio Hispanic Police Officers' Organization, Inc. v. City of San Antonio*, 188 F.R.D. 433, 444 (W.D. Tex. 1999). Here, the Plaintiffs initiated this lawsuit to put and end to blanket strip searches at Bexar County's facilities and are committed to obtaining appropriate compensation from Defendant for themselves and the members of the proposed Settlement Class. *See J.D.,* 255 F.R.D. at 416 (adequacy met where the claims of the named and unnamed plaintiffs rested "upon the practices and policies of the [juvenile detention center] as a whole, and as such apply to both named and unmade class members alike"). Plaintiffs' interests in this case coincide with those of potential Class members in that Plaintiffs seek compensation for victims of Bexar County's strip search policy, as they have already succeeded in changing Bexar County's strip search policies going

forward. Because Plaintiffs' claims are typical of the claims of the members of the proposed Class, their interests are aligned with those of the Class.

With respect to the conflicts issue, there are none. Indeed, the claims of the Plaintiffs, far from conflicting with the Class, are identical to the Class and are based on the same factual and legal issues. *Bertulli v. Independent Ass'n of Cnteniental Pilots*, 242 F.3d 290, 299 (5th Cir. 2001) (adequacy satisfied where plaintiffs share the same theories of liability and the class representatives' interest are aligned with, not antagonist to, the unnamed class members.).

Accordingly, Plaintiffs are adequate representatives and have retained experienced class counsel that has aggressively litigated this case.

2. The Requirements of Rule 23(b)(3) Are Met in the Settlement Context

a. Common Issues Predominate

Rule 23(b)(3) requires that the party proposing a class action establish that issues common to the class predominate over the individual issues of particular class members. *See Amchem Prod.*, 521 U.S. at 591, 623. The Rule 23(b)(3) predominance inquiry "tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation." *Id.* "In order to predominate, common issues must constitute a significant part of the individual cases." *Mullen*, 186 F.3d at 626; *O'Sullivan v. Countrywide Home Loans, Inc.*, 319 F.3d 732, 742 (5th Cir. 2003).

This analysis requires an examination of relative significance or weight of the issues, and whether the issues are likely to become a major focus of the litigation. *City of San Antonio*, 2008 WL 2486043 at *6; *Mullen*, 186 F.3d at 626. The most pragmatic way for the court to make this determination is to evaluate whether "common or 'generalized' proof, as opposed to individual

proof" will predominate at trial. *City of San Antonio*, 2008 WL 2486043 at *9. In other words, "the court should ask whether the 'addition or subtraction of plaintiffs to or from the class will have a substantial effect on the substance or quality of the evidence offered.'" *Id.* at *9 (citation omitted). If the claims "would require generalized or common proof, then a class action would certainly be the most efficient method of litigating the claims." *Id.* Moreover, the common questions need not be dispositive of all issues. *See* 7B Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 1778 (2d ed.1986). When one or more of the central issues in the action "are common to the class and can be said to predominate, the action will be considered proper ... even though other important matters will have to be tried separately." *Id.*

Here, the proposed Class Members' claims involve one central legal issue: was Bexar County's policy of strip searching every pretrial detainee admitted to the facility constitutional where these detainees are made to disrobe in the presence of a Detention Officer absent any consideration of the crime charged or the circumstances of the arrest? Plaintiffs' claims also share common factual issues – did such practices exist during the Class period? Proof of these class wide issues would be the focus of any trial. Thus, the legal and factual issues relating to the strip search policy in this litigation predominate over any of the individual issues.

b. Superiority

In addition to proving predominance, a plaintiff in a 23(b)(3) case must also show that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Class actions are considered superior when individual actions would be wasteful, duplicative, present managerial difficult and are adverse to judicial economy. *Mullen*, 186 F.3d at 627. Courts also consider whether class treatment of a case will "achieve economics of time,

effort and expense, and promote uniformity of decisions as to persons similarly situated without sacrificing procedural fairness or bringing about other undesirable results." *Id.*; *Henry v. Cash Today, Inc.*, 199 F.R.D. 566, 570 (S.D. Tex. 2000); *State of Alabama v. Blue Bird Body Co., Inc.*, 573 F.2d 309, 315 (5th Cir. 1978). This is because to require hundreds or thousands of identical individual, repetitive cases to be filed to address the claims in this – all with the attendant possibility of inconsistent adjudications – verges on absurd. *See Califano v. Yamaski*, 442 U.S. 683, 700-01 (1979); *see also In re First Republic Bank Sec. Litig.*, Nos. 3-88-0641-H and 3-88-1251-H, 1989 WL 108795 *15 (N.D. Tex. Aug. 1, 1989) ("any administrative difficulties in handling this class action are preferable to duplicating judicial resources in several individual lawsuits and denying access to the courts for class members."). In fact, the class action devise is designed for this very situation where an individual seeks to vindicate "the rights of groups of people who individually would be without effective strength to bring their opponents into court at all." *Amchem Prods.*, 521 U.S. at 617. "The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights. A class action solves this problem by aggregating the relatively paltry potential recoveries into something worth someone's (usually an attorney's) labor." *Id.*

Here, the identity of the factual and legal issues between all proposed Class Members makes the notion that they should be required to file hundreds or thousands of individual lawsuits illogical, and forcing them to do so would encourage a waste of judicial and private resources. All Class Members' claims arise from the same course of conduct and are based upon the same legal theories. Resolution of these claims will affect each member similarly, and it would be economically prohibitive for many Class Members who suffered smaller losses to

prosecute individual actions. The prosecution of this case as a class action is superior to thousands of individual cases being filed in this Court, each of which would be repetitious, possibly yield inconsistent results, and would be onerous on the limited resources of the Court. *See Califano*, 42 U.S. 682, 700-70; *Dodge*, 226 F.R.D. at 183; *Sutton*, 2007 WL 119892, *9. There are no overlapping cases pending in any other jurisdiction. A class action is the superior method to prosecute this action.

VI. The Court Should Direct Notice to the Class

Under Fed. R. Civ. P. 23(e), class members are entitled to notice of any proposed settlement before it is ultimately approved by the Court. *Manual for Complex Litigation Third* (Federal Judicial Center, 1995) §30.212. "The notice must 'contain an adequate description of the proceedings written in objective, neutral terms that, insofar as possible, may be understood by the average absentee class member,'" *McNamara*, 214 F.R.D. at 432 (quoting *In re Nissan Motor Corp. Antitrust Litig.*, 552 F.2d 1088, 1103 (5th Cir. 1977)), and "'must contain information that a reasonable person would consider to be material in making an informed, intelligent decision of whether to opt out or remain a member of the class and be bound by the final judgment.'" *Id.* (quoting *In re Nissan Motor Corp. Antitrust Litig.*, 552 F.2d at 1105); *see also In re OCA*, 2008 WL 4681368, *15. The Settlement Agreement provides for reasonable notice to prospective Class Members in that it requires notice to be provided by mail, newspaper, television, radio, and the Internet.

Under Rule 23(e) and the relevant due process considerations, adequate notice must be given to all absent class members and potential class members to enable them to make an intelligent choice as to whether to opt-out of the class. *Prudential II,* 148 F.3d at 326-27; *Valentino* v. *Carter-Wallace, Inc.,* 97 F.3d 1227 (9th Cir. 1996). However, neither Rule 23 nor

due process considerations requires actual notice to every class member in every case, *Phillips Petroleum Co.* v. *Shutts,* 472 U.S. 797, 812 (1985), but simply call for "notice reasonably certain to reach most of those interested in objecting is likely to safeguard the interests of all." *Id*; *In re OCA*, 2008 WL 4681369, *15 ("due process does not require *actual* notice to all class members who may be bound by the litigation"). Nevertheless, the proposed notice plan has been developed with the thought of providing notice possible to "reach" all Class Members and in a form of notice that has been approved on several occasions by this and other Courts.

Counsel for the Settlement Class will obtain a last known address, date of birth, and social security number (if possible) for each Class Member. Notice will be provided to the Class by direct mailing of Class Notice and a Claim Form to all individuals at their last known or readily ascertainable address. There will be, in addition, publication notice, as described previously. Moreover, the Settlement Administrator will also provide a copy of the Class Notice and Claim Form to anyone who requests notice through written communication, through a dedicated internet website, and through a toll-free number to be established. Through these extensive efforts, absent Class Members will receive adequate notice of the Settlement. Finally, this Notice will include all necessary legal requirements and provide a comprehensive explanation of the Settlement in simple, non-legalistic terms.

VII. A FINAL FAIRNESS HEARING SHOULD BE SCHEDULED

The Court should schedule a final fairness hearing approximately 120 days after the Notice Date, to determine that class certification is proper and to approve the settlement. The fairness hearing will provide a forum to explain, describe or challenge the terms and conditions of the class certification and settlement, including the fairness, adequacy and reasonableness of

the settlement. Accordingly, Plaintiffs request that the Court schedule the time, date, and place of the final fairness hearing.

VIII. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court enter an Order: (1) preliminarily approving a class settlement with Defendant; (2) directing notice to Class members regarding settlement of certain claims against Defendant on a final and complete basis; and (3) scheduling a final fairness hearing.

Dated: August 26, 2010

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS AND PROPOSED CLASS

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JULIA ANN JACKSON, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION NO. SA-07-CA-928
	)	
THE COUNTY OF BEXAR,	)	
	)	
Defendant.	)	

CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2010, a copy of the foregoing Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Alexandra C. Warren

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