

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOSEPH ALEXANDER,

Plaintiff,

v.

DISTRICT OF COLUMBIA,

Defendant.

Civil Action No. 17-1885 (ABJ)

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

Plaintiff and Class Representative Joseph Alexander has sued Defendant District of Columbia in this matter, *Alexander v. District of Columbia*, Civil Action No. 17-1885 (D.D.C.) (ABJ), asserting claims of constitutional violations pursuant to 42 U.S.C. § 1983 and seeking damages, declaratory and injunctive relief, and attorney’s fees and costs.

In reliance upon the representations contained here, and in consideration of the mutual promises, covenants and obligations in this Settlement Agreement (Agreement), and for good and valuable consideration, Plaintiff and Defendant, through their undersigned counsel, agree and stipulate as follows:

I. Definitions

A. “Claimant(s)” – Class Member(s) who file claims pursuant to the procedures set forth in this Agreement.

B. “Claims Period” – Period during which eligible Class Members may submit claim forms. The Claims Period begins on the date notices are sent to potential Class Members and ends on the Claims Submission Deadline.

C. “Claims Submission Deadline” – Deadline for eligible Class Members to submit claim forms for monetary payments. The Claims Submission Deadline shall be 5:00pm Eastern Time on the 120th day after the last Class Notice has been mailed.

D. “Class” – Individuals who (i) were arrested solely for incommoding under D.C. Code § 22-1307; (ii) on or after September 18, 2014; and (iii) either were released without charges being filed or had any charges dismissed *nolle prosequi*.

E. “Class Administrator” or “Administrator” – JND Legal Administration (“JND”).

F. “Class Counsel” or “Plaintiff’s Counsel” – William Claiborne.

G. “Class Member(s)” – Member(s) of the Class.

H. “Class Representative” – Joseph Alexander.

I. “Class Settlement Fund” – The cumulative total of the Class Representative Fund, the Class Fund, the Attorney’s Fees and Costs Fund, and the Notification and Administration Fund.

1. “Class Representative Fund” – That portion of the Class Settlement Fund to be awarded and distributed to the Class Representative.
2. “Class Fund” – That portion of the Class Settlement Fund available to be awarded and distributed to Class Members.
3. “Attorney’s Fees and Costs Fund” – That portion of the Class Settlement Fund to be awarded as attorney’s fees and costs to Class Counsel.
4. “Notification and Administration Fund” – That portion of the Class Settlement Fund to be used to compensate the Class Administrator and any third parties who may provide related services, to provide Class Members notification of the Settlement, to advertise and communicate notice, and to administer the Settlement Agreement and distribution of funds.

J. “Defendant” or “the District” – the District of Columbia.

K. “District Court” or “Court” – The United States District Court for the District of Columbia.

L. “Effective Date” – the date upon which this Settlement Agreement takes effect. If no objections to the Settlement Agreement have been filed, the Effective Date will be the date of the Final District Court Approval as defined below. If any objections are filed, the Effective Date will be the expiration of the time to appeal the Final District Court Approval, or, if the Final District Court Approval is appealed, the exhaustion of all appeals.

M. “Fairness Hearing” – The final hearing on the fairness of this Settlement Agreement, at which the Court will determine whether to grant Final District Court Approval.

N. “Final District Court Approval” – The Order, following submission of this Settlement Agreement to the Court, by which the District Court grants final approval of the Settlement Agreement.

O. “Lawsuit” – This action, *Alexander v. District of Columbia*, Civil Action No. 17-1885 (D.D.C.) (ABJ).

P. “Notice” – The notice to the Class regarding settlement, to be sent to potential class members in a form substantially similar to that attached as Exhibit A, and such other summary notice to be published in accordance with the terms of this Settlement Agreement.

Q. “Parties” – Plaintiff and Defendant in this litigation, including their successors in interest.

R. “Plaintiff” – The named Plaintiff in this action, Joseph Alexander.

S. “Preliminary District Court Approval” – The Order, following submission of this Settlement Agreement to the Court, by which the District Court grants initial and preliminary approval of the Settlement Agreement.

T. “Settlement Agreement Database” – The electronic database to be provided by Defendant to the Class Administrator and Class Counsel no later than fifteen (15) days after the entry of the Preliminary Approval Order. It shall include, to the extent available, the name, address(es), date of birth, Social Security number, telephone number, closest relationship contact information, and any other available data pertinent to identifying and notifying Class Members of this Settlement Agreement.

II. Monetary Relief

A. Monetary Settlement for the Class, Class Representatives, Attorney’s Fees, and Administration of the Class Fund

The Class Settlement Fund is \$450,000. The fund is broken down as follows:

1. The Class Representative shall receive a total of \$5,000 in addition to the compensation received from the Class Fund.

2. The allocation of funds to the Class Fund is \$290,000. Each member of the class shall receive compensation from the Class Fund if a timely notice of claim is submitted to and approved by the Class Administrator. The amount of each share shall be determined on a *pro rata* basis from the Class Fund, subject to a maximum of \$4,000. The District shall receive reversion of any undistributed funds.

3. The attorney’s fees and costs allocation is \$130,000. The Parties agree this represents a fair amount in light of the overall settlement.

4. The cost of administering the funds and determining or adjudicating submitted claims is allocated to be \$25,000. In the event that the actual costs for Notification and

Administration exceed \$25,000, the excess cost will be paid from the Class Fund. In the event that the actual costs for Notification and Administration are less than \$25,000, the remainder of the Notification and Administration Funds will be allocated to the Class Fund.

B. Timing of Deposits by the District of Columbia

1. The District of Columbia shall deposit all funds except for the Attorney's Fees and Costs Fund into an escrow account to be administered by the Class Administrator in accordance with the timing and schedule set forth in this Agreement. The deposit of funds into the escrow account is distinct from the actual disbursement of funds from the escrow account to recipients.

2. Within 30 days of the District Court's Preliminary Approval of the settlement, the District of Columbia will deposit the \$25,000 constituting the Notification and Administration Funds.

3. Within 45 days of Final District Court Approval, the District of Columbia shall deposit the Class Representatives' Funds and the Class Fund into the escrow account administered by the Class Administrator. Also within 45 days of Final District Court Approval, the District of Columbia shall deposit the Attorney's Fees and Costs Funds into Plaintiff's counsel's escrow account.

4. Plaintiff shall petition the Court for authority to release funds to the Class Representatives, Claimants, and Class Counsel.

5. No funds may be distributed to the Class Representative, Class Members/Claimants or Class Counsel (including attorney's fees and costs) without both Final District Court Approval of the settlement and the exhaustion of all appeals and any period of time in which an objector may seek review by way of a Writ of Certiorari to the United States Supreme Court.

6. If there are no objections, the Class Administrator shall issue payments within 45 days after the end of the Claims Period. If there are objections, the Class Administrator shall issue payments within 30 days of the exhaustion of all appeals and any period of time in which an objector may seek review by way of a Writ of Certiorari to the United States Supreme Court. In either event, the Class Administrator shall not make payment to any Class Members until the Claims Period has ended, all verified claims and payments have been calculated, and all disputes relating to claims have been resolved.

7. Interest accrued on any funds in escrow will be allocated to the Class Fund.

8. The Class Administrator shall make payments to each Class Member who has filed a timely and valid claim in accordance with this Settlement Agreement and shall make each payment either by check or by electronic payment according to each Class Member's election on the claim form. In the event the Administrator has concerns about the feasibility or security of any Class Member's preferred method of payment, the Administrator has discretion to determine the method of payment to the Class Member.

9. For any Class Member to whom a check is issued, if that Class Member's check is not cashed or deposited within three (3) months of its mailing, the Administrator shall hold the funds for three (3) additional months, during which time it shall make reasonable efforts to contact the Class Member to whom the uncashed check was written to determine whether the check should be reissued. Any such check not cashed within six (6) months of its issuance shall revert to the District. For any Class Member to whom a payment is issued electronically, if the payment is not accepted for deposit into the Class Member's account within three (3) months after the date of issuance, the Administrator shall hold the funds for three (3) additional months, during which time it shall make reasonable efforts to contact the Class Member to whom the electronic payment was

sent to determine whether the payment should be reissued. Any such electronic payment not accepted into a Class Member's account within six (6) months of issuance shall revert to the District.

10. Any amounts remaining in the Class Settlement Fund 60 days after the Class Administrator has issued all payments to eligible claimants, including funds from any uncashed checks that are no longer negotiable, will revert to the District of Columbia General Fund.

11. In the event the settlement is not upheld on appeal or is reversed upon review by the United States Supreme Court, all funds (with interest) minus the spent administrative costs shall be returned to the District of Columbia.

III. Non-Monetary Relief

1. The District of Columbia agrees not to oppose a motion, brought individually or by Class Counsel on a Class-wide basis, to expunge and treat as a legal nullity the arrests of Class Members covered by this Settlement Agreement.

2. Defendants do not oppose having the Class Administrator assist with the preparation and mailing of any order issued by the Court that expunges and annuls the arrest records of the Settlement Class Members and declares their arrests a legal nullity.

IV. Notice to Class Members and Potential Claimants

1. Notice shall be sent as soon as practicable after Preliminary District Court Approval.

2. The Class Administrator shall send a copy of the Notice (Exhibit A) and the Claim Form (Exhibit B) to all Class Members.

3. The Class Administrator shall send a copy of the Notice and the Claim Form by First Class mail to the last known address of each Class Member.

4. The Class Administrator shall undertake reasonable efforts, including through public records searches and the use of the United States Postal Service address forwarding database, to determine the current address of Class Members who fail to respond to initial notice or whose initial notice by First Class mail is returned to sender by the United States Postal Service. Under such circumstances, and where such Class Member's current address is discernible, the Class Administrator shall additionally send a copy of the Notice and Claim Form by First Class mail to the current address of such Class Member.

5. During the Claims Period, the Class Administrator shall provide periodic reports to Class Counsel as to the status and progress of the claim submission and administration process.

6. The Class Administrator shall establish a Settlement Website containing information regarding the Settlement, links to the Notice and other relevant case documents, and a link for the online submission of Claim Forms. Class Members submitting online Claim Forms will be required to provide a unique alpha-numeric code. This unique code will be provided on the Notices mailed to Class Members. Class Members may also obtain the required code by contacting the Class Administrator by telephone or email as described on the Notices and on the Settlement Website.

7. The Class Administrator shall establish a toll-free telephone number to receive inquiries and provide information about the Notice and the Settlement.

V. Claim Submission, Exclusion Request, and Opt-Out Deadlines

1. The Class Notice shall advise Class Members that if they wish to submit a Claim Form or request exclusion, they must do so within the Claims Period.

2. The Class Notice shall advise that the Court will exclude from the Class, or allow to "opt out" from the Class, any Class Member who so requests. Any Class Member wishing to

“opt out” or be excluded must so request in writing, by letter postmarked or received in hand by the “opt out” or exclusion deadline, which shall be 5:00 pm Eastern Time on the 30th day after the last Class Notice has been mailed.

3. Any Class Member wishing to pursue a claim must file a Claim Form by the Claims Submission Deadline in order to participate in the distribution of Claimants’ Funds. Claim Forms must be postmarked or received in hand by the Claims Submission Deadline. Class Members may also file their Claim Form online on the Settlement Website.

4. The Class Administrator shall mail a reminder letter to each Class Member who has not submitted a Claim Form within thirty (30) days of the initial Notice mailing date.

VI. Class Member Objections

Any Class Member who wishes to object to the terms of this Settlement Agreement shall be required to submit a written statement to the Court no later than 30 days prior to the Fairness Hearing, with copies to counsel, setting forth his or her objections. The statement shall contain the Class Member’s name, signature, mailing address (or a statement that the Class Member has no fixed address), and telephone number, along with a written statement of his or her objection(s) to the Settlement Agreement and the reason(s) for the objection(s). Class Counsel and counsel for the District may each file a response to such objections at least 15 days prior to the Fairness Hearing.

VII. Other General Provisions

1. General Release: Plaintiff shall fully release, forgive and discharge the District of Columbia, its current, former, and future officers, agents, attorneys, officials, servants and employees for all claims that were or could have been asserted by Plaintiff and accepting Class Members in any forum based on the allegations in the Complaint under any theory of liability

(including any request for attorney's fees and costs in prosecuting this case). In entering into this Agreement, there is no admission of liability by the District or admission of any factual contentions that have been asserted by Plaintiff in this litigation. Plaintiff does not suggest or concede a lack of merit to his claims or to any factual contention that has been asserted by Plaintiff in this litigation.

2. No Third-Party Beneficiary Right: No third party who is not a Class Representative or Class Member shall have any rights under this Agreement.

3. Non-Severability: The Parties do not intend this Agreement to be severable absent express written agreement by the Parties.

4. Duty to Defend the Settlement Agreement: The Parties and their counsel agree to defend this Agreement. Counsel for all Parties shall take no position contrary to or inconsistent with the terms of the Settlement Agreement.

5. Termination: If more than 20 Class Members opt out of the Class, Defendant shall have the option to terminate this Agreement.

6. Enforcement: The District Court retains jurisdiction to ensure compliance with this Agreement.

7. Joint Motion for Preliminary Approval: Within two weeks of the signing of this Agreement, the Parties will file a Joint Motion for Preliminary Approval of the Settlement Agreement.

8. Confidentiality: The Class Administrator shall be required to maintain Claimant information and records in strict confidentiality, to be used solely for the purposes of class administration.

9. **Determination of Eligibility:** The Class Administrator or its designee shall be the sole determiner of which Claimants are eligible, consistent with the procedures set forth above and the Class Definition approved by the Court.

10. **Amendments:** With the consent of the Parties, additional provisions may be added to the Agreement to assure appropriate implementation and Court approval. This Agreement may not be amended or modified in any respect other than by an agreement in writing signed by the Parties and only if such amendment is agreed to prior to notice to the Class Members and Final Approval by the Court. This Agreement creates no obligations or duties on the part of the Parties other than as specifically stated in this Settlement Agreement. The Parties stipulate, agree, and acknowledge that nothing in this Settlement Agreement may be used by any person or entity for any purpose in any legal proceeding other than as stated specifically here.

11. **Dismissal With Prejudice:** At least three days prior to the Fairness Hearing, and as part of the Final District Court Approval, the Parties will jointly move to dismiss the case with prejudice.

SIGNED AND AGREED TO BY:



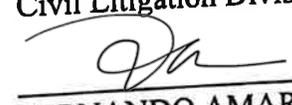
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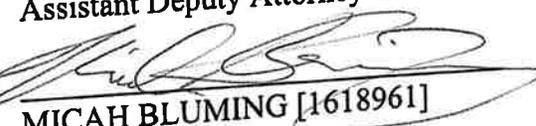
DATED: 12/5/2022

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DATED: December 9, 2022

* Bar number pending.