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SUPERIOR COURT  
YAKIMA CO. WA

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
COUNTY OF YAKIMA

JAYNE FUENTES, GINA TAGGART, AND  
REESE GROVES, individually and on  
behalf of all others similarly situated;

Plaintiffs,

v.

BENTON COUNTY, a Washington  
municipality,

Defendant.

NO. 15-2-02976-1

~~PROPOSED~~ ORDER GRANTING PLAINTIFFS'  
MOTION FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT

This matter came before the Court on Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. The Court has read and considered the parties' Settlement Agreement (attached as Exhibit 1 to the Declaration of Toby J. Marshall) and the briefing and declaration submitted in support of preliminary approval and is fully advised.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Unless otherwise provided herein, all capitalized terms in this Order have the same meaning as set forth in the Settlement Agreement.

2. The Court provisionally certifies the following classes for purpose of settlement:  
(1) all indigent persons who owe LFOs in relation to criminal cases prosecuted in Benton County

1 District Court and (2) all indigent persons who, at any time since October 7, 2012, were jailed or  
2 placed on work crew for nonpayment of LFOs owed in relation to criminal cases prosecuted in  
3 the Benton County District Court.

4 3. The Settlement Classes satisfy the four prerequisites of CR 23(a). The classes are  
5 sufficiently numerous because they consist of hundreds or thousands of individuals. *See Miller*  
6 *v. Farmer Bros. Co.*, 115 Wn. App. 815, 821, 64 P.3d 49 (2003). The commonality requirement is  
7 satisfied because, as set forth in Plaintiffs' Complaint for Declaratory and Injunctive Relief, there  
8 are many questions of law and fact common to the Settlement Classes that center on Benton  
9 County's practice of incarcerating indigent individuals for failure to pay LFOs. *See Smith v. Behr*  
10 *Process Corp.*, 113 Wn. App. 306, 320, 54 P.3d 665 (2002) (only "a single issue common to all  
11 members of the class" is required). The plaintiffs are typical of the Settlement Classes because  
12 they are individuals who currently owe outstanding LFOs in relation to District Court cases and  
13 who have been incarcerated for nonpayment of LFOs. *Id.* (typicality is satisfied when the  
14 plaintiffs' claim "arises from the same event or practice or course of conduct that gives rise to  
15 the claims of other class members, and if his or her claims are based on the same legal theory").  
16 The plaintiffs also satisfy the adequacy requirement because they are represented by qualified  
17 and experienced counsel and have no interests antagonistic to class members. *See Hansen v.*  
18 *Ticket Track, Inc.*, 213 F.R.D. 412, 415 (W.D. Wash. 2003).

19 4. The Settlement Classes also satisfy the requirements of CR 23(b)(2). Plaintiffs  
20 allege that Benton County implemented a policy, practice and custom with respect to the  
21 enforcement of LFOs that affected all members of the Classes. Plaintiffs therefore contend that  
22 Benton County "has acted or refused to act on grounds that apply generally to the class, so that  
23 final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a  
24 whole." CR 23(b)(2). Civil rights actions like this one "are the paradigmatic 23(b)(2) class suits,  
25 for they seek classwide structural relief that would clearly redound equally to the benefit of  
26 each class member." *Skinner v. Uphoff*, 209 F.R.D. 484, 489 (D. Wyo. 2002) (citing *Alliance to*

1 *End Repression v. Rochford*, 565 F.2d 975, 979 n.9 (7th Cir. 1977)); *see also Gray v. County of*  
2 *Riverside*, No. EDCV 13-00444-VAP (OPx), 2014 WL 5304915, at \*36 (C.D. Cal. Sept. 2, 2014)  
3 (“The ‘primary role’ of a 23(b)(2) action is to allow civil rights actions seeking injunctive and  
4 declaratory relief to be brought on a class wide basis.”).

5         5.         The Court appoints the Terrell Marshall Law Group PLLC, the ACLU of  
6 Washington, and the ACLU’s national office as counsel for the Classes.

7         6.         The Court appoints Jayne Fuentes, Gina Taggart, and Reese Groves to serve as  
8 representatives of the Classes.

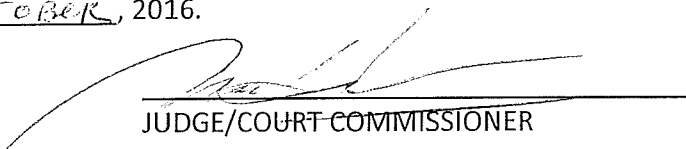
9         7.         The Court preliminary approves the Settlement Agreement and the terms set  
10 forth therein, including the injunctive relief to be provided to the Settlement Classes and the  
11 service awards to the representatives of the Classes. The Settlement Agreement is the result of  
12 serious, informed, and arm’s-length negotiations between experienced attorneys who are well  
13 versed in the legal and factual issues of the case. The settlement is also within the range of  
14 possible approval because Benton County has agreed to injunctive relief that accomplishes the  
15 primary goals of the litigation, as evidenced by Plaintiffs’ complaint and motion for class  
16 certification. The settlement provides significant relief to the members of the Settlement  
17 Classes.

18         8.         The Court finds that class notice of this settlement is not required because the  
19 settlement provides only injunctive relief and the members of the Settlement Classes, other  
20 than the named Plaintiffs, will not release claims for damages. There is no evidence of collusion  
21 between the parties, and the settlement provides near complete relief to the members of the  
22 Settlement Classes. Moreover, the costs of notice could be prohibitive. *See Green v. Am. Exp.*  
23 *Co.*, 200 F.R.D. 211, 212 (S.D.N.Y. 2001); *see also Jermyn v. Best Buy Stores, L.P.*, No. 08 Civ. 214  
24 CM, 2012 WL 2505644, at \*6 (S.D.N.Y. June 27, 2012); *In re Nazi Era Cases Against German*  
25 *Defendants Litig.*, 198 F.R.D. 429, 441 (D.N.J. 2000).

1           9.       A hearing for purposes of determining whether the settlement should be  
2 granted final approval shall be held before this Court on \_\_\_\_\_, 2016,  
3 at \_\_\_ a.m / p.m. in the Superior Court, 3rd Floor, Yakima County Courthouse, 128 North 2nd  
4 Street, Yakima, Washington. At the hearing, the Court will hear arguments concerning whether  
5 the proposed settlement should be granted final approval by the Court as fair, reasonable, and  
6 adequate.

7           10.       Initial papers in support of final approval of the settlement shall be filed and  
8 served no later than OCT 26, 2016 or after NOV 4, 2016, 2016.

9           Entered this 5 day of OCTOBER, 2016.

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JUDGE/COURT COMMISSIONER

12 Presented by:

13 TERRELL MARSHALL LAW GROUP PLLC

14 By:   
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