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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 FINAL APPROVAL OF CLASS
ACTION SETTLEMENT

This matter came before the Court on Plaintiffs' Motion for Final 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 final approval, and has considered argument presented at the hearing on November 4, 2016, 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.

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

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

21 4. The Settlement Classes also satisfy the requirements of CR 23(b)(2). Plaintiffs
22 allege that Benton County implemented a policy, practice and custom with respect to the
23 enforcement of LFOs that affected all members of the Classes. Plaintiffs therefore contend that
24 Benton County "has acted or refused to act on grounds that apply generally to the class, so that
25 final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a
26 whole." CR 23(b)(2). Rule 23(b)(2) was adopted to permit the prosecution of civil rights actions

1 seeking injunctive and declaratory relief like this case. *See Walters v. Reno*, 145 F.3d 1032,
2 1047 (9th Cir. 1998); *see also Gray v. County of Riverside*, No. EDCV 13-00444-VAP (OPx), 2014
3 WL 5304915, at *36 (C.D. Cal. Sept. 2, 2014) (“The ‘primary role’ of a 23(b)(2) action is to allow
4 civil rights actions seeking injunctive and declaratory relief to be brought on a class wide
5 basis.”).

6 5. The Court has appointed the Terrell Marshall Law Group PLLC, the ACLU of
7 Washington, and the ACLU’s national office as Class Counsel.

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

10 7. The Court grants final approval of the Settlement Agreement and its terms.
11 Courts evaluating class action settlements consider the following criteria: the likelihood of
12 success by the plaintiffs; the amount of discovery or evidence; the settlement terms and
13 conditions; recommendations and experience of counsel; future expense and likely duration of
14 litigation; recommendation of neutral parties, if any; number of objectors and nature of
15 objections; and the presence of good faith and absence of collusion. *Pickett v. Holland Am.*
16 *Line-Westours, Inc.*, 145 Wn.2d 178, 188-89 (2001). The relevant criteria all support final
17 approval of this settlement.

18 8. The parties settled this case shortly after Plaintiffs filed their complaint and
19 concurrent motion for class certification, so the merits of Plaintiffs’ claims are untested. If the
20 parties continued to litigate, Plaintiffs would face procedural hurdles, including a motion to
21 dismiss, class certification, and summary judgment, as well as trial and appeal. Instead of facing
22 those risks and the cost and delay of continued litigation, Settlement Class members will
23 receive the benefits of the settlement now. The settlement achieves the goals of the litigation
24 by causing Benton County to cease the practices that were the focus of the lawsuit. The
25 recommendation of Class Counsel is also entitled to great weight. *See Pickett*, 145 Wn.2d at
26 200 (“When experienced and skilled class counsel support a settlement, their views are given

1 great weight.”). The absence of objections to the settlement also supports final approval.
2 Finally, there is no evidence of collusion and it is evident that the parties acted in good faith in
3 negotiating this settlement. The settlement is fair, reasonable, and adequate, and is granted
4 final approval.

5 9. The Court approves service awards of \$1,000 to each of the Plaintiffs, to be paid
6 by Benton County to the Trust Account of Terrell Marshall Law Group PLLC within ten days of
7 the Effective Date of the settlement.

8 10. All Settlement Class members are bound by the terms of the Settlement
9 Agreement, including the Release. As of the Effective Date, Plaintiffs and Class members
10 release and forever discharge the County and the Court for the Claims that were brought in the
11 Action.

12 11. As of the later of the Effective Date or the payment of the Settlement Funds and
13 Attorneys’ Fees and Costs under Agreement Sections 12.1 and 12.2, Plaintiffs Jayne Fuentes,
14 Gina Taggart and Reese Groves release and forever discharge the County and the Court from
15 claims for general, special, exemplary and punitive damages and Attorneys’ Fees and Costs.

16 12. Plaintiffs, the County, the Court and their counsel shall implement and
17 consummate the Settlement Agreement according to its terms and provisions, including all
18 payments to be made by the County under the Agreement.

19 13. The Court dismisses with prejudice all Claims in the Action as to all Class
20 members. This dismissal shall be without costs or attorneys’ fees, except as otherwise ordered
21 by the Court, to any party.

22 14. The dismissal of the claims against the County is without prejudice to the rights
23 of the parties to enforce the terms of the Settlement Agreement.

24 15. The Court retains jurisdiction over Plaintiffs, the Settlement Class members, the
25 County, the Court, and the settlement with respect to the future performance of the terms of
26 the Settlement Agreement, including the administration and enforcement of the Agreement,

1 for purposes of supervising the implementation, enforcement, and construction of the
2 settlement, and to ensure that all payments and other actions required by the settlement are
3 properly carried out.

4 Entered this ____ day of _____, 2016.

7 SUSAN HAHN

8 JUDGE/COURT COMMISSIONER

9 Presented by:

10 Approved as to form, notice of presentation waived:

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