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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JESSE HERNANDEZ et al., on behalf of  
 themselves and all others similarly situated,

Plaintiffs,

v.

COUNTY OF MONTEREY; MONTEREY  
 COUNTY SHERIFF'S OFFICE;  
 CALIFORNIA FORENSIC MEDICAL  
 GROUP, INCORPORATED, a California  
 corporation; and DOES 1 to 20, inclusive,

Defendants.

Case No. CV 13 2354 PSG

**STIPULATED MOTION FOR  
 PRELIMINARY APPROVAL OF  
 CLASS ACTION SETTLEMENT;  
 EXTENSION OF TIME FOR  
 PRELIMINARY INJUNCTION  
 COMPLIANCE**

Judge: Hon. Paul S. Grewal

[No Hearing Requested]

**STIPULATED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; EXTENSION OF TIME FOR PRELIMINARY INJUNCTION COMPLIANCE**

The Parties jointly move the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure for an Order: i) granting preliminary approval of the Settlement Agreement entered into by the Parties; ii) approving the manner and forms of giving notice of the settlement to the class members; and iii) establishing a timetable to publish the written notice of settlement, permit members to lodge objections to the terms of the settlement, and hold a hearing regarding final approval of the settlement.

This motion is made on the grounds that: i) the settlement is in the best interests of the class members and the terms of the settlement are within the range of possible approval; ii) the proposed manner and forms of noticing the settlement of the class members would fairly apprise class members of the terms of the settlement; and iii) the proposed timetable for publishing the written notice of settlement, lodging objections to terms of the settlement, and holding a hearing regarding final approval of the settlement is appropriate.

This motion is based on this Notice of Motion and Motion, the following Memorandum of Points and Authorities, the supporting Declaration of Ernest Galvan and the exhibits attached thereto, the complete files and records in this action. The Settlement Agreement is attached as Exhibit A to the Declaration of Ernest Galvan; the Parties' proposed written notice of settlement is attached to the Galvan Declaration as Exhibit B.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Plaintiffs, current and future prisoners in the custody of the Monterey County Sheriff's Office, have entered into a Settlement Agreement with Defendants County of Monterey, Monterey County Sheriff's Office, and California Forensic Medical Group, Inc. (collectively, "Defendants"). Declaration of Ernest Galvan ("Galvan Decl.") ¶ 3. The Settlement Agreement requires that Defendants develop Implementation Plans for the improvement of care, services, programs, and activities that relate to security, medical

1 care, mental health care, dental care, and disability accommodations to prisoners in the  
 2 Monterey County Jail (the “Jail”), including: Intake Screening; Infection Control;  
 3 Detoxification; Safety Cells; Medication Continuity; Custody Staffing; Clinical Staffing;  
 4 Medical Care; Mental Health Care; Dental Care; Safety; and Prisoners with Disabilities.  
 5 The Settlement Agreement addresses Defendants’ policies, procedures, and practices. The  
 6 settlement also provides for the monitoring of Defendants’ compliance with this  
 7 Settlement Agreement and the Implementation Plans. *Id.* The settlement was achieved  
 8 through extensive, arm’s-length negotiations over an extended period under the  
 9 supervision of the Honorable Magistrate Judge Nathanael Cousins. *Id.* ¶ 3.

10 Through this Motion, the Parties seek preliminary approval of the settlement. The  
 11 Parties are not asking the Court to determine with finality whether the settlement is fair,  
 12 reasonable, and adequate at this time. Instead, the issue currently before the Court is  
 13 merely whether the settlement between the Parties is sufficiently within the range of  
 14 possible approval to justify notifying the class members of the settlement and scheduling a  
 15 fairness hearing. If the Court grants preliminary approval, class members will be notified  
 16 of the terms of the settlement and informed of their right to object or comment before the  
 17 final approval hearing. The Parties have agreed on a timeline for notice to the class,  
 18 objections, briefing, the fairness hearing, and adjudicating attorneys’ fees and expenses,  
 19 subject to approval by the Court.

20 Accordingly, the Parties seek an Order: i) granting preliminary approval of the  
 21 Settlement Agreement entered into by the Parties; ii) approving the manner and forms of  
 22 giving notice of the settlement to the class members, and iii) establishing a timetable for  
 23 publishing the written notices of settlement, permitting class members to lodge objections  
 24 to the terms of the settlement, holding a hearing regarding final approval of the settlement,  
 25 and for class counsel to apply for attorneys’ fees and expenses.

## 26 **II. NATURE OF THE CASE AND CLAIMS**

### 27 **A. Allegations in the Complaint**

28 Plaintiffs allege that Defendants provide inadequate security, medical care, and

1 mental health care to prisoners in the Jail, exposing prisoners to substantial, unreasonable,  
 2 and life-threatening risks of harm. *See, generally*, Second Amended Complaint, Dkt. No.  
 3 41. Plaintiffs also allege that Defendants routinely discriminate against and fail to  
 4 accommodate prisoners with disabilities. *See id.* Defendants deny every allegation in each  
 5 of the Complaints filed in this case. Defendants expressly deny they have been  
 6 deliberately indifferent to any of the inmate's constitutional rights, violation of 42 U.S.C. §  
 7 1983, violation of the ADA or Rehabilitation Act, violation of the U.S. Constitution or any  
 8 other wrongdoing or liability.

### 9 **B. Procedural History**

10 On May 23, 2013, Plaintiffs filed a class action lawsuit against Defendants seeking  
 11 declaratory and injunctive relief for violations of the Eighth and Fourteenth Amendments  
 12 of the U.S. Constitution, the Americans with Disabilities Act, the Rehabilitation Act, as  
 13 well as the California Constitution and State statutes. *See* Dkt. No. 1. The Court certified  
 14 this case as a class action on January 29, 2015. *See Hernandez v. Cnty. of Monterey*, No.  
 15 5:13-2354, 2015 WL 399975, at \*24 (N.D. Cal. Jan. 29, 2015) (Dkt. No. 431). The class is  
 16 defined as “all adult men and women who are now, or will be in the future, incarcerated in  
 17 the Monterey County Jail.” *Id.* The Court also certified a sub-class of “all qualified  
 18 individuals with a disability, as that term is defined in 42 U.S.C. § 12102, 29 U.S.C. §  
 19 705(9)(B), and California Government Code § 12926(j) and (m), and who are now, or will  
 20 be in the future, incarcerated in the Monterey County Jail.” *Id.*

21 The Court granted Plaintiffs' Motion for Preliminary Injunction on April 14, 2015.  
 22 *See* Dkt. No. 460. In its Order, the Court required Defendants to file a plan by June 13,  
 23 2015 that includes, at a minimum, the following elements:

- 24 • Defendants' tuberculosis identification, control and treatment program at the
- 25 jail shall comply with the standards laid out in Prevention and Control of
- 26 Tuberculosis in Correctional and Detention Facilities: Recommendations
- 27 from CDC (June 2006);
- 28 • All inmates newly booked into the jail shall receive a timely tuberculosis

1 symptom screening administered by adequately trained health care staff  
2 (nurse or higher level staff);

- 3 • Defendants shall have a reliable system to track whether all newly booked  
4 inmates have received tuberculosis screening and appropriate follow-up  
5 testing and treatment;
- 6 • Medical staff shall timely conduct the initial evaluation to determine if an  
7 inmate is intoxicated and/or suffering from withdrawal or at high risk for  
8 withdrawal;
- 9 • Medical staff shall make the decision on who should be placed in a sobering  
10 cell and who should be transferred to the hospital to be treated for possible or  
11 actual withdrawal;
- 12 • Medical providers (physicians, physicians assistants, and/or nurse  
13 practitioners) shall be timely involved in assessing and treating inmates  
14 potentially undergoing withdrawal, and non-provider medical staff shall  
15 timely refer to providers those inmates undergoing withdrawals when  
16 clinically indicated;
- 17 • Detoxifying inmates shall be adequately monitored using the CIWA protocol  
18 or equivalent validated monitoring protocol, shall receive pharmacological  
19 treatment as indicated and be appropriately housed based on their clinical  
20 conditions;
- 21 • Defendants shall develop separate treatment protocols for opiate, alcohol and  
22 benzodiazepine withdrawal;
- 23 • All inmates newly booked into the jail, who at the time of booking are  
24 prescribed medications in the community, shall be timely continued on those  
25 medications, or prescribed comparable appropriate medication, unless a  
26 medical provider makes an appropriate clinical determination that  
27 medications are not necessary for treatment;
- 28 • Inmates who, at the time of booking, report to Defendants that they are

1 taking community-prescribed medications, but whose medications cannot be  
 2 verified by Defendants, shall be timely assessed by a medical provider and  
 3 timely prescribed medications necessary to treat their health needs;

- 4 • Defendants shall remove all hanging points and other hazards in the jail's  
 5 administrative segregation units that pose a risk of being used by inmates to  
 6 harm themselves or attempt suicide;
- 7 • Defendants shall conduct health and safety checks of all inmates housed in  
 8 segregation at least once every 30 minutes at irregular and unpredictable  
 9 intervals;
- 10 • Defendants shall design and implement a system for identifying and tracking  
 11 all inmates who are qualified individuals with disabilities, as that term is  
 12 defined by the ADA and its implementing regulations, including but not  
 13 limited to inmates with mobility impairments or who are deaf, hard of  
 14 hearing or unable to speak.
- 15 • Defendants shall also design and implement a system for identifying and  
 16 tracking the reasonable accommodations necessary for qualified inmates  
 17 with disabilities to participate in programs, services and activities offered by  
 18 Defendants at the jail, including but not limited to inmates who must be  
 19 provided access to programs, services and activities in spaces that do not  
 20 require climbing stairs and who require sign language interpreters in order to  
 21 have an equal opportunity to participate in, and enjoy the benefits of,  
 22 programs, services and activities offered by Defendants;
- 23 • The County Defendants shall offer all programs, services and activities,  
 24 including but not limited to outdoor exercise, religious services, Choices and  
 25 Pride classes and Narcotics and Alcoholics Anonymous meetings, in  
 26 locations that do not require inmates to climb stairs in order to access the  
 27 programs, services and activities;
- 28 • Defendants shall furnish qualified sign language interpreters to any inmates

for whom sign language is their only or primary method of communication, in all circumstances where a qualified sign language interpreter is necessary to ensure an inmate has an equal opportunity to participate in, and enjoy the benefits of, programs, services and activities offered by Defendants. The interactions for which Defendants must furnish qualified sign language interpreters include but are not limited to the intake process, classification hearings, disciplinary hearings, all medical, mental health and dental treatment, religious services, educational classes, Choices and Pride classes, Narcotics and Alcoholics Anonymous meetings and any other interactions with staff that implicate an inmates' due process rights and

- Defendants shall implement a system to document that Defendants have provided qualified sign language interpreters to inmates who need them and that the inmates have understood the information conveyed by the qualified sign language interpreter.

Dkt. No. 460 at 42-44.

Also on April 14, 2015, the Court granted Plaintiffs' Motions to Strike, with leave to amend. *See Hernandez v. Cnty. of Monterey*, No. 5:13-2354-, 2015 WL 1738281, at \*10 (N.D. Cal. Apr. 14, 2015) (Dkt. No. 462). The case is scheduled for trial to the Court on September 8, 2015.

### **III. SETTLEMENT TERMS**

The settlement addresses the policies, procedures, and practices by which Defendants provide security, medical care, mental health care, dental care, and disability accommodations to prisoners in the Monterey County Jail (the "Jail"). The Parties have agreed that Defendants will immediately develop Implementation Plans in the following subject areas for improvement of care, services, programs, and activities at the Jail, some of which include remedies prescribed by Preliminary Injunction issued by the Court on April 14, 2015. *See* Dkt. No. 460. The Implementation Plans will address issues in the following areas:

- 1 • Intake Screening. Defendants will ensure that arriving prisoners are  
2 promptly screened for urgent medical, mental health and dental needs, with  
3 prompt follow-up and disability accommodations. The Intake Screening  
4 Implementation Plan shall also provide for standards and timelines for  
5 medication continuity. *See Galvan Decl., Ex. A at ¶ 31(a).*
- 6 • Infection Control. Defendants will provide for tuberculosis identification,  
7 control and treatment that complies with the standards laid out in CDCR's  
8 Prevention and Control of Tuberculosis in Correctional and Detention  
9 Facilities. *See id.* at ¶ 31(b).
- 10 • Detoxification. Defendants will provide timely initial evaluations, provide  
11 necessary coordination between custody and medical staff, and provide  
12 timely assessment and/or treatment for inmates potentially undergoing  
13 withdrawal. *See id.* at ¶ 31(c).
- 14 • Safety Cells. Defendants will provide for necessary coordination between  
15 medical staff and custody regarding placement of prisoners in a safety cell,  
16 addressing the prisoner's medical and mental health needs, custody's overall  
17 responsibility for safety and security of prisoners, prompt reviews by  
18 medical of all placements, and a process of resolving disagreements between  
19 medical and custody. *See id.* at ¶ 31(d).
- 20 • Medication Continuity. Defendants will ensure that newly-booked inmates  
21 shall be timely continued on medications prescribed in the community or  
22 timely assessed by a medical provider and timely prescribed medications  
23 necessary to treat their health needs. *See id.* at ¶ 31(e).
- 24 • Custody Staffing. Defendants will develop and implement a Custody  
25 Staffing Implementation Plan to address inmate and staff safety and to  
26 address medical, mental health, disability-related, and other required  
27 programs and services. *See id.* at ¶ 31(f).
- 28 • Clinical Staffing. Defendants will develop and implement a Clinical Staffing

1 Implementation Plan to establish and maintain Qualified Medical  
 2 Professional and Qualified Mental Health Professional staffing at the Jail to  
 3 ensure adequate staffing to provide all necessary medical and mental health  
 4 care, including intake, sick call, chronic and emergency care, psychiatric  
 5 therapy, medication management, records management, and suicide  
 6 prevention. *See id.* at ¶ 31(g).

- 7 • Medical Care. Defendants shall develop and implement a Health Care  
 8 Implementation Plan to expand the provision of care for inmates with serious  
 9 medical and/or mental health needs and to ensure they receive timely  
 10 treatment appropriate to the acuity of their conditions. *See id.* at ¶ 31(h).
- 11 • Mental Health Care. Defendants shall develop and implement a Mental  
 12 Health Care Implementation Plan to more thoroughly ensure timely access to  
 13 necessary treatment by Qualified Mental Health Professionals for prisoners  
 14 with mental illness, including appropriate screening, detoxification and  
 15 medication practices, appropriate therapies, adequate clinical and  
 16 administrative treatment space, access to hospitalization and inpatient care,  
 17 appropriate suicide prevention practices and policies, appropriate use of  
 18 seclusion, and appropriate disciplinary policies and practices regarding the  
 19 mentally ill, and appropriate training of corrections and mental health staff to  
 20 recognize and treat prisoners' mental illness. *See id.* at ¶ 31(i).
- 21 • Dental Care. Defendants shall develop and implement a Dental Care  
 22 Implementation Plan to ensure timely access to necessary treatment for  
 23 dental and oral health conditions, including but not limited to Intake  
 24 Screening, access to care other than extractions, a safe and sanitary on or off-  
 25 site facility for necessary dental care, periodic dental care for long-term  
 26 prisoners, and access to dental hygiene supplies. *See id.* at ¶ 31(j).
- 27 • Safety. Defendants shall develop and implement a Violence Reduction  
 28 Implementation Plan to provide prisoners with a safe and secure environment

1 and intended to ensure reasonable safety from harm. *See id.* at ¶ 31(k).

- 2 • Prisoners with Disabilities. Defendants shall develop and implement an  
3 ADA Implementation Plan to improve accessibility to inmate programs and  
4 services. The Implementation Plan will ensure that prisoners with  
5 disabilities are not discriminated against and are not denied the benefits of,  
6 or participation in, programs, services, and activities at the Jail. *See id.* at ¶  
7 31(l).

8 The Implementation Plans are intended to ensure that the class is not exposed to  
9 substantial risks of serious harm, and that the subclass is not subject to discrimination on  
10 account of disability. The Parties agreed that the Implementation Plans will be adopted as  
11 part of the Settlement Agreement, and that the Parties shall jointly file all Implementation  
12 Plans with the Court, requesting that the Court approve the plans as an amendment to the  
13 Settlement Agreement. *See id.* at ¶ 31.

14 The settlement provides that experts will monitor Defendants' compliance with the  
15 agreed-upon Implementation Plans with respect to ADA compliance, mental health care,  
16 medical care, general conditions of confinement and jail security, and dental care. *See id.*  
17 at ¶ 35. The Settlement Agreement includes provisions for the selection of the expert  
18 monitors, the fees and costs associated with monitoring, as well as the access the monitors  
19 will have at all Jail facilities. *See id.* at ¶¶ 36-40. The Settlement Agreement also provides  
20 that Plaintiffs are entitled to conduct reasonable and limited monitoring of Defendants'  
21 compliance with Settlement Agreement and/or the Implementation Plans. *See id.* at ¶¶ 41-  
22 43.

23 The Settlement Agreement provides that Plaintiffs will not seek fees and expenses  
24 in an amount above \$4.8 million, for fees and expenses incurred through Final Approval of  
25 the Settlement Agreement, including approval of all Implementation Plans. *See Galvan*  
26 *Decl., Ex. A* at ¶ 62. Plaintiffs may petition the Court for an award of no more than  
27 \$250,000 per year in fees and expenses arising from monitoring work, inspections,  
28 negotiations, meet and confer processes, mediation, review of documents, and

1 correspondence with class members, until termination of Court enforcement. *Id.* at ¶ 63.  
2 The settlement also provides that Plaintiffs will not seek fees and expenses in an amount  
3 above \$150,000 each year on motions to enforce the Settlement Agreement. *Id.*

4 This settlement resolves all the claims in this case. The Settlement Agreement  
5 provides for the Court to retain jurisdiction to enforce its terms, as well as the terms of the  
6 Implementation Plans for a period of five years, unless Plaintiffs' counsel can demonstrate  
7 to the Court through noticed motion that jurisdiction should be retained for a longer period.  
8 *See id.* at ¶ 47. Defendants may move the Court to terminate this Settlement Agreement,  
9 in whole or part, after twelve months if Defendants are in substantial compliance with the  
10 terms of the Settlement Agreement.

#### 11 **IV. TIME FOR COMPLIANCE AND EXTENSION OF TIME FOR** 12 **PRELIMINARY INJUNCTION COMPLIANCE**

13 The parties jointly request that the Court extend the deadlines set by the preliminary  
14 injunction (Dkt. No. 460) consistent with the Settlement Agreement terms. Under the  
15 preliminary injunction, Defendants must file remedial plans with the Court no later than  
16 June 13, 2015 (60 days from issuance of the preliminary injunction). Dkt. No. 460 at 42.  
17 The Settlement Agreement preserves the requirement for the plans set forth in preliminary  
18 injunction, but extends the time for Defendants to develop such plans by 47 days, to July  
19 30, 2015. Galvan Decl. Ex. A ¶ 33. In addition, the Settlement Agreement provides that  
20 the initial plans not be filed with the Court, but rather provided to Plaintiffs to initiate a  
21 meet and confer and mediation process to resolve any disputes. Remaining disputes if any,  
22 are to be submitted to the Court for decision. *Id.*

23 Consistent with these provisions of the Settlement Agreement, the parties request  
24 that concurrently with preliminary approval, the Court extend the time for Defendants to  
25 develop plans required by the preliminary injunction to July 30, 2015, and that the Court  
26 adopt the meet-and-confer provisions of the Settlement Agreement in lieu of the provisions  
27 of the preliminary injunction that require submitting plans and objections directly to the  
28 Court.

**V. THE SETTLEMENT MERITS THE COURT’S PRELIMINARY APPROVAL**

Voluntary settlement is the preferred means of dispute resolution, particularly in complex class litigation. *See Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982). The settlement presented to the Court for preliminary approval represents a fair and reasonable resolution of this dispute, and is worthy of notice to and consideration by the class members.

**A. The Standard for Preliminary Approval of Settlement Agreements**

Preliminary approval of a settlement is an initial assessment of the fairness of the proposed settlement made by a court on the basis of written submissions and presentations from the settling parties. Preliminary approval is appropriate if the settlement appears to be the product of serious, informed, and non-collusive negotiations, and if the terms of the settlement are within the range of reasonableness. *Newberg on Class Actions* § 13:10 (5th ed.).

There is an “initial presumption of fairness when a proposed class settlement was negotiated at arm’s length by counsel for the class.” *Murillo v. Texas A&M Univ. Sys.*, 921 F. Supp. 443, 445 (S.D. Tex. 1996); *see also Ramirez v. Ghilotti Bros. Inc.*, No. 12-04590, 2014 WL 1607448, at \*1 (N.D. Cal. Apr. 21, 2014) (“When class counsel is experienced and supports the settlement, and the agreement was reached after arm’s length negotiations, courts should give a presumption of fairness to the settlement”). To determine whether a settlement “falls within the range of possible approval,” a court must focus on “substantive fairness and adequacy,” and “consider plaintiffs’ expected recovery balanced against the value of the settlement offer.” *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1080 (N.D. Cal. 2007). “Once the judge is satisfied as to . . . results of the initial inquiry into the fairness, reasonableness, and adequacy of settlement, notice of a formal rule 23(e) fairness hearing is given to the class members.” *Manual for Complex Litig.*, (Fourth) § 21.633 (2004).

**B. The Settlement Resulted from Arm's-Length Negotiations and Is Not the Product of Collusion**

The settlement negotiated by the Parties was the result of arm's-length negotiations by experienced counsel on both sides, each with a comprehensive understanding of the strengths and weaknesses of each party's respective claims and defenses. Galvan Decl. ¶ 3. The settlement was preceded by a lengthy period of adversarial litigation that involved substantial discovery and motion practice. *Id.* The parties engaged in extensive settlement efforts before the lawsuit was filed. *Id.* Settlement efforts continued after the filing of the lawsuit with a formal private mediation in July 2014. *Id.* A lengthy period of discovery and motion practice followed, with a renewal of settlement negotiations after the Court certified the class. *Id.* The Parties participated in a settlement conference before the Honorable Nathanael M. Cousins, United States Magistrate Judge, on March 30, 2015. *Id.* The Parties participated in additional settlement conferences before Judge Cousins on April 17, April 23, April 27, May 1, May 2, May 3, and May 4, 2015. *Id.* During that time, the Parties exchanged multiple revisions to the settlement agreements, leading up to the final Settlement Agreement executed on May 8, 2015. *Id.*

**C. The Settlement Falls Within the Range of Possible Court Approval**

The Settlement Agreement represents a significant achievement for the Plaintiff class and sub-class, as it provides comprehensive equitable relief to class members and will ensure that experts monitor Defendants' compliance with the agreed-upon Implementation Plans. *Id.* ¶ 4. The class of all prisoners secures a rapid process for improving safety and health care at the jail, without the delays and risk involved in a trial. *Id.* The sub-class of prisoners with disabilities secures all of the relief obtained in the Court's preliminary injunction—with only minor compromises in timing and scope of relief. *Id.* The sub-class of prisoners with disabilities will benefit from immediate attention to the difficult tasks of making jail programs, services, and activities accessible to them, again without the delays and risks involved in a trial. *Id.*

The settlement provides Defendants with certainty and a defined set of areas for

1 which they will develop Implementation Plans. The outcome of the litigation is currently  
2 uncertain. If the case had not settled, the Parties would have continued the discovery  
3 process (including additional discovery-related motions) and preparing for trial, scheduled  
4 for September 8, 2015. Proceeding through discovery and pre-trial motions, trial, and  
5 appeal would impose risks and costs, and would substantially delay the implementation of  
6 mutually agreed remedies in this matter. Given the relief achieved and the risks involved  
7 in further litigation, the negotiated settlement represents a fundamentally “fair, reasonable  
8 and adequate” resolution of the disputed issues and should be preliminarily approved. *See*  
9 *Fed. R. Civ. Pro. 23(e)(2)*.

10 **VI. THE PROPOSED NOTICE TO CLASS MEMBERS IS ADEQUATE**

11 Under Federal Rules of Civil Procedure 23(e)(1), class members are entitled to  
12 notice of any proposed settlement before it is finally approved by the Court. The proposed  
13 written notice of settlement is attached to the Galvan Declaration as Exhibit B. The Parties  
14 have agreed on a timeline for notice to the class, objections, briefing, the fairness hearing,  
15 and adjudicating attorneys’ fees and expenses, subject to approval by the Court at the  
16 requested May 19, 2015 hearing. *See* [Proposed] Order Granting Stipulated Motion for  
17 Preliminary Approval of Class Action Settlement, filed herewith. Presented below are the  
18 Parties’ requested notice procedures.

19 Within 7 days after the Court orders Preliminary Approval, or as soon thereafter as  
20 practicable, the written notice of settlement (the “Notice”) shall be disseminated to the  
21 Class, substantially in the form attached to the Galvan Declaration as Exhibit B by the  
22 following means: (1) For the benefit of all class and sub-class members, written Notices  
23 shall be posted throughout the Monterey County Jail, in the same locations within the Jail  
24 that the Parties agreed class certification notices were to be placed. *See* Galvan Decl. ¶ 7.  
25 (2) Copies of the Settlement Agreement shall be available in the Jail library and made  
26 available to Jail inmates upon request. (3) Inmates under the custody of the Monterey  
27 County Sheriff’s Office who reside at other locations (such as Natividad Medical Center or  
28 the jail in Alameda County) shall be sent the Notice by first class mail to their last known

1 address, or shall be provided with the notice in person by custodial staff. (4) The Notice  
 2 and the Settlement Agreement shall be posted on the website of the Monterey County  
 3 Sheriff's Office and made available for public review and downloading.

4 The notice informs class members that there is no right to opt-out of the class. The  
 5 Court certified a Rule 23(b)(2) class in which the class seeks "'uniform relief from a  
 6 practice applicable to all of them,'" rather than "damages or relief for any specific  
 7 Plaintiff." (Dkt. No. 431 at 48.) Opt-out rights are "contradictory to the very nature of . . .  
 8 (b)(2) class actions." Newberg on Class Actions § 9:51 (5th ed.).

9 Such notice constitutes valid, due, and sufficient notice to the class, constitutes the  
 10 best notice practicable under the circumstances, and complies fully with the requirements  
 11 of Rule 23 of the Federal Rules of Civil Procedure. The proposed forms of notice apprise  
 12 class members in a fair and neutral way of the existence of the settlement with the  
 13 Defendants and their rights with respect to the settlement. The Parties respectfully submit  
 14 that these forms of notice satisfy the required standards for notices of class settlements.

15 **VII. NO HEARING REQUESTED; REQUEST FOR SHORTENED TIME IF**  
 16 **COURT REQUIRES A HEARING**

17 The Parties agree that no hearing is necessary for this Preliminary Approval motion.  
 18 In the event that the Court requires a hearing, the parties respectfully request that this  
 19 Motion be heard on shortened time, in lieu of the discovery hearing previously set for May  
 20 19, 2015 at 10:00 a.m., or as soon thereafter as is convenient for the Court.

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**VIII. CONCLUSION**

For the foregoing reasons, the Parties respectfully request that their motion be granted and that this Court issue an order i) granting preliminary approval of the settlement agreement entered into by the Parties; ii) approving the manner and forms of giving notice of the settlement to the class members; and iii) establishing a timetable for publishing the class notice, permitting class members to lodge objections to the terms of the settlement, and scheduling a fairness hearing regarding final approval of the settlement.

IT IS SO STIPULATED.

DATED: May 14, 2015

ROSEN BIEN GALVAN & GRUNFELD LLP

By: /s/ Ernest Galvan  
Ernest Galvan

DATED: May 14, 2015

OFFICE OF THE COUNTY COUNSEL  
COUNTY OF MONTEREY

By: /s/ Charles J. McKee  
Charles J. McKee  
Monterey County Counsel

Attorneys for Defendants  
COUNTY OF MONTEREY and MONTEREY  
COUNTY SHERIFF'S OFFICE

DATED: May 14, 2015

BERTLING & CLAUSEN, L.L.P.

By: /s/ Peter G. Bertling  
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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JESSE HERNANDEZ et al., on behalf of  
 themselves and all others similarly situated,

Plaintiffs,

v.

COUNTY OF MONTEREY; MONTEREY  
 COUNTY SHERIFF'S OFFICE;  
 CALIFORNIA FORENSIC MEDICAL  
 GROUP, INCORPORATED, a California  
 corporation; and DOES 1 to 20, inclusive,

Defendants.

Case No. CV 13 2354 PSG

**DECLARATION OF ERNEST  
 GALVAN IN SUPPORT OF  
 STIPULATED MOTION FOR  
 PRELIMINARY APPROVAL OF  
 CLASS ACTION SETTLEMENT**

1 I, Ernest Galvan, declare:

2 1. I am an attorney admitted to practice law in California, a member of the bar  
3 of this Court, and a partner in the law firm of Rosen Bien Galvan & Grunfeld LLP, counsel  
4 of record for Plaintiffs. I have personal knowledge of the matters set forth herein, and if  
5 called as a witness I could competently so testify. I make this declaration in support of  
6 Motion For Preliminary Approval Of Class Action Settlement; Extension Of Time For  
7 Preliminary Injunction Compliance; And Request For Order Shortening Time To Hear The  
8 Motion.

9 2. Plaintiffs filed this action for declaratory and injunctive relief on May 23,  
10 2013. Plaintiffs, on behalf of themselves and the class they represent, alleged violations of  
11 the Eighth and Fourteenth Amendments of the U.S. Constitution, the Americans with  
12 Disabilities Act, the Rehabilitation Act, as well as the California Constitution and State  
13 statutes. The operative complaint is the Second Amended Complaint, filed April 11, 2014  
14 (Dkt. No. 41).

15 3. On May 8, 2015, the Parties entered into a Settlement Agreement. The  
16 settlement was achieved through extensive, arm's-length negotiations over an extended  
17 period. At various times both before and after commencement of litigation, the Parties  
18 discussed settlement. After the lawsuit was filed, the parties participated in a full-day  
19 private mediation in July 2014, with follow-up negotiations by email, telephone, and in-  
20 person meetings. Plaintiffs litigated the case aggressively with motions for class  
21 certification and preliminary injunctive relief, followed by extensive document and  
22 deposition discovery as well as discovery motion practice. After the Court certified the  
23 class, the Parties resumed settlement negotiations. The Parties participated in a several full  
24 days of settlement conference before the Honorable Nathanael M. Cousins, United States  
25 Magistrate Judge, on March 30, April 17, April 23, April 27, and May 1, followed by  
26 several telephone conferences. During that time, the Parties exchanged multiple revisions  
27 to the settlement agreements, all leading up to the final Settlement Agreement executed on  
28 May 8, 2015.

1           4.       The Settlement Agreement represents a significant achievement for the  
2 Plaintiff class and sub-class. The class of all prisoners secures a rapid process for  
3 improving safety and health care at the jail, without the delays and risk involved in a trial.  
4 The sub-class of prisoners with disabilities secures all of the relief obtained in the Court's  
5 preliminary injunction—with only minor compromises in timing and scope of relief. The  
6 sub-class of prisoners with disabilities will benefit from immediate attention to the difficult  
7 tasks of making jail programs, services, and activities accessible to them, again without the  
8 delays and risks involved in a trial.

9           5.       Attached as **Exhibit A** is a true and correct copy of the Settlement  
10 Agreement executed on behalf of all Parties in this case. The Settlement Agreement  
11 requires Defendants to develop Implementation Plans for the improvement of care,  
12 services, programs, and activities that relate to security, medical care, mental health care,  
13 dental care, and disability accommodations to prisoners in the Monterey County Jail (the  
14 "Jail"), including: Intake Screening; Infection Control; Detoxification; Safety Cells;  
15 Medication Continuity; Custody Staffing; Clinical Staffing; Medical Care; Mental Health  
16 Care; Dental Care; Safety; and Prisoners with Disabilities. The Settlement Agreement  
17 describes substantial revisions to Defendants' policies, procedures, and practices. The  
18 settlement also provides that expert monitors will be retained to monitor Defendants'  
19 compliance with this Settlement Agreement and the Implementation Plans with respect to  
20 ADA compliance, mental health care, medical care, general conditions of confinement and  
21 jail security, and dental care.

22           6.       The Settlement Agreement limits the Plaintiffs' attorneys' fees and expenses  
23 to a maximum of \$4.8 million for the work performed to date and in the future to develop  
24 the implementation plans. Thereafter, attorneys' fees and costs for monitoring by  
25 Plaintiffs' counsel are limited to \$250,000 per year. Attorneys' fees and costs for  
26 enforcement motions brought by Plaintiffs' counsel are limited to \$150,000 per year. The  
27 Court will decide the amount of these fees and expenses.  
28

1           7.       Attached as **Exhibit B** is a true and correct copy of the Parties' proposed  
2 written notice of settlement.

3           8.       In March 2015, the parties agreed on locations for posting notice of  
4 certification of the class. These locations are:

- 5                   1.       Booking Intake Room
- 6                   2.       X-Ray Room Near Iso Cells
- 7                   3.       ISO Dayroom (outside of window facing in, near TV)
- 8                   4.       Booking Cell 1 outside of window facing in
- 9                   5.       Booking Cell 2 outside of window facing in
- 10                  6.       Booking Cell 3 outside of window facing in
- 11                  7.       Booking Cell 4 outside of window facing in
- 12                  8.       Men's Dress Out
- 13                  9.       E Dorm Dayroom
- 14                  10.      A Dorm
- 15                  11.      B Dorm
- 16                  12.      C Dorm
- 17                  13.      D Dorm
- 18                  14.      Men's Visiting 1
- 19                  15.      Men's Visiting 2
- 20                  16.      Men's Visiting 3
- 21                  17.      Chapel
- 22                  18.      Dental Office
- 23                  19.      K-5
- 24                  20.      K-16
- 25                  21.      K-17
- 26                  22.      A-Pod
- 27                  23.      B-Pod
- 28                  24.      C-Pod
25.      D-Pod
26.      E-Pod
27.      F-Pod

- 1 28. G-Pod
- 2 29. H-Pod
- 3 30. I-Pod
- 4 31. J-Pod
- 5 32. Q-Pod
- 6 33. Q-Pod Outside yard
- 7 34. R-Pod
- 8 35. S-Pod
- 9 36. T-Pod
- 10 37. U-Pod
- 11 38. V-Pod lower Level
- 12 39. V-Pod Classroom
- 13 40. Women's Visiting
- 14 41. Rehab center Class Room 1
- 15 42. Rehab center Class Room 2
- 16 43. Rehab center Class Room 3
- 17 44. Rehab center Class Room 4
- 18 45. A-Wing
- 19 46. B-Wing 1
- 20 47. B-Wing 2
- 21 48. B-Wing 3
- 22 49. C-Wing
- 23 50. D-Wing
- 24 51. E-Wing
- 25 52. F-Wing
- 26 53. G-Wing program area
- 27 54. Rehab Clinic Room
- 28 55. Infirmary Hallway
56. Infirmary Exam Room 1
57. Infirmary Exam Room 2
58. Infirmary Exam Room 3
59. Library

60. Women's Dress Out

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct, and that this declaration is executed at San Francisco, California this 14th day of May, 2015.

/s/ Ernest Galvan  
Ernest Galvan

**EXECUTION COPY**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JESSE HERNANDEZ et al., on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

COUNTY OF MONTEREY; MONTEREY  
COUNTY SHERIFF'S OFFICE;  
CALIFORNIA FORENSIC MEDICAL  
GROUP, INCORPORATED, a California  
corporation; and DOES 1 to 20, inclusive,

Defendants.

Case No. CV 13 2354 PSG

**SETTLEMENT AGREEMENT**

Judge: Hon. Paul S. Grewal

Trial Date: September 8, 2015

**I. INTRODUCTION**

1. Plaintiffs are prisoners in the custody of the Monterey County Sheriff's Office ("MCSO").

2. Defendants are the County of Monterey, Monterey County Sheriff's Office and, California Forensic Medical Group, Incorporated ("CFMG").

3. The Court has certified this case as a class action. The class is defined as "all adult men and women who are now, or will be in the future, incarcerated in the Monterey County Jail." The Court has also certified a sub-class of "all qualified individuals with a disability, as that term is defined in 42 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and California Government Code § 12926(j) and (m), and who are now, or will be in the future, incarcerated in the Monterey County Jail."

4. The Court on April 14, 2015, entered a Preliminary Injunction.

5. The purpose of this Settlement Agreement is to settle the above-captioned case. The parties believe this agreement is fair, reasonable, and adequate to protect the interests of all parties.

6. Defendants deny every allegation in each of the Complaints filed in this case. This Settlement Agreement does not constitute, and shall not be construed, as an admission of or evidence of any act of deliberate indifference to any inmate's constitutional rights, violation of 42 U.S.C. § 1983, violation of the ADA, violation of the U.S. Constitution, or any other wrongdoing or liability by any party. The Defendants expressly deny any liability. Defendants deny that any of their policies, procedures and/or practices subject inmates to a risk of harm or result in any deliberate indifference to inmates' safety, medical, mental health, dental, or accessibility needs in violation of their state or federal constitutional rights, state or federal law, or the ADA and Rehabilitation Act. The parties agree that nothing in this Settlement Agreement shall be used against any Defendant in any other litigation that has been or may be filed against any Defendant.

7. The Defendants state that prior to and since the initiation of this litigation, the County of Monterey and Monterey County Sheriff's Office ("Monterey Defendants")

1 and California Forensic Medical Group (“CFMG”) had commenced significant initiatives  
2 to enhance the delivery of mental health services and medical care, improve the safety of  
3 the MCJ and improve jail and program accessibility, and the process has been ongoing  
4 throughout the course of the litigation.

5 8. The parties will jointly file this Settlement Agreement with the Court, and  
6 ask that the Court issue an order directing notice to the class, setting an objection period,  
7 and a fairness hearing (“Preliminary Approval”), and that the Court approve it as final after  
8 the fairness hearing (“Final Approval”). Final Approval is a condition precedent to the  
9 Agreement's effectiveness, except as to the specific steps that the parties herein agree to  
10 perform after Preliminary Approval.

## 11 **II. PRELIMINARY AND FINAL APPROVAL OF CLASS ACTION** 12 **SETTLEMENT**

13 9. By May 29, 2015, the parties shall jointly submit this Settlement Agreement  
14 to the Court for Preliminary Approval and with a proposed order for Preliminary Approval  
15 providing a schedule for notice, proposed notices of Preliminary Approval, objection  
16 period, and fairness hearing, and proposed notice of the final remedy for posting upon  
17 Final Approval under Rule 23(e) of the Federal Rules of Civil Procedure. Concurrent with  
18 this filing the parties shall file a request to modify the dates mandated by the preliminary  
19 injunction.

## 20 **III. DEFINITIONS**

21 10. "Substantial compliance" shall mean adherence to the requirements of the  
22 Settlement Agreement and the Implementation Plans in all material respects, recognizing  
23 that 100% compliance is not required. Non-systemic deviations from the requirements of  
24 the Settlement Agreement and the Implementation Plans shall not prevent a finding of  
25 substantial compliance, provided that the Defendants demonstrate that they have  
26 (a) implemented a system for tracking compliance, where appropriate and practical, and  
27 for taking corrective measures in response to instances of non-compliance, and (b) that  
28 Defendants have instituted policies, procedures, practices, and resources that are capable of

1 durable and sustained compliance. Substantial compliance shall be assessed by the  
2 subject-area monitors and shall govern all requirements for the Settlement Agreement and  
3 Implementation Plans.

4 11. “Administrative Segregation” shall be defined as a classification or program  
5 in which prisoners are removed from the general population and confined in a designated  
6 unit to separate them from other prisoners.

7 12. “MC”: County of Monterey.

8 13. “MCSO”: Monterey County Sheriff’s Office.

9 14. “CFMG”: California Forensic Medical Group.

10 15. “Day(s)”: Calendar days unless otherwise specified.

11 16. “Facility” or “Jail”: Monterey County Jail.

12 17. “Disability” and “Disabilities” shall be defined in the same manner as to  
13 include all persons considered to have a disability under the Americans with Disabilities  
14 Act, and/or the Rehabilitation Act.

15 18. “Mediator” shall refer to the Honorable Nathanael Cousins. The parties  
16 consent to the jurisdiction of the Honorable Nathanael Cousins to serve in this capacity.

17 19. “Prisoner(s)” shall be construed broadly to refer to one or more individuals  
18 detained at, or otherwise housed, held, in the custody of, or confined at the Jail, or under  
19 the custody of MCSO at another location, such as a hospital or other treatment facility. The  
20 term “prisoner” shall not include those individuals who are on parole or probation and not  
21 physically in the custody of the MCSO. The term "prisoner" shall not include those  
22 individuals who are detained during the process of investigation or arrest prior to booking  
23 into jail. It shall also not include individuals participating in various pretrial release  
24 programs.

25 20. To “implement” a policy means that the policy has been drafted and  
26 distributed to all staff responsible for following or applying the policy; and, if appropriate,  
27 all relevant staff have been trained on the policy; compliance with the policy is monitored  
28

1 and tracked, if practical, to assure the policy is consistently applied; and there are  
2 corrective action measures to address lapses in application of the policy.

3 21. “Qualified Medical Professional” means a currently licensed physician,  
4 physician assistant, nurse practitioner, or registered nurse qualified to deliver those health  
5 care services he or she has undertaken to provide.

6 22. “Qualified Mental Health Professional” refers to an individual with training  
7 in psychology, social work, psychiatric nursing, or marriage and family therapy, who is  
8 currently licensed by the State of California to deliver those mental health services he or  
9 she has undertaken to provide.

10 23. A Psychiatrist is a licensed Medical Doctor who has completed an approved  
11 residency in psychiatry and is either certified by the American Board of Psychiatry and  
12 Neurology or is eligible to take the exam for board certification.

13 24. “Staff members” or “staffing” includes all employees of MC or CFMG,  
14 including correctional officers, who have contact with prisoners.

15 25. “Medical Clearance” is a clinical assessment of physical and mental status  
16 before an individual is admitted into the facility. The medical clearance may come from  
17 on-site health staff or may require sending the individual to the hospital emergency room.  
18 The medical clearance is to be documented in writing.

19 26. “Face-to-face interview” refers to an encounter between a clinician and  
20 patient. The encounter is typically in-person, but this term does not preclude the use of  
21 telemedicine and/or tele-psychiatry services.

22 27. “Initial Health Screening” is a face-to-face interview conducted by nursing  
23 staff with the arriving individual that identifies immediate medical, mental health and/or  
24 dental needs and provides for medication continuity.

25 28. “Initial Health Assessment” is a medical, mental health, dental and  
26 communicable diseases screening which includes a history and physical examination by  
27 appropriate clinical staff.  
28

1           29.    “Mental Health Screening” is a face-to-face interview conducted by  
2 Qualified Mental Health Professional using a standardized Mental Health Screening  
3 questionnaire.

4           30.    “Psychological Evaluation” is a confidential face-to-face interview and file  
5 review conducted by a QUALIFIED MENTAL HEALTH PROFESSIONAL or  
6 PSYCHIATRIST, primarily for purposes of determining diagnosis, level of functioning,  
7 and recommended level of care and course of treatment.

#### 8 **IV.   SUBSTANTIVE PROVISIONS**

9           31.    The parties shall develop Implementation Plans in the following subject  
10 areas for improvement of care, services, programs, and activities at the Jail. The plans are  
11 intended to ensure that the class is not exposed to substantial risks of serious harm, and  
12 that the subclass is not subject to discrimination on account of disability. These  
13 Implementation Plans will be adopted as part of the Settlement Agreement. The recitation  
14 of subject matters to be addressed by the Implementation Plans is for purposes of  
15 describing the scope of the Settlement Agreement and does not constitute an admission by  
16 Defendants that existing policies and procedures are inadequate.

17               a.    Intake Screening. Defendants will develop and implement an Intake  
18 Screening Implementation Plan that specifies standards and timelines to ensure that  
19 arriving prisoners are promptly screened for urgent medical, mental health and dental  
20 needs, with prompt follow-up and disability accommodations. The standards and timelines  
21 shall include Medical Clearance on arrival at the jail to determine whether the prisoner  
22 must be excluded on medical or mental health grounds, Intake Health Screening on arrival  
23 at the jail, and Initial Health Assessment within time frames determined by the conditions  
24 and acuity found in the Intake Health Screening. The Implementation Plan shall include a  
25 mental health assessment tool to be used with all prisoners at intake to determine which  
26 prisoners need Psychological or Psychiatric Evaluation and on what time frame. The  
27 Implementation Plan shall also include standards and timelines for Dental Evaluation. The  
28 Intake Screening Implementation Plan shall provide for appropriate infectious disease

1 screening and follow-up, including but not limited to screening for tuberculosis and  
2 methicillin resistant staphylococcus aureus (MRSA). The Intake Screening  
3 Implementation Plan shall also provide for standards and timelines for medication  
4 continuity either through outside verification or on-site physician medication order, Initial  
5 Health Assessment for all incoming prisoners with chronic illnesses, Psychological  
6 Evaluation for persons with signs of development disability, Psychological Evaluation for  
7 persons with signs and/or histories of mental illness that meet certain thresholds, clinical  
8 evaluation of persons in need of detoxification with clinical determinations for any use of  
9 sobering, safety or isolation cells, use of a suicide risk assessment tool, with Psychological  
10 Evaluation for those with positive findings on the suicide assessment.

11           b.       Infection Control

12                   i.       Defendants' tuberculosis identification, control and treatment  
13 program shall comply with the standards laid out in Prevention and Control of  
14 Tuberculosis in Correctional and Detention Facilities: Recommendations from CDC (June  
15 2006).

16                   ii.       All inmates newly booked into the jail shall receive a timely  
17 tuberculosis symptom screening administered by adequately trained health care staff (nurse  
18 or higher level staff).

19                   iii.       Defendants shall have a reliable system to track whether all  
20 newly booked inmates have received tuberculosis screening and appropriate follow-up  
21 testing and treatment.

22           c.       Detoxification

23                   i.       Medical staff shall timely conduct the initial evaluation to  
24 determine if an inmate is intoxicated and/or suffering from withdrawal or at high risk for  
25 withdrawal.

26                   ii.       The Health Care and Mental Health Implementation Plans shall  
27 provide for necessary coordination between medical staff and custody regarding placement  
28 of prisoners in a sobering cell, addressing the prisoner's medical and mental health needs,

1 custody's overall responsibility for safety and security of prisoners, prompt reviews by  
2 medical of all placements, and a process of resolving disagreements between medical and  
3 custody.

4                   iii. Medical providers shall be timely involved in assessing and  
5 treating inmates potentially undergoing withdrawal, and non-provider medical staff shall  
6 timely refer to providers those inmates undergoing withdrawals when clinically indicated.

7                   d. Safety Cells. The Health Care and Mental Health Implementation  
8 Plans shall provide for necessary coordination between medical staff and custody  
9 regarding placement of prisoners in a safety cell, addressing the prisoner's medical and  
10 mental health needs, custody's overall responsibility for safety and security of prisoners,  
11 prompt reviews by medical of all placements, and a process of resolving disagreements  
12 between medical and custody.

13                   e. Medication Continuity

14                   i. All inmates newly booked into the jail, who at the time of  
15 booking are prescribed medications in the community, shall be timely continued on those  
16 medications, or prescribed comparable appropriate medication, unless a medical provider  
17 makes an appropriate clinical determination that medications are not necessary for  
18 treatment.

19                   ii. Inmates who, at the time of booking, report to Defendants that  
20 they are taking community-prescribed medications, but whose medications cannot be  
21 verified by Defendants, shall be timely assessed by a medical provider and timely  
22 prescribed medications necessary to treat their health needs.

23                   f. Custody Staffing

24                   i. Defendants will develop and implement a Custody Staffing  
25 Implementation Plan to address inmate and staff safety and to address medical, mental  
26 health, disability-related, and other required programs and services.

27                   ii. The Staffing Implementation Plan will include necessary posts  
28 and functions to increase prisoners' access to out-of-cell activity, yard, education and other

1 in-house jail programs, including using programs necessary for milestone credit earning  
2 under Cal. Penal Code § 4019 or any other applicable law.

3                   iii.     The Staffing Implementation Plan will identify all needed posts  
4 and positions for custody staff members based on current and projected Jail population,  
5 and the number and qualification of correctional staff to cover each post and position, with  
6 shift relief.

7                   iv.     The Staffing Implementation Plan will ensure adequate  
8 coverage to supervise each housing and specialized housing area, to escort prisoners for  
9 court, for visits and legal visits, medical and mental health appointments, yard and other  
10 operations of the Jail, and to respond to medical, mental health, security, and natural  
11 disaster emergencies.

12                  g.     Clinical Staffing. Defendants will develop and implement a Clinical  
13 Staffing Implementation Plan to establish and maintain Qualified Medical Professional and  
14 Qualified Mental Health Professional staffing at the Jail to ensure adequate staffing to  
15 provide all necessary medical and mental health care, including intake, sick call, chronic  
16 and emergency care, psychiatric therapy, medication management, records management,  
17 and suicide prevention. The plan will identify all needed positions based on current and  
18 projected Jail population, and the number and qualifications of medical and mental health  
19 care staff to cover each position, with shift relief.

20                  h.     Medical Care

21                       i.     Defendants shall develop and implement a Health Care  
22 Implementation Plan to expand the provision of care for inmates with serious medical  
23 and/or mental health needs and to ensure they receive timely treatment appropriate to the  
24 acuity of their conditions.

25                       ii.    Defendants shall ensure timely access to necessary treatment  
26 by Qualified Medical Professionals for prisoners with medical issues, including  
27 appropriate medication practices, appropriate treatment, adequate clinical and  
28 administrative treatment space, access to specialists and hospitalization, appropriate

1 emergency response, appropriate means for requesting medical attention in all levels of  
2 custody including segregation, appropriate chronic care, appropriate follow up medical  
3 attention for prisoners discharged from the hospital, and appropriate supervision of all  
4 medical staff.

5                   iii. Defendants shall ensure that appropriate and complete medical  
6 records are maintained to ensure adequate treatment of prisoners' serious medical and  
7 mental health needs. Medical records shall include all records, results, and orders received  
8 from off-site consultations and treatment conducted while the prisoner is in the Jail  
9 custody.

10                   i. Mental Health Care

11                   i. Defendants shall develop and implement a Mental Health Care  
12 Implementation Plan to more thoroughly ensure timely access to necessary treatment by  
13 Qualified Mental Health Professionals for prisoners with mental illness, including  
14 appropriate screening, detoxification and medication practices, appropriate therapies,  
15 adequate clinical and administrative treatment space, access to hospitalization and  
16 inpatient care, appropriate suicide prevention practices and policies, appropriate use of  
17 seclusion, and appropriate disciplinary policies and practices regarding the mentally ill,  
18 and appropriate training of corrections and mental health staff to recognize and treat  
19 prisoners' mental illness.

20                   ii. Defendants shall develop policies and procedures for the safe  
21 and appropriate use of restraint chairs and similar means of physical restraint, including  
22 but not limited to prompt clinical consultations, and observations.

23                   iii. The Mental Health Implementation Plan shall require  
24 classification to assess a totality of factors when assigning prisoners to administrative  
25 segregation units. It is the understood that the goal of Defendants is to limit the use of  
26 administrative segregation for prisoners with serious mental illness. The Mental Health  
27 Implementation Plan shall require placement screening of all prisoners for mental illness  
28 and suicidality before or promptly after they are housed in administrative segregation, and

1 require procedures to mitigate the impact of administrative segregation on persons with  
2 mental illness, including but not limited to structured therapeutic activity outside the  
3 segregation cell and where feasible assignment of cell mates.

4                   iv.     The Mental Health Implementation Plan shall address suicide  
5 watch and suicide precaution procedures to ensure that prisoners in crisis are not placed in  
6 punitive and/or unsanitary conditions.

7                   v.     Defendants shall remove hanging points and other hazards in  
8 jail administrative segregation cells that pose an unreasonable risk of being used by  
9 inmates to harm themselves or attempt suicide. While it is recognized that it is impossible  
10 to suicide proof a jail, Defendants will in good faith work with a consultant to develop and  
11 implement a plan to reduce hanging points and other suicide hazards in the jail  
12 administrative segregation cells.

13                  vi.     The Implementation Plans shall address standards for health  
14 and safety checks of all inmates housed in segregation cells at irregular intervals with the  
15 specific frequency of checks to be addressed in the Plans to address the needs of particular  
16 classifications of inmates.

17                  vii.    Nursing staff shall conduct daily mental health rounds in  
18 segregation.

19                  j.     Dental Care: Defendants shall develop and implement a Dental Care  
20 Implementation Plan to ensure timely access to necessary treatment for dental and oral  
21 health conditions, including but not limited to Intake Screening, access to care other than  
22 extractions, a safe and sanitary on or off-site facility for necessary dental care, periodic  
23 dental care for long-term prisoners, and access to dental hygiene supplies.

24                  k.     Safety

25                  i.     Defendants shall develop and implement a Violence Reduction  
26 Implementation Plan to provide prisoners with a safe and secure environment and intended  
27 to ensure reasonable safety from harm. Defendants shall take all reasonable measures to  
28 improve inmate and custodial staff safety. The Implementation Plan shall ensure that

1 during the course of incarceration, prisoners are not subjected to unnecessary or excessive  
2 force by Staff and are reasonably protected from violence by other prisoners.

3                   ii. Defendants' plan shall include physical and structural issues to  
4 improve safety and security, which may include camera installation. Defendants' plan  
5 shall, to the extent possible, prioritize the use of evidence-based policies, including but not  
6 limited to increasing Work Alternative Program limits, Involuntary Home Detention, Pre-  
7 trial Release though Probation, a revised Own Recognizance (OR) eligibility policy,  
8 Choices/Liberty Pride (or equivalent programs) educational early release kickouts, Penal  
9 Code 4018.1 and 4014.1 kickouts. The parties recognize that pre-trial release, diversion,  
10 split sentencing, the use of home and GPS monitoring are also available and beneficial,  
11 and should be tracked, but are dependent on the discretion of the Monterey County  
12 Superior Court and District Attorney.

13                   l. Prisoners with Disabilities

14                   i. Defendants shall develop and implement an ADA  
15 Implementation Plan to improve accessibility to inmate programs and services. The  
16 Implementation Plan will ensure that prisoners with disabilities are not discriminated  
17 against and are not denied the benefits of, or participation in, programs, services, and  
18 activities at the Jail.

19                   ii. Defendants shall design and implement a system for  
20 identifying and tracking all inmates who are qualified individuals with disabilities, as that  
21 term is defined by the ADA and its implementing regulations, including but not limited to  
22 inmates with mobility impairments or who are deaf, hard of hearing or unable to speak.  
23 Defendants shall also design and implement a system for identifying and tracking the  
24 reasonable accommodations necessary for qualified inmates with disabilities to participate  
25 in programs, services and activities offered by Defendants at the Jail.

26                   iii. Prisoners' requests for a particular type of accommodation  
27 shall be given primary consideration and shall be granted unless the request is  
28

1 unreasonable for specific articulated reasons allowable under Title II of the ADA or pose a  
2 significant safety or security threat.

3                   iv. Defendants shall furnish qualified sign language interpreters to  
4 any inmates for whom sign language is their only or primary method of communication, in  
5 all circumstances where a qualified sign language interpreter is necessary to ensure an  
6 inmate has an equal opportunity to participate in, and enjoy the benefits of, programs,  
7 services and activities offered by Defendants. The interactions for which Defendants must  
8 furnish qualified sign language interpreters include but are not limited to the intake  
9 process, at classification hearings, disciplinary hearings, all medical, mental health and  
10 dental treatment, religious services, educational classes such as Choices and Pride classes  
11 or the equivalent, Narcotics and Alcoholics Anonymous meetings or the equivalent, and  
12 any other interactions with staff that implicate an inmates' due process rights. Defendants  
13 may employ alternatives to a live sign language interpreter such as video remote  
14 interpreting providing that Defendants demonstrate to the ADA monitor the efficacy of the  
15 alternatives employed. Defendants need not maintain a full-time staff sign language  
16 interpreter, but may use on-call services.

17                   v. Defendants shall implement a system to document that  
18 Defendants have provided qualified sign language interpreters or reasonable alternatives to  
19 inmates who need them and that the inmates have understood the information conveyed by  
20 the qualified sign language interpreter or alternative form of communication as outlined in  
21 Paragraph iv above.

22                   vi. The County Defendants shall offer inmates with ambulatory  
23 disabilities all programs, services and activities offered to other inmates, including but not  
24 limited to outdoor exercise, religious services, education programs such as Choices and  
25 Pride classes or the equivalent, and Narcotics and Alcoholics Anonymous meetings or the  
26 equivalent, in locations that do not require them to climb stairs in order to access the  
27 programs, services and activities, as long as those programs, services and activities are  
28 offered to the general population.

1           32. The Implementation Plans outlined in this Settlement Agreement shall not  
2 extend to subject areas beyond what is addressed in Section IV of this Agreement.

3           33. The parties agree to begin work on development of the Implementation Plans  
4 immediately, without awaiting Final Approval of the class action settlement. If the parties  
5 agree on all aspects of the Implementation Plans, the settlement agreement will be  
6 amended to incorporate the plans.

7               a. No later than July 30, 2015, Defendants shall submit to Plaintiffs the  
8 plans identified in the Order Granting Motion for Preliminary Injunction (Docket No. 460,  
9 at 42-43.) No later than 10 days thereafter, Plaintiffs shall respond with specific comments  
10 or objections if any. The parties shall meet and confer to resolve all disputed items within  
11 30 days thereafter. Any unresolved items shall be submitted to the agreed upon mediator.  
12 If the parties are still unable to agree to the content of the plans, the parties shall seek  
13 redress with the Court.

14               b. No later than October 15, 2015, the parties shall have completed  
15 meeting and conferring concerning the Implementation Plans. At that time, if there are any  
16 unresolved issues, the parties agree to submit the unresolved issues to the agreed upon  
17 mediator. If the parties are still unable to agree to the content of the Implementation Plans,  
18 the parties shall seek redress with the Court. The parties shall jointly file all  
19 Implementation Plans with the Court, requesting that the Court approve the plans as an  
20 amendment to the Settlement Agreement.

21           34. All provisions of the Implementation Plans will be enforceable by the Court,  
22 as part of the Settlement Agreement.

## 23 **V. MONITORING**

24           35. The parties agree that expert monitors will be retained to monitor  
25 Defendants' compliance with this Settlement Agreement and the Implementation Plans in  
26 the following subject areas:

27               a. ADA Compliance.

28               b. Mental health care.

1 c. Medical care.

2 d. General conditions of confinement and jail security.

3 e. Dental care.

4 36. The parties shall meet and confer on the process for selecting monitors. If no  
5 monitors are selected by Oct. 1, 2015, the parties shall submit lists of names to the  
6 mediator for selection.

7 37. If any of the monitors become unavailable to monitor their respective areas,  
8 the parties will meet and confer, and assign a new expert to monitor compliance with this  
9 Settlement Agreement and the Implementation Plans for their respective areas of expertise.  
10 The parties may agree at any time to remove and replace a monitor.

11 38. Defendants shall pay the fees and costs incurred by the designated monitors  
12 and their staff. Invoices will be provided to all parties for their review before payment.  
13 There will be a yearly budget negotiated with each designated monitor. If any monitor  
14 exceeds the budget for fees or costs without prior approval, he or she may be removed and  
15 replaced through the process described in Paragraph 36 above. If the parties do not agree  
16 on removal, either party may refer the matter to the mediator, and if necessary to the Court  
17 to determine whether the monitor should be retained or removed.

18 39. The designated monitors shall have access to all jail facilities upon  
19 reasonable notice, to assess substantial compliance with this Settlement Agreement, and  
20 the incorporated Implementation Plans. All site visits shall take place on consecutive days.  
21 There shall be no more than two (2) site visits in each year, per monitor, that the  
22 Settlement Agreement is in effect. These visits may take up to two (2) days each.

23 40. The designated monitors shall have access to meet and interview personnel  
24 whose duties pertain to the provision of services and/or who work with inmates in the area  
25 of the expert's expertise.

26 a. The designated monitors shall have a reasonable opportunity to  
27 conduct confidential interviews of inmates to assess whether Defendants are in compliance  
28 with the terms of the Settlement Agreement and Implementation Plans.

1           b.     The designated monitors may request to review County or CFMG  
2 documents, except those documents protected by attorney-client or work product  
3 privileges, or by state or federal law, to monitor Defendants' compliance with the terms of  
4 this Settlement Agreement and all Implementation Plans. If these documents are requested  
5 in conjunction with a site visit, Defendants will provide these documents to the extent  
6 feasible within ten (10) days prior to the visit.

7           c.     During the site visits, the designated medical, mental health and  
8 dental monitors shall have reasonable access to current inmate health records, including  
9 mental health records, consistent with Defendants' obligations under Federal and State  
10 law, as those obligations have been modified by Court order.

11           d.     Monitors shall be provided with and agree to be bound by any  
12 protective or Court orders entered in this case to protect the confidentiality of prisoner  
13 records and security sensitive information.

14           e.     The designated monitor will prepare a draft written report on the  
15 Defendants' efforts to meet the terms of this Settlement Agreement and all Implementation  
16 Plans at least twice a year and within 30 days of the later of the monitor's site inspection  
17 and the monitor's receipt of all requested documents and information, and in no case later  
18 than 45 days after the inspection. Each report shall contain a determination of whether  
19 Defendants are "substantially complying" with the applicable Implementation Plan. The  
20 draft report will be delivered to all parties to this Agreement. If the designated monitor  
21 concludes that Defendants have not substantially complied with the terms of any provision  
22 or provisions of the Settlement Agreement and Implementation plans, the designated  
23 monitor shall make recommendations as to actions they believe to be necessary to  
24 substantially comply with the terms of the provision or provisions. The parties will have  
25 30 days to provide written comments, objections or to cure issues and 7 days to reply. The  
26 monitor may re-inspect before issuing a final report. Final reports shall be due 20 days  
27 after the later of the monitor's receipt of any comments, objections or replies, or any re-  
28 inspection.

1           41. Plaintiffs are entitled to conduct reasonable monitoring of Defendants'  
2 compliance with this Agreement, including the right to inspect the jail, interview staff and  
3 inmates, review relevant records and observe practices related to Defendants' compliance  
4 with the provisions of this Agreement. Plaintiffs' routine monitoring will not exceed four  
5 (4) inspections of not more than one day per inspection of Jail operations per year, limited  
6 to no more than one attorney and one expert per inspection. Defense counsel reserves the  
7 right to be present for any inspections and/or staff interviews. The parties shall develop a  
8 monthly report for the purposes of monitoring and tracking performance under the  
9 Implementation Plans. Plaintiffs shall use the Office of the Public Defender for  
10 monitoring as appropriate. The parties shall meet and confer regarding any disputes  
11 regarding the scope and extent of inspections or access to information, and if necessary,  
12 shall seek the involvement of the mediator.

13           42. Defendants will notify Plaintiffs at least 30 days in advance of any scheduled  
14 training sessions related to substantial compliance with this Settlement Agreement and/or  
15 the Implementation Plans, and shall provide Plaintiffs with all training materials at least 10  
16 days in advance of the training.

17           43. The parties shall agree on a mechanism for promptly addressing concerns  
18 raised by Plaintiffs' counsel regarding individual class members and emergencies. Before  
19 contacting Defendants, Plaintiffs' counsel will make every effort to verify that the  
20 concerns of individual class members are accurate, substantive and not frivolous, such as  
21 having the Office of the Public Defender meet with the individual class members. The  
22 parties agree that Defendants may appeal to the Court for modification of this paragraph  
23 should a significant number of concerns raised by Plaintiffs' counsel be found to be  
24 inaccurate, lacking substantive, or frivolous.

25  
26 **VI. RESERVATION OF JURISDICTION AND ENFORCEMENT**

27           44. The parties consent to the reservation and exercise of jurisdiction by the  
28 District Court over all disputes between and among the parties arising out of this

1 Settlement Agreement. The parties agree this Settlement Agreement shall not be construed  
2 as a consent decree.

3       45. For the purposes of jurisdiction and enforcement of this Settlement  
4 Agreement only, the parties jointly request the Court find that this Settlement Agreement  
5 satisfies the requirements of 18 U.S.C. § 3626(a)(1)(A) in that it is narrowly drawn,  
6 extends no further than necessary to correct the violation of the Federal right, and is the  
7 least intrusive means necessary to correct the violation of the Federal right of the Plaintiffs.  
8 In the event the Court finds that Defendants have not substantially complied with the  
9 Agreement, it shall in the first instance require Defendants to submit a plan for approval by  
10 the Court to remedy the deficiencies identified by the Court. In the event the Court  
11 subsequently determines that the Defendants' plan did not remedy the deficiencies, the  
12 Court shall retain the power to enforce this Agreement through all remedies provided by  
13 law, excluding the imposition of a consent decree.

14       46. The Court shall retain jurisdiction to enforce the terms of this Settlement  
15 Agreement and, once they are approved, the Implementation Plans for a period of five  
16 years, unless Plaintiffs' counsel can demonstrate to the Court through noticed motion that  
17 jurisdiction should be retained for a longer period. The Court shall have the power to  
18 enforce the terms of this Settlement Agreement through specific performance and all other  
19 remedies permitted by law or equity, excluding the imposition of a Consent Decree.

20       47. The Court shall be the sole forum for the enforcement of this Settlement  
21 Agreement. Any order to achieve substantial compliance with the provisions of this  
22 Settlement Agreement shall be subject to the applicable provisions of the Prison Litigation  
23 Reform Act, 18 U.S.C. Section 3626.

24       48. If Plaintiffs' counsel believes that Defendants are not substantially  
25 complying with any of the acts required by this Settlement Agreement or the  
26 Implementation Plans, they shall notify Defendants in writing of the facts supporting their  
27 belief. Defendants shall investigate the allegations and respond in writing within 30 days.  
28 If Plaintiffs' counsel are not satisfied with Defendants' response, the parties shall conduct

1 negotiations to resolve the issue(s). If the parties are unable to resolve the issue(s)  
2 satisfactorily, the parties agree to present the issue(s) to the agreed upon mediator. If the  
3 parties are still unable to resolve the issue(s), either party may move the Court for any  
4 relief permitted by law or equity. In cases of particular urgency that are central to the  
5 purpose of the Settlement Agreement, a party may opt to bring disputes directly to the  
6 District Court, or both parties may consent to bypass the use of the mediator if the parties  
7 agree the issue should be briefed to the Court with prior notice to the mediator.

8       49. This Settlement Agreement may be enforced only by the parties hereto.  
9 Nothing contained in this Settlement Agreement is intended or shall be construed to  
10 evidence of an intention to confer any rights or remedies upon any person other than the  
11 parties hereto.

## 12 **VII. TERMINATION**

13       50. The parties or any party may agree or request a finding that Defendants are  
14 in substantial compliance with a particular Implementation Plan or any material part  
15 thereof and have maintained substantial compliance for a period of twelve months. [See  
16 definitions and monitoring sections.] Such a finding will result in a reduction or  
17 suspension of monitoring of that issue. If Plaintiffs present evidence that Defendants are  
18 no longer in substantial compliance with requirements previously found in substantial  
19 compliance, the Court may order additional relief including but not limited to reinstating  
20 full monitoring.

21       51. If at any time, the Court finds that Defendants are in substantial compliance  
22 with all requirements of this Settlement Agreement and all Implementation Plans,  
23 Defendants may move the Court for an order terminating the Settlement Agreement.

24       52. The parties intend to work in good faith to achieve substantial compliance  
25 with all requirements of this Settlement Agreement and all Implementation Plans within  
26 five (5) years from Court approval of the Settlement Agreement and Implementation Plans.  
27 If Plaintiffs believe that the Defendants are not in substantial compliance at the end of five  
28 (5) years from Court approval of the Implementation Plans, Plaintiffs may move for an

1 order extending jurisdiction over the Settlement Agreement. In order to extend  
2 jurisdiction, the Plaintiffs must establish and the Court must determine that Defendants are  
3 not in substantial compliance. Unless jurisdiction is extended by the Court, the Settlement  
4 Agreement shall terminate five (5) years from Court approval of the Settlement Agreement  
5 and Implementation Plans. Nothing in this paragraph shall limit the parties' rights to  
6 challenge or appeal any finding as to whether Defendants are not in substantial compliance  
7 with the Settlement Agreement and all Implementation Plans, or consequent order entered  
8 by the Court.

#### 9 **VIII. AMENDMENTS**

10 53. By mutual agreement, the parties may change the terms of this Settlement  
11 Agreement, including, but not limited to, the timetables for taking specific actions,  
12 provided that such mutual agreement is memorialized in writing, signed by the parties and  
13 approved by the Court.

14 54. Defendants shall not make any changes to any policy provision  
15 implementing the provisions of this Settlement Agreement and Implementation Plans  
16 without providing Plaintiffs a written draft of such policy or policies, for their review and  
17 comment.

18 55. Without prior agreement of the parties, Defendants may not amend any  
19 policy provision to conflict with the terms of this Settlement Agreement while the  
20 Settlement Agreement remains in effect.

21 56. Defendants shall not approve any changes to a policy maintained by its  
22 health care provider that conflicts with the terms of this Settlement Agreement and  
23 Implementation Plans.

#### 24 **IX. FUNDING**

25 57. The parties acknowledge that implementation of this Settlement Agreement  
26 and the Implementation Plans are subject to the availability and receipt of appropriated  
27 funds.  
28

1           58. The parties further acknowledge that the lack of funding does not preclude  
2 the Court from entering any order to achieve compliance with this Settlement Agreement  
3 that comports with the applicable provisions of the Prison Litigation Reform Act, 18  
4 U.S.C. Section 3626 and with other applicable law, provided that Defendants reserve the  
5 right to assert that the lack of funding should be taken into account in any remedial order.

6           59. Defendants agree to make all possible good faith efforts to seek all necessary  
7 funding to implement this Settlement Agreement and all Implementation Plans. In the  
8 event that the parties are unable to agree as to whether there is sufficient funding to  
9 implement fully this Settlement Agreement and Implementation Plans, the parties shall  
10 meet and confer, and if necessary, consult the Court. In the event that the parties continue  
11 to be unable to agree, either Defendants or Plaintiffs may seek the assistance of the Court  
12 and if necessary consult the mediator.

13 **X. ATTORNEY'S FEES AND EXPENSES**

14           60. Attorney's fees and expenses shall be addressed as follows.

15           61. Plaintiffs shall provide the Court and Defendants with a fees application  
16 including the supporting materials provided by Civil L.R. 54-5.

17           62. Fees and expenses through Final Approval of Settlement Agreement,  
18 including approval of all Implementation Plans: Plaintiffs agree not to seek fees and  
19 expenses from the Court in an amount above \$4.8 million, for fees and expenses incurred  
20 through Final Approval of the Settlement Agreement, including approval of all  
21 Implementation Plans. Defendants agree not to object to plaintiffs' petition for fees and  
22 expenses up that amount. The parties acknowledge that Court approval of the fees and  
23 expenses is required.

24           63. Fees and expenses after Final Approval of Settlement Agreement:  
25 Plaintiffs may petition the Court for an award of no more than \$250,000 per year in fees  
26 and expenses arising from monitoring work, inspections, negotiations, meet and confer  
27 processes, mediation, review of documents, and correspondence with class members, until  
28 termination of Court enforcement. The parties contemplate that Plaintiffs will use the

1 services of the Public Defender as part of this post-settlement monitoring and enforcement.  
2 In any petition to the Court for fees and expenses, the Court should consider the efficiency  
3 of the services rendered, including how Plaintiffs' counsel allocated services among the  
4 different private counsel and the Public Defender. The \$250,000 annual cap does not  
5 apply to (1) Plaintiffs' motions to enforce the Settlement Agreement and Implementation  
6 Plans; and (2) Plaintiffs' opposition to any motions filed by defendant(s) arising out of the  
7 Settlement Agreement and Implementation Plans. The standard for Plaintiffs' eligibility  
8 for fees and expenses arising from Plaintiffs' motions to the Court shall be that no fees and  
9 expenses shall be awarded unless the Court finds (1) that the motion or opposition was  
10 necessary to enforce substantial rights of the class under the Eighth Amendment and  
11 Fourteenth Amendments to the United States Constitution, Article I, Sections 7 and 17 of  
12 California Constitution, the Americans with Disabilities Act, Rehabilitation Act, or  
13 California Government Code § 11135; and, (2) that Plaintiffs attempted to resolve the  
14 matter and/or narrow the issues as much as possible by meeting and conferring with  
15 Defendants, taking full opportunity of recourse to the mediator before presenting the issues  
16 to the Court. Defendants shall be eligible for an award of fees and costs from plaintiffs'  
17 private counsel, and Plaintiffs shall receive none, in the event that the Court finds that  
18 Plaintiffs' motion was frivolous, unreasonable or groundless, or that Plaintiffs continued to  
19 litigate it after it clearly became so. Furthermore, Plaintiffs agree that they may not seek  
20 more than \$150,000 each year in fees and expenses on motions to enforce the Settlement  
21 Agreement.

22       64. If the Court determines that any enforcement motion is filed or opposed in  
23 bad faith, it may award sanctions in the form of attorneys' fees and expenses, among other  
24 remedies. The caps in Paragraph 63 do not apply to enforcement motions opposed in bad  
25 faith by Defendants.

26       65. The parties commit to work together in good faith to resolve any future  
27 disputes over fees and expenses. They agree to confer, and mediate, before presenting a  
28 fee dispute motion to the Court.

1  
2 **XI. MISCELLANEOUS PROVISIONS**

3 66. Plaintiffs agree that if the Court does not grant Final Approval of this  
4 Settlement Agreement, then Defendants reserve their right to appeal the preliminary  
5 injunction entered in this case.

6 67. The parties agree to issue a joint press release announcing the settlement.

7 68. This Agreement constitutes the entire agreement among the parties as to all  
8 claims raised by Plaintiffs in this action, and supersedes all prior agreements,  
9 representations, statements, promises, and understandings, whether oral or written, express  
10 or implied, with respect to this Agreement. Each Party represents, warranties and  
11 covenants that it has the full legal authority necessary to enter into this Agreement and to  
12 perform the duties and obligations arising under this Agreement. The County Defendant  
13 shall be the last signatory to this agreement. This agreement may be signed in counterparts  
14 and a copy shall be as good as an original and may be introduced as evidence.

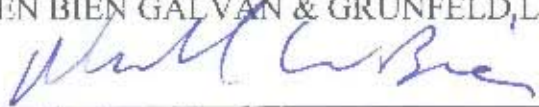
15 69. This is an integrated agreement and may not be altered or modified, except  
16 by a writing signed by all representatives of all parties at the time of modification.

17 70. This Agreement shall be binding on all successors, assignees, employees,  
18 agents, and all others working for or on behalf of Defendants and Plaintiffs.

19  
20 DATED:

21 *May 7 2015*

ROSEN BIEN GALVAN & GRUNFELD, LLP

22 By: 

Michael W. Bien

23  
24 DATED:

OFFICE OF THE PUBLIC DEFENDER  
COUNTY OF MONTEREY

25  
26 By:

James Egar, Public Defender  
Donald Landis, Assistant Public Defender

**XI. MISCELLANEOUS PROVISIONS**

66. Plaintiffs agree that if the Court does not grant Final Approval of this Settlement Agreement, then Defendants reserve their right to appeal the preliminary injunction entered in this case.

67. The parties agree to issue a joint press release announcing the settlement.

68. This Agreement constitutes the entire agreement among the parties as to all claims raised by Plaintiffs in this action, and supersedes all prior agreements, representations, statements, promises, and understandings, whether oral or written, express or implied, with respect to this Agreement. Each Party represents, warrants and covenants that it has the full legal authority necessary to enter into this Agreement and to perform the duties and obligations arising under this Agreement. The County Defendant shall be the last signatory to this agreement. This agreement may be signed in counterparts and a copy shall be as good as an original and may be introduced as evidence.

69. This is an integrated agreement and may not be altered or modified, except by a writing signed by all representatives of all parties at the time of modification.

70. This Agreement shall be binding on all successors, assignees, employees, agents, and all others working for or on behalf of Defendants and Plaintiffs.

DATED:

ROSEN BIEN GALVAN & GRUNFELD LLP

By:

Michael W. Bien

DATED: 5/7/15

OFFICE OF THE PUBLIC DEFENDER  
COUNTY OF MONTEREY

By:

James Eggar  
James Eggar, Public Defender  
Donald Landis, Assistant Public Defender

1 DATED: AMERICAN CIVIL LIBERTIES UNION  
2 FOUNDATION OF NORTHERN CALIFORNIA

3 By: \_\_\_\_\_  
4 Alan Schlosser

5 DATED: ACLU NATIONAL PRISON PROJECT

6 By: \_\_\_\_\_  
7 Eric Balaban

8 Attorneys for Plaintiffs

9 DATED: COUNTY OF MONTEREY

10 5/7/15

11 By:  \_\_\_\_\_  
12 Simon Salinas

Chair of the Board of Supervisors

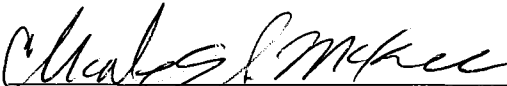
13 DATED: CALIFORNIA FORENSIC MEDICAL GROUP

14 By: \_\_\_\_\_  
15  
16

17 Approved as to Form:

18 DATED: 5/7/15

19 OFFICE OF THE COUNTY COUNSEL  
20 COUNTY OF MONTEREY

21 By:  \_\_\_\_\_  
22 Charles J. McKee  
23 County Counsel

24 Attorneys for Defendants  
25 COUNTY OF MONTEREY and MONTEREY  
26 COUNTY SHERIFF'S OFFICE  
27  
28

1 DATED:

2 5/7/15

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF NORTHERN CALIFORNIA

3 By:   
4 Alan Schlosser

5 DATED:

ACLU NATIONAL PRISON PROJECT

6 By: \_\_\_\_\_  
7 Eric Balaban

8 Attorneys for Plaintiffs

9 DATED:

COUNTY OF MONTEREY

10 By: \_\_\_\_\_  
11 Simon Salinas

12 Chair of the Board of Supervisors

13 DATED:

CALIFORNIA FORENSIC MEDICAL GROUP

14 By: \_\_\_\_\_  
15

16  
17 Approved as to Form:

18 DATED:

19 OFFICE OF THE COUNTY COUNSEL  
20 COUNTY OF MONTEREY

21 By: \_\_\_\_\_  
22 Susan K. Blich  
Senior Deputy County Counsel

23 Attorneys for Defendants  
24 COUNTY OF MONTEREY and MONTEREY  
25 COUNTY SHERIFF'S OFFICE  
26  
27  
28

1 DATED:

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF NORTHERN CALIFORNIA

2  
3 By: \_\_\_\_\_  
4 Alan Schlosser

5 DATED: *May 7, 2015*

ACLU NATIONAL PRISON PROJECT

6 By:  \_\_\_\_\_  
7 Eric Balaban

8 Attorneys for Plaintiffs

9 DATED:

COUNTY OF MONTEREY

10 By: \_\_\_\_\_  
11 Simon Salinas

12 Chair of the Board of Supervisors

13 DATED:

CALIFORNIA FORENSIC MEDICAL GROUP

14 By: \_\_\_\_\_  
15  
16

17 Approved as to Form:

18 DATED:

19 OFFICE OF THE COUNTY COUNSEL  
COUNTY OF MONTEREY

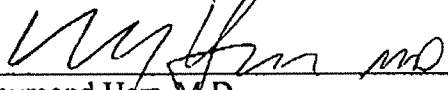
20 By: \_\_\_\_\_  
21 Susan K. Blich  
22 Senior Deputy County Counsel

23 Attorneys for Defendants  
COUNTY OF MONTEREY and MONTEREY  
24 COUNTY SHERIFF'S OFFICE  
25  
26  
27  
28

1 DATED: AMERICAN CIVIL LIBERTIES UNION  
2 FOUNDATION OF NORTHERN CALIFORNIA  
3 By: \_\_\_\_\_  
4 Alan Schlosser

5 DATED: ACLU NATIONAL PRISON PROJECT  
6 By: \_\_\_\_\_  
7 Eric Balaban  
8 Attorneys for Plaintiffs

9 DATED: COUNTY OF MONTEREY  
10 By: \_\_\_\_\_  
11 Simon Salinas  
12 Chair of the Board of Supervisors

13 DATED: CALIFORNIA FORENSIC MEDICAL GROUP  
14 By:   
15 Raymond Herr, M.D.

17 Approved as to Form:  
18 OFFICE OF THE COUNTY COUNSEL  
19 DATED: COUNTY OF MONTEREY  
20 By: \_\_\_\_\_  
21 Charles J. McKee  
22 County Counsel  
23 Attorneys for Defendants  
24 COUNTY OF MONTEREY and MONTEREY  
25 COUNTY SHERIFF'S OFFICE  
26  
27  
28

1 DATED: 5.11.2015

BERTLING & CLAUSEN, L.L.P.

2 By: Peter G. Bertling  
3 Peter G. Bertling

4 Attorneys for Defendant  
5 CALIFORNIA FORENSIC MEDICAL GROUP,  
6 INCORPORATED  
7  
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**NOTICE: CLASS ACTION SETTLEMENT****Monterey County Jail: Safety, Medical Care, Mental Health Care,  
Dental Care, Disabilities**

*Hernandez v. County of Monterey*, N.D. Cal. No. 5:13-cv-02354-PSG, is a federal class action lawsuit challenging certain conditions at the Monterey County Jail (the “Jail”), including custody staffing, inmate classification, jail facilities, overcrowding, medical care, mental health care, dental care, and access to Jail programs for persons with disabilities. This action does not seek money damages and none will be awarded.

All adult men and women who are now, or will be in the future, incarcerated in the Jail are members of the class that has been certified in this lawsuit. You are a member of this class if you are an adult incarcerated in the Jail. The Court also certified a subclass of persons with disabilities who are incarcerated in the Jail. The Court certified this as a class action to address policies and practices that apply to the class as a whole, and because the lawsuit does not seek relief for any specific class member, there is no right to opt-out of the class.

**This notice explains the proposed settlement, where you can find it, and how you can tell the court whether you think it is fair.**

Under the Settlement Agreement, the Jail will be required to develop implementation plans to reform certain policies, procedures, and practices by which it provides security, medical care, mental health care, and disability accommodations to prisoners in the Jail, including: Intake Screening; Infection Control; Detoxification; Safety Cells; Medication Continuity; Custody Staffing; Clinical Staffing; Medical Care; Mental Health Care; Dental Care; Safety; and Prisoners with Disabilities. The Settlement Agreement also provides that expert monitors will be retained to monitor the Jail’s compliance with this Settlement Agreement.

The Settlement Agreement addresses Jail policies, procedures, and practices. You can read about these changes in the Settlement Agreement. Copies of the Settlement Agreement are available in the Jail library, and will be made available to you upon request.

The Court will keep jurisdiction to enforce the requirements of this settlement. The Court will hold a hearing on the fairness of this settlement at 10:00 a.m. on August 4, 2015, at the United States District Court, Northern District of California, San Jose Courthouse, Courtroom 5 - 4th Floor, 280 South 1st Street, San Jose, CA 95113.

The attorneys who brought the class action will ask the Court to have Defendants pay for their attorneys' fees and expenses. The Settlement Agreement limits the attorneys' fees and expenses to \$4.8 million for the work done so far and in the future to develop the implementation plans, and to no more than \$250,000 per year for monitoring by plaintiffs' counsel. Attorneys' fees and costs for enforcement motions by plaintiffs are limited to \$150,000 per year. The Court will decide the amount of these fees and expenses.

Persons incarcerated at or otherwise under the custody of the Monterey County Jail can write to the Court about whether the settlement is fair and whether he or she objects to the award of attorneys' fees.

Comments MUST include at the top of the first page the case name (*Hernandez v. County of Monterey*) and case number (No. 5:13-cv-02354-PSG). Comments must be postmarked no later than July 11, 2015, and sent to the following address:

Clerk of the Court  
United States District Court  
Northern District of California  
280 South 1st Street  
San Jose, CA 95113

**If you would like more information about this case, or have any information that you wish to communicate to your attorneys, please contact: Michael W. Bien, Rosen Bien Galvan & Grunfeld, LLP, P.O. Box 390, San Francisco, CA 94104.**