

Tab 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DELPHINE ALLEN, et al.,
Plaintiffs,
v.
CITY OF OAKLAND, et al.,
Defendants.

MASTER CASE FILE
NO. C00-4599 TEH

ORDER RE: COMPLIANCE
DIRECTOR

Nearly ten years after the parties agreed to a consent decree that was to have been completed in five years but that remains incomplete, the Court was scheduled to hear Plaintiffs' motion to appoint a receiver. After reviewing Defendants' opposition to Plaintiffs' motion, it became clear that Defendants did not dispute many of the issues raised by Plaintiffs, including Plaintiffs' conclusion that Defendants would be unable to achieve compliance without further intervention by this Court. The Court ordered the parties to meet and confer to attempt to reach agreement on how this case should proceed and, following the parties' request, referred this case to a magistrate judge for settlement.

Magistrate Judge Nathanael Cousins held a series of in-person and telephonic settlement conferences that culminated in the filing of a jointly proposed order on December 5, 2012. The parties were able to reach an agreement for additional oversight by a Court appointee who will have directive authority over Defendants relevant to the Negotiated Settlement Agreement ("NSA") and Amended Memorandum of Understanding ("AMOU").¹ The Court now approves the parties' agreement as modified below and therefore VACATES the hearing scheduled for December 13, 2012.

¹The NSA and AMOU were entered as orders of this Court on January 22, 2003, and June 27, 2011, respectively.

IT IS HEREBY ORDERED that:

A. Appointment of a Compliance Director

1. The Court will appoint a Compliance Director whose mission will be to bring Defendants into sustainable compliance with the NSA and AMOU. As the Court's agent, the Compliance Director will report directly to the Court and will not act as the agent of any party to this action or any other entity or individual.

2. The Compliance Director will have the same rights and privileges as have already been agreed to and/or ordered with respect to the Monitor, including those relating to testifying in this or other matters, confidentiality, and access to information and personnel. Likewise, the Compliance Director shall not be retained by any current or future litigant or claimant in a claim or suit against the City and its employees.

3. The parties will meet and confer and attempt to make a joint recommendation to the Court regarding the selection of the Compliance Director. If they are not able to agree, the parties will each recommend candidate(s) to the Court for consideration. The parties' recommendations, including descriptions of the candidates' qualifications for the position, shall be filed under seal on or before **December 21, 2012**. The selection of the Compliance Director rests solely within the Court's discretion, and the Court will not be limited to the parties' recommendations, whether separate or joint.

4. The Compliance Director will be a full-time position based in Oakland for a minimum of one year and at least until Defendants have achieved full compliance with the NSA and AMOU. The Compliance Director will serve until this case is terminated or until otherwise ordered by the Court. Any party may petition the Court to remove the Compliance Director for good cause.

5. The City will pay the costs of the Compliance Director and all costs related to the Compliance Director's work, including the cost of providing commensurate support services and office space. The Compliance Director's salary will be established by the Court upon appointment, and the Compliance Director will receive benefits commensurate with

1 comparable City officials, such as the City Administrator and Chief of Police. The Court
2 expects the City to reach a prompt compensation agreement with the Compliance Director
3 upon appointment. If an agreement or any payment is unduly delayed, the Court will order
4 the City to pay the Compliance Director, as well as the Monitor, through the Court's registry.

5 6. The AMOU will remain in effect except to the extent it conflicts with this order.
6 This includes the requirement that a task will not be removed from active monitoring until
7 Defendants have demonstrated substantial compliance for at least one year.

8
9 **B. Role of the Monitor Upon Appointment of the Compliance Director**

10 1. The requirement in the January 24, 2012 order for consultation with the Monitor
11 will terminate upon appointment of the Compliance Director. However, Defendants will not
12 implement any of the types of changes or actions identified in the January 24, 2012 order
13 without the Compliance Director's direction or approval.

14 2. Unless otherwise ordered, the Monitor's duties and responsibilities will otherwise
15 remain unchanged and will stay in effect until this case is terminated. These duties include
16 the continuation of the Monitor's quarterly reports, drafts of which will be provided
17 simultaneously to the Compliance Director and the parties.

18 3. The Monitor and the City shall meet and confer concerning compensation to be
19 paid to the Monitor for work performed after the current AMOU termination date of
20 January 22, 2014. If they cannot reach agreement, the matter will be resolved by the Court.
21 If any payment is unduly delayed, the Court will order the City to pay the Monitor, as well as
22 the Compliance Director, through the Court's registry.

23 4. The Compliance Director and the Monitor will be independent positions that
24 report only to the Court and not to each other. However, the Court expects the Compliance
25 Director and the Monitor to work closely and in consultation with each other. Thus, for
26 example, any technical assistance or informal advice provided by the Monitor to Defendants
27 should include the Compliance Director whenever possible, and the Compliance Director
28 should consult with the Monitor on all major decisions.

C. Duties of the Compliance Director

1. Within 30 days of his or her appointment, the Compliance Director will file a remedial action plan (“Plan”) that both addresses deficiencies that led to noncompliance and explains how the Plan will facilitate sustainable compliance with all outstanding tasks by December 2013 or as soon thereafter as possible. In developing the plan, the Compliance Director will consult with the Monitor, Plaintiffs, the Mayor, the City Administrator, the Chief of Police, and the Oakland Police Officers’ Association (“OPOA”). The Compliance Director will work closely and communicate regularly with the Chief of Police, the Chief’s staff, and other relevant City personnel to implement the Plan. The Plan will include:

a. A proposed budget, to be included as part of the Oakland Police Department (“OPD”) budget, that is mutually agreed to by the Compliance Director, the Mayor, the City Administrator, and the Chief of Police for the fiscal year based on proposed expenditures for task compliance.

b. A plan for the oversight, acquisition, and implementation of a personnel assessment system (“IPAS”) that provides a sustainable early-warning system that will mitigate risk by identifying problems and trends at an early stage. The Compliance Director will ensure that all parties are fully informed about both the procurement of new technology and how that technology will be used to identify problems and trends to ensure that officers are provided the requisite assistance at the earliest possible stage.

c. Strategies to ensure that allegations made by citizens against the OPD are thoroughly and fairly investigated.

d. Strategies to decrease the number of police misconduct complaints, claims, and lawsuits.

e. Strategies to reduce the number of internal affairs investigations where improper findings are made. This includes strategies to ensure that investigators apply the correct burden of proof, as well as strategies to ensure that complaints are not disposed of as “unfounded” or “not sustained” when sufficient evidence exists to support that the alleged conduct did occur.

1 f. A list of persons responsible for each outstanding task or specific action
2 item. This requirement shall supersede the requirement for Defendants to file updated lists of
3 persons responsible with the Court.

4 The above list of requirements is not exhaustive. Likewise, the parties have agreed
5 that tasks related to the following areas are key to driving the sustained cultural change
6 envisioned by the parties when agreeing to the NSA and AMOU: collection of stop data, use
7 of force, IPAS, sound management practices, and the quality of investigations by the Internal
8 Affairs Division. These areas are covered by Tasks 5, 20, 24, 25, 26, 30, 34, 40, and 41. The
9 Court agrees that the identified tasks are of utmost importance but, unless otherwise ordered,
10 expects full and sustainable compliance with all NSA tasks.

11 2. Within 60 days of his or her appointment, the Compliance Director will file a list
12 of benchmarks for the OPD to address, resolve, and reduce: (1) incidents involving the
13 unjustified use of force, including those involving the drawing and pointing of a firearm at a
14 person or an officer-involved shooting; (2) incidents of racial profiling and bias-based
15 policing; (3) citizen complaints; and (4) high-speed pursuits. In developing these
16 benchmarks, the Compliance Director will consult with the Monitor, Plaintiffs, the Mayor,
17 the City Administrator, the Chief of Police, the OPOA, and, as necessary, subject-matter
18 experts to ensure that the benchmarks are consistent with generally accepted police practices
19 and national law enforcement standards.

20 3. Beginning on May 15, 2013, and by the 15th of each month thereafter, the
21 Compliance Director will file a monthly status report that will include any substantive
22 changes to the Plan, including changes to persons responsible for specific tasks or action
23 items, and the reasons for those changes. The monthly status reports will also discuss
24 progress toward achieving the benchmarks, reasons for any delayed progress, any corrective
25 action taken by the Compliance Director to address inadequate progress, and any other
26 matters deemed relevant by the Compliance Director. These monthly reports will take the
27 place of Defendants' biweekly reports, which shall be discontinued after May 15, 2013.
28

4. Prior to filing any documents with the Court, the Compliance Director will give the parties an opportunity to determine whether any portions of the documents should be filed under seal. Requests to file documents under seal must be narrowly tailored and made in accordance with Civil Local Rule 79-5.

5. The Compliance Director may, at his or her sole discretion, develop a corrective action plan for any task for which the Monitor finds Defendants to be out of compliance. As part of any such plan, the Compliance Director will determine the nature and frequency of future internal compliance testing for that task.

6. The Compliance Director will have the power to review, investigate, and take corrective action regarding OPD policies, procedures, and practices that are related to the objectives of the NSA and AMOU, even if such policies, procedures, or practices do not fall squarely within any specific NSA task.

7. The Compliance Director will have the authority to direct specific actions by the City or OPD to attain or improve compliance levels, or remedy compliance errors, regarding all portions of the NSA and AMOU, including but not limited to: (1) changes to policies, the manual of rules, or standard operating procedures or practices; (2) personnel decisions, including but not limited to promotions; engagement of consultants; assignments; findings and disciplinary actions in misconduct cases and use-of-force reviews; the discipline or demotion of OPD officers holding the rank of Deputy Chief and Assistant Chief; and the discipline, demotion, or removal of the Chief of Police; (3) tactical initiatives that may have a direct or indirect impact on the NSA or AMOU; (4) procurement of equipment, including software, or other resources intended for the purpose of NSA and AMOU compliance; and (5) OPD programs or initiatives related to NSA tasks or objectives. The Compliance Director will have the authority to direct the City Administrator as it pertains to outstanding tasks and other issues related to compliance and the overall NSA and AMOU objectives. Unless otherwise ordered, the Compliance Director's exercise of authority will be limited by the following:

1 a. The Compliance Director will have expenditure authority up to and
2 including \$250,000 for expenditures included in the Plan. This is not a cumulative limit. For
3 individual expenditures greater than \$250,000, the Compliance Director must comply with
4 public expenditure rules and regulations, including Oakland Municipal Code article I, chapter
5 2.04. The City Administrator will seek authorization of these expenditures under expedited
6 public procurement processes. The Compliance Director may seek an order from this Court
7 if he or she experiences unreasonable funding delays.

8 b. Members of OPD up to and including the rank of Captain will continue to be
9 covered by the Meyers-Milias-Brown Act, the collective bargaining agreement, and OPOA
10 members' rights to arbitrate and appeal disciplinary action. The Compliance Director will
11 have no authority to abridge, modify, or rescind any portion of those rights for these
12 members.

13 c. The Compliance Director will have no authority to rescind or otherwise
14 modify working conditions referenced in the labor agreements between the City and the
15 OPOA as those contracts relate to any member up to and including the rank of Captain.
16 "Working conditions" include the rights identified in the above subparagraph, as well as
17 salary, hours, fringe benefits, holidays, days off, etc.

18 d. Prior to removing the Chief of Police or disciplining or demoting the Chief
19 of Police, an Assistant Chief, or a Deputy Chief, the Compliance Director will first provide
20 written notice, including reasons for the intended action, to the parties and the affected
21 individual and an opportunity for appeal to this Court. Where practicable, the Compliance
22 Director will consult with the Mayor, the City Administrator, and the Chief of Police prior to
23 providing such notice.² Within seven calendar days of the Compliance Director's written
24 notice, the City, Plaintiffs, and the affected Chief, Assistant Chief, or Deputy Chief may
25 oppose or support any such action, under applicable federal and state law, by filing a notice
26 with the Court seeking an expedited briefing schedule and hearing. The affected Chief,

27 ²Prior consultation may not always be practicable. For example, the Compliance
28 Director will not be expected to consult with the Chief of Police on a decision to discipline,
demote, or remove the Chief of Police.

1 Assistant Chief, or Deputy Chief will retain his or her employment and other rights pending
2 the Court's decision.

3 e. In all disputes between the City and the Compliance Director relating to this
4 order, except for the demotion, discipline, and removal decisions covered in the preceding
5 subparagraph, the Compliance Director will consult with the Mayor, the City Administrator,
6 the Chief of Police, and Plaintiffs in hopes of reaching consensus. If, after such consultation,
7 the City and the Compliance Director remain in disagreement, the Compliance Director will
8 provide written notice to the parties of the dispute and the Compliance Director's proposed
9 direction. Within seven calendar days of the Compliance Director's written notice, the City
10 may file a notice with the Court seeking an expedited hearing to determine whether the City
11 should be excused from complying with the Compliance Director's direction. The City will
12 comply with any direction that is not timely brought before the Court. The City's right to
13 seek relief from the Court must not be abused and should generally be limited to matters
14 related to employee discipline or expenditures in excess of \$250,000. At any hearing on a
15 disputed issue, the City will bear the burden of persuading the Court that the City's failure to
16 follow the Compliance Director's direction will not harm the City's compliance with the
17 NSA or AMOU. Plaintiffs will be a party to any such hearing, and their counsel will be
18 entitled to recover reasonable attorneys' fees and costs from Defendants, as set forth below in
19 paragraph D.

20
21 **D. Attorneys' Fees and Costs**

22 The parties shall meet and confer regarding reasonable attorneys' fees and costs
23 relating to Plaintiffs' motion to appoint a receiver, any motion that may be filed pursuant to
24 paragraphs A.4, B.7.d, or B.7.e of this order, and any work performed after January 22, 2014.
25 Any disputes over attorneys' fees and costs that the parties cannot resolve independently will
26 be submitted to Magistrate Judge Cousins. Nothing in this order alters the right of Plaintiffs'
27 counsel to receive previously agreed upon or previously earned fees and costs under the
28 AMOU.

E. Role of the OPOA

Unless otherwise ordered, the OPOA will retain its limited status in intervention until this case is terminated. The Compliance Director will meet no less than once per quarter with the president of the OPOA to discuss the perspective of rank-and-file police officers on compliance efforts.

F. Further Proceedings

The parties shall appear for a status conference on **June 6, 2013, at 10:00 AM**, to discuss Defendants' progress toward compliance. The parties and Intervenor OPOA shall file a joint status conference statement on or before **May 24, 2013**.

The Court is hopeful that the appointment of an independent Compliance Director with significant control over the OPD will succeed – where City and OPD leaders have failed – in helping OPD finally achieve compliance with the NSA and, in the process, become more reflective of contemporary standards for professional policing. If the remedy set forth in this order proves unsuccessful, and Defendants fail to make acceptable progress even under the direction of the person appointed pursuant to this order, the Court will institute proceedings to consider appropriate further remedies. Such remedies may include, but are not limited to, contempt, monetary sanctions, expansion of the Compliance Director's powers, or a full receivership.

IT IS SO ORDERED.

Dated: 12/12/12



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT

Tab 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LEONARD CAMPBELL, et al.,

Plaintiffs,

v.

ANDERSON McGRUDER, et al.,

Defendants.

C.A. No. 1462-71 (WBB)

FILED

INMATES OF D.C. JAIL, et al.,

Plaintiffs,

v.

DELBERT JACKSON, et al.,

Defendants.

C.A. No. 75-1668 (WBB)

JUL 11 1995

Clerk, U.S. District Court
District of Columbia

FINDINGS AND ORDER APPOINTING RECEIVER

The Court, having considered the plaintiffs' Motion for the Appointment of a Receiver, the defendants' opposition thereto, the Special Officer's Report on Defendants' Compliance with the Initial Remedial Plan and the November 9, 1993 Order ("Report"), and the record in this case, the Court finds that the appointment of a receiver to ensure the provision of medical and mental health care, and to obtain compliance with the orders of this Court, is appropriate and necessary.

Over the more than 20 year history of this litigation the Court has attempted all measures short of the appointment of a receiver to obtain the defendants' compliance with its orders. The Court finds that no other less intrusive remedial measure

Campbell v. McGruder



JC-DC-001-071

will succeed in compelling the defendants to satisfy their court-ordered obligations.

A brief history of this case reveals that the defendants have failed to take advantage of repeated opportunities to satisfy the requirements of the court's orders as far back as the 1979 mental health plan.

On August 22, 1985, the parties entered into a remedial Stipulation which required, inter alia:

Within 30 days, the Plaintiffs and the Defendants shall each respectively appoint one medical expert whose reasonable costs and fees will be paid by defendants, to review the health services delivery system at the D.C. Jail and make recommendations for improvements in a report to be submitted to the Court and the parties by Nov[ember] 1, 1985 and implemented by March 1, 1986, unless good cause is shown by either party why they should not be.

Over the next eight years the defendants were in persistent non-compliance and on April 20, 1993, the Court appointed a Special Officer to monitor and report on the District's efforts to meet its court-ordered obligations. Pursuant to the Court's Order, on September 15, 1993, the Special Officer issued the reports of her experts on medical and mental health services at the District of Columbia Jail.¹ These reports describe very serious deficiencies in the delivery of basic services that violate this Court's prior orders and the defendants' obligations under the United States Constitution.

¹ Expert Reports on Medical and Mental Health Services at the District of Columbia Jail (September 15, 1993).

In response to the reports of the Special Officer's experts, on November 9, 1993, this Court granted the plaintiffs' motion for interim relief. The interim relief was designed to address the most serious problems identified in the delivery of medical and mental health services. The defendants have failed to implement material provisions of the November 9, 1993 Order, including the provisions that address measures to prevent the spread of tuberculosis, and the identification and treatment of prisoners at risk for suicide.²

On February 2, 1994, the Special Officer issued her own report on the District's Compliance. The Special Officer found significant problems with the delivery of health care that violated material provisions of this Court's orders. These violations include core provisions of Court orders designed to improve health care at the Jail. The Special Officer concluded:

[T]he defendants have violated this Court's orders with impunity, including the Orders of March 5, 1993 and November 9, 1993 granting interim relief. Among other violations, they have failed to properly conduct sick call, failed to operate a chronic disease clinic, failed to implement a quality assurance program, failed to maintain a full-time health services administrator at the Jail, failed to properly conduct intake, failed to properly provide meaningful access to specialty services, failed to appropriately and professionally respond to life threatening emergencies, failed to properly

² In the nine months since the November 9, 1993 Order, six prisoners have committed suicide at the Jail. Based on the findings of the Special Officer's experts, many of these suicides would have been preventable had the procedures contemplated by the November 9, 1995 Order been implemented.

provide medical diets and failed to keep their own kitchen and medical clinic clean.³

In response to the Special Officer's findings, on March 16, 1994, the defendants consented to a finding of contempt and to a consent order that required them to implement a remedial plan.⁴ The defendants admitted, as they had previously, their ongoing violations of the Court's Orders and the need for significant corrective action to provide medical and mental health services which met the legal requirements of the United States Constitution and this Court's orders. The remedial plan was to be drafted by the Special Officer with input from the parties. Pursuant to the Order, the remedial plan was to contain a specific timetable to achieve compliance as well as a schedule of automatic fines for non-compliance.

³ Special Officer's Report at 124-125.

⁴ The March 16, 1994, Consent Order provided, inter alia:

ORDERED that the Special Officer shall, within 120 days of this Order submit a plan to cure the defendants' contempt and that will insure that the defendants render medical and mental health care in a manner consistent with the United States Constitution, and it is further

ORDERED that the Special Officer's remedial plan shall address all issues raised in her reports, the Expert Reports on Medical and Mental Health Services, as well as any additional issue that may come to the attention of the Special Officer or the Court that adversely impacts on the defendants' compliance with the Court's orders concerning the delivery of medical and mental health services at the Jail in a manner consistent with the United States Constitution.

On May 4, 1994, the Special Officer filed an Interim Remedial Plan that addressed the District's failure to properly isolate prisoners with infectious tuberculosis as was required by the Court's November 9, 1993 Order.⁵ The Special Officer also recommended that the District be fined up to \$10,000 per day for any future violation and \$1,000 for each future false report or failure to report.⁶

Following the Interim Plan on tuberculosis, an initial Remedial Plan⁷ addressing the range of medical and mental health issues was drafted by the Special Officer. The plan was prepared over a several month period and after lengthy discussions with the defendants about its contents and the time table for implementation. The Initial Remedial Plan was filed with the Court on October 11, 1994. According to the Special Officer, "substantial revisions were made in order to ensure that the defendants could meet the substantive requirements as well as the deadline requirements set forth [in the plan]." Remedial Plan at 6. After considering objections from the defendants, on January

The Special Officer's Interim Remedial Plan Regarding Isolation of Inmates with Suspected and Diagnosed Tuberculosis, May 4, 1994.

⁶ Id. at 13-14. As is clear from the Special Officer's Report, the defendants have ignored the requirements of the plan and their responsibilities to prisoners, the public and staff. Even the threat of significant fines has not deterred these violations.

⁷ Given the seriousness of the deficiencies in the defendants' system to deliver medical and mental health care, the Special Officer concluded that the remedial process must be undertaken in phases. [cite to initial remedial plan]

27, 1995, this Court ordered the defendants to implement the plan.

The defendants have failed to implement the Remedial Plan as ordered. They are in non-compliance with numerous material provisions of the plan and the Court finds that the defendants are in contempt of court. As are described in the Special Officer's report the defendants' non-compliance with the plan has resulted in significant harm to prisoners and places prisoners at unreasonable risk for injury.

On July 3, 1995, the Special Officer submitted a report describing the defendants' refusal to comply with the orders of this Court. The Special Officer found:

Instead of improving [since the Court ordered the implementation of the remedial plan], the medical and mental health system has deteriorated. Among other serious deficiencies, there is an absence of medical leadership; a chronic shortage of life saving supplies, medication and equipment; and a failure to provide consistent access to sick call services. The defendants have not yet implemented an effective tuberculosis control program. They have failed to conduct timely tuberculosis screening, failed to provide appropriate treatment, and failed to properly isolate inmates with suspected and/or diagnosed tuberculosis. This substantial risk to the health of staff, inmates, and the community into which inmates are released is exacerbated by defendants' failure to practice basic infection control principles and to implement even a rudimentary housekeeping and preventive maintenance program.

Report at 2.

The evidence in the Special Officer's thoroughly documented report is extensive, persuasive and unchallenged by the defendants.

Therefore, it is this ____ day of _____, 1995,

ORDERED that the plaintiffs' motion for the appointment of a receiver is granted; and it is further

ORDERED that the Court adopts the findings contained in the Special Officer's Report on Defendants' Compliance with the Initial Remedial Plan and the November 9, 1993 Order as its own; and it is further

ORDERED that a receiver will be appointed with responsibility to implement the Remedial Plan and other orders of this court relating to the delivery of medical and mental health services at the District of Columbia Jail; and it is further

ORDERED that the parties and the Special Officer shall confer regarding the selections of the receiver. If the parties cannot agree within 30 days on the person to be appointed as a receiver, the parties and the Special Officer shall submit nominations to the Court and the Court will appoint the receiver; and it is further

ORDERED that the receiver shall have the following duties and responsibilities:

1. To correct all deficiencies in the delivery of medical and mental health services at the Jail and to operate the program for the delivery of medical and mental health services in a

manner consistent with the orders of this Court and the Constitution of the United States.

2. To implement, in coordination with the Special Officer, the Remedial Plan in accordance with this Court's January 27, 1995 Order.

3. To establish procedures and systems within the Department of Corrections in order to ensure that compliance with Court orders is maintained after the receivership has been terminated.

4. To work with the Special Officer and the parties to ensure compliance with all Court ordered obligations.

5. To report periodically to the Court, the Special Officer and the parties regarding the receiver's efforts and any obstacles encountered by the receiver to performing her or his responsibilities; and it is further

ORDERED that the receiver shall have the following powers:

1. All powers currently held by the Mayor, City Administrator, Director of the Department of Corrections, Assistant Director for Health Services and Chief Medical Officer regarding the delivery of medical and mental health services at the District of Columbia Jail.

2. The power to create, modify, abolish or transfer positions; to hire, terminate, promote, transfer, evaluate and set compensation for staff to the extent necessary to obtain compliance with this Court's orders, the cost of such activity to be borne by the defendants.

3. The power to procure such supplies, equipment or services as are necessary to obtain compliance with this Court's orders, the cost of such procurement to be borne by the defendants.

4. The power to contract for such services as are necessary to obtain compliance with this Court's orders, the cost of such contracts to be borne by the defendants.

5. The power to hire such consultants, or to obtain such technical assistance as he or she deems necessary to perform her or his functions, the cost of such consultants or technical assistance to be borne by the defendants.

6. The power to petition the Court for such additional powers as are necessary to obtain compliance with this Court's orders; and it is further

ORDERED that within 30 days of the appointment of the receiver, the receiver, after consultation with the Special Officer and the parties, shall submit a plan to the Court that contains the procedures for the receiver to exercise these powers. These procedures shall ensure that the receiver shall not be unreasonably impeded in her or his work by District procedures, regulations or laws. If an agreement cannot be reached regarding the exercise of these powers, the parties shall submit suggested procedures to the Court; and it is further

ORDERED that the District shall provide the receiver with the following:

1. compensation at a rate to be determined by the Court;

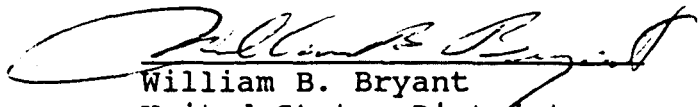
2. an appropriate office, and such equipment and support staff as are deemed necessary by the receiver;

3. unrestricted access to all records of the Department of Corrections deemed necessary by the receiver to perform her or his duties; and

4. access to all areas of the Jail; and it is further

ORDERED that the defendants shall instruct all personnel that they are to cooperate with and assist the receiver in the performance of her or his duties, and it is further

ORDERED that this receivership shall expire five years from the date that the receiver is appointed, unless the Court finds good cause to extend the appointment. The Court may terminate the receivership prior to the expiration of five years if the Special Officer certifies that the defendants are in compliance with all orders of this Court concerning medical and mental health services at the Jail and that management structures are in place to ensure that there is no foreseeable risk of future non-compliance.


William B. Bryant
United States District
Judge

July 11, 1995

Tab 3

FILED
FEB 14 2006
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARCIANO PLATA, et al.,

Plaintiffs,

v.

ARNOLD SCHWARZENEGGER,
et al.,

Defendants.

NO. C01-1351 TEH

CLASS ACTION

ORDER APPOINTING
RECEIVER

On October 3, 2005, this Court issued its written Findings of Fact and Conclusions of Law in support of its June 30, 2005 decision to establish a Receivership to take control of the delivery of medical services to California state prisoners confined by the California Department of Corrections and Rehabilitation ("CDCR").¹ In its written ruling, the Court explained that it was undertaking a national search to find a Receiver with the leadership ability, experience, and vision to take on the monumental and critical task of bringing the

¹ As the October 3, 2005 ruling notes, Pelican Bay State Prison is exempted from this action and instead falls under this Court's jurisdiction in the separate case of *Madrid v. Woodford*, C90-3094 TEH.

1 level of medical care provided to California's 166,000 inmates up to federal constitutional
2 standards. Having undergone a thorough and successful search process, the Court HEREBY
3 APPOINTS Mr. Robert Sillen to serve as the Receiver in this case, at the pleasure of the
4 Court, effective Monday, April 17, 2006. A copy of the Receiver's curriculum vitae is
5 attached to this Order.

6 In furtherance of the Receivership, the Court sets forth the Receiver's duties and
7 powers as follows:

8
9 I. DUTIES OF THE RECEIVER

10 A. Executive Management

11 The Receiver shall provide leadership and executive management of the California
12 prison medical health care delivery system with the goals of restructuring day-to-day
13 operations and developing, implementing, and validating a new, sustainable system that
14 provides constitutionally adequate medical care to all class members as soon as practicable.
15 To this end, the Receiver shall have the duty to control, oversee, supervise, and direct all
16 administrative, personnel, financial, accounting, contractual, legal, and other operational
17 functions of the medical delivery component of the CDCR.

18
19 B. Plan of Action

20 The Receiver shall, within 180 - 210 calendar days of the effective date of
21 appointment, develop a detailed Plan of Action designed to effectuate the restructuring and
22 development of a constitutionally adequate medical health care delivery system. This Plan
23 shall include recommendations to the Court of which provisions of the (1) June 13, 2002
24 Stipulation for Injunctive Relief, and (2) September 17, 2004 Stipulated Order re Quality of
25 Patient Care and Staffing Order and Injunction (and/or policies or procedures required
26 thereby), should be carried forward and which, if any, should be modified or discontinued
27 due to changed circumstances. The Plan of Action shall also include a proposed time line for
28

1 all actions and a set of metrics by which to evaluate the Receiver's progress and success.
2 The Receiver shall update and/or modify this Plan as necessary throughout the Receivership.

3 Pending development of the Plan of Action, the Receiver shall undertake immediate
4 and/or short term measures designed to improve medical care and begin the process of
5 restructuring and development of a constitutionally adequate medical health care delivery
6 system.

7
8 C. Budgeting and Accounting

9 The Receiver shall determine the annual CDCR medical health care budgets
10 consistent with his duties and implement an accounting system that meets professional
11 standards. The Receiver shall develop a system for periodically reporting on the status of the
12 CDCR's medical health care budget and shall establish relations with the California Office of
13 Inspector General to ensure the transparency and accountability of budget operations.

14
15 D. Reporting

16 The Receiver shall provide the Court with bimonthly progress reports. These reports
17 shall address: (a) all tasks and metrics contained in the Plan and subsequent reports, with
18 degree of completion and date of anticipated completion for each task and metric,
19 (b) particular problems being faced by the Receiver, including any specific obstacles
20 presented by institutions or individuals, (c) particular successes achieved by the Receiver,
21 (d) an accounting of expenditures for the relevant period, and (e) all other matters deemed
22 appropriate for judicial review.

23 The Receiver shall meet with the Court on a bimonthly basis shortly following the
24 issuance of each report and shall remain in contact with the Court throughout the
25 Receivership on an informal, as needed, basis.
26
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1 II. POWERS AND AUTHORITY OF THE RECEIVER

2 The Receiver shall have all powers necessary to fulfill the above duties under this
3 Order, including, but not limited to:

4 A. General Powers

5 The Receiver shall exercise all powers vested by law in the Secretary of the CDCR as
6 they relate to the administration, control, management, operation, and financing of the
7 California prison medical health care system. The Secretary's exercise of the above powers
8 is suspended for the duration of the Receivership; it is expected, however, that the Secretary
9 shall work closely with the Receiver to facilitate the accomplishment of his duties under this
10 Order.

11
12 B. Personnel

13 The Receiver shall have the power to hire, fire, suspend, supervise, promote, transfer,
14 discipline, and take all other personnel actions regarding CDCR employees or contract
15 employees who perform services related to the delivery of medical health care to class
16 members. The Receiver shall have the power to establish personnel policies and to create,
17 abolish, or transfer positions related to the delivery of medical health care to class members.
18 The Receiver also shall be empowered to negotiate new contracts and to renegotiate existing
19 contracts, including contracts with labor unions, in the event that such action is necessary for
20 the Receiver to fulfill his duties under this Order.

21
22 C. Property

23 The Receiver shall have the power to acquire, dispose of, modernize, repair, and lease
24 property, equipment, and other tangible goods as necessary to carry out his duties under this
25 Order, including but not limited to information technology and tele-medicine technology.
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1 D. Governing State Laws, Regulations, and Contracts

2 The Receiver shall make all reasonable efforts to exercise his powers, as described in
3 this Order, in a manner consistent with California state laws, regulations, and contracts,
4 including labor contracts. In the event, however, that the Receiver finds that a state law,
5 regulation, contract, or other state action or inaction is clearly preventing the Receiver from
6 developing or implementing a constitutionally adequate medical health care system, or
7 otherwise clearly preventing the Receiver from carrying out his duties as set forth in this
8 Order, and that other alternatives are inadequate, the Receiver shall request the Court to
9 waive the state or contractual requirement that is causing the impediment. Upon receipt of
10 any such request, the Court shall determine the appropriate procedures for addressing such
11 request on a case-by-case basis.

12
13 E. Access

14 The Receiver shall have unlimited access to all records and files (paper or electronic)
15 maintained by the CDCR, including but not limited to all institutional, personnel, financial,
16 and prisoner records, as deemed necessary by the Receiver to carry out his duties under this
17 Order.

18 The Receiver shall have unlimited access to all CDCR facilities, as deemed necessary
19 by the Receiver, to carry out his duties under this Order. Ordinarily, the Receiver shall
20 attempt to provide reasonable notice when scheduling such visits, but this shall not preclude
21 the Receiver from making unannounced visits to facilities or offices as the Receiver deems
22 necessary to carry out his duties under this Order.

23 The Receiver shall have unlimited access to prisoners and to line and managerial staff,
24 including the authority to conduct confidential interviews with staff and prisoners.

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1 F. Immunity and Indemnification

2 The Receiver and his staff shall have the status of officers and agents of this Court,
3 and as such shall be vested with the same immunities as vest with this Court.

4 Additionally, Defendants shall indemnify the Receiver and members of his staff to
5 the same extent as Defendants are obligated to indemnify the Secretary of the CDCR.

6
7 III. OFFICE OF THE RECEIVER

8 A. The Receiver shall be paid a reasonable compensation for his services in an
9 amount to be approved by this Court.

10 B. The Receiver shall establish an Office of the Receiver in a location to be
11 determined in consultation with the Court, with staffing necessary to fully carry out his duties
12 as set forth in this Order. Upon approval from the Court, the Receiver shall set reasonable
13 compensation and terms of service for each member of his staff, (including employees and/or
14 consultants) and shall be authorized to enter into contracts with the employees or consultants
15 of the Office.

16 C. Because time is of the essence, and in order to begin operations immediately,
17 Defendants shall, within 30 days of the date of this Order, establish an initial operating fund
18 with the Court in the amount of \$750,000. The Receiver shall submit monthly requests for
19 payment from this fund to the Court. Further funds for the Office of the Receiver shall be
20 deposited to the Receiver's Office Fund Account set forth in paragraph F below.

21 D. Throughout the Receivership, the Receiver shall submit to the Court a monthly
22 accounting of all receipts and expenditures of the Office of the Receiver and shall arrange for
23 an independent financial audit of the Receiver's Office Fund Account on an annual basis.

24 E. Within 45 calendar days from the date of effective appointment, the Receiver shall
25 establish an interest-bearing account, with respect to which he shall be the signatory and
26 fiduciary. This account shall be designated as the Receiver's Office Fund Account and shall
27 be maintained solely for the reasonable and necessary expenses associated with the operation
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1 of the Office of the Receiver, including but not limited to salaries, consulting fees, and the
 2 costs of supplies, equipment, office space, transportation,² and the like. The Receiver shall
 3 arrange with Defendants a system for regularly replenishing the Receiver's Office Fund
 4 Account.

5 F. Within 75 calendar days of the date of effective appointment, the Receiver shall
 6 establish a budget for the Office of the Receiver's first year of operation. The Receiver shall
 7 also establish a budget for the Office of Receiver for each subsequent year of operation, with
 8 each such budget due 90 days in advance of each budget year.

9 10 IV. COSTS

11 All costs incurred in the implementation of the policies, plans, and decisions of the
 12 Receiver relating to the fulfillment of his duties under this Order shall be borne by
 13 Defendants. Defendants shall also bear all costs of establishing and maintaining the Office
 14 of Receiver, including the compensation of the Receiver and his staff.

15 16 V. LENGTH OF RECEIVERSHIP

17 The Receivership shall remain in place no longer than the conditions which justify it
 18 make necessary, and shall cease as soon as the Court is satisfied, and so finds in consultation
 19 with the Receiver, that Defendants have the will, capacity, and leadership to maintain a
 20 system of providing constitutionally adequate medical health care services to class members.
 21 The Court expects that as the Receivership progresses, the Receiver will attempt to engage
 22 Defendants in assuming responsibility over portions of the system that are within
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 27 ²When engaged in travel, the Receiver and his staff shall use their best efforts to
 28 contain direct expenses in a cost-effective fashion. For example, when engaged in necessary
 travel, the Receiver and his staff shall, when possible, utilize advanced-purchase economy
 airfares and reasonably priced accommodations.

1 Defendants' demonstrated ability to perform, so that the ultimate transfer of power back to
2 the State will be transitional.

3 Prior to the cessation of the Receivership, the Receiver shall develop a Plan for Post-
4 Receivership Governance of the system, which shall include consideration of its structure,
5 funding, and governmental responsibility for its long-term operation. The Receiver shall
6 present this plan to the Court for approval and adoption as an order.

7
8 VI. COOPERATION

9 A. All Defendants, and all agents, or persons within the employ, of any Defendant in
10 this action (including contract employees), and all persons in concert and participation with
11 them, and all counsel in this action, shall *fully* cooperate with the Receiver in the discharge of
12 his duties under this Order, and shall promptly respond to all inquiries and requests related to
13 compliance with the Court's orders in this case. Any such person who interferes with the
14 Receiver's access, as set forth in section II.E., or otherwise thwarts or delays the Receiver's
15 performance of his duties under this Order, shall be subject to contempt proceedings before
16 this Court.

17 B. Counsel for Defendants shall ensure that the following state agencies are given
18 prompt notice of the substance of this paragraph: the Department of Personnel
19 Administration, the Department of Finance, the Department of General Services, the State
20 Personnel Board, and any other state agencies that Defendants deem should be notified.
21 Defendants shall notify the Court in writing of their compliance with this paragraph within
22 30 days of the date of this Order.

23 C. The Secretary of the CDCR shall ensure that all of the CDCR's employees and
24 agents (including contract employees) are given prompt notice of the substance of this
25 paragraph. Defendants shall notify the Court in writing of their compliance with this
26 paragraph within 30 days of the date of this Order.

1 VII. ADVISORY BOARD

2 The Court, in consultation with the Receiver, shall appoint an Advisory Board of no
3 more than five members to assist and advise the Court and the Receiver with respect to
4 achieving the goals of the Receivership.


5
6 VIII. MODIFICATION

7 Given that this Receivership is unprecedented in scope and dimension, this Court
8 finds that flexibility will be an important element in ensuring its effectiveness. Accordingly,
9 this Order may be modified as necessary from time to time to assure the success of this
10 Receivership and the eventual return of the operation of the CDCR's medical health care
11 delivery system to the State of California.

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14 **IT IS SO ORDERED.**

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16 Dated: February 14, 2006

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THELTON E. HENDERSON
UNITED STATES DISTRICT JUDGE

ROBERT SILLEN

EDUCATIONAL BACKGROUND

1965 University of Denver, Denver, Colorado: Bachelor of Arts Degree

1972 Graduate School, Yale University: Masters of Public Health Degree

CAREER EXPERIENCE

1993 - Present	Executive Director Santa Clara Valley Health & Hospital System San Jose, CA
1979 - 1993	Executive Director, Hospital & Clinics Santa Clara Valley Medical Center San Jose, CA
1976 - 1979	Associate Director, Hospital & Clinics University Hospital University of California Medical Center San Diego, CA
1972 - 1976	Assistant Director University Hospital University of California Medical Center San Diego, CA
1968 - 1970	Assistant Administrator City Hospital Center at Elmhurst Elmhurst, NY
1967 - 1968	Director of Community and Professional Relations United States Public Health Service New York, NY
1965 - 1967	Director of Clinics United States Public Health Service New York, NY

DETAILS OF CAREER EXPERIENCE

Executive Director, Santa Clara Valley Health & Hospital System (SCVHHS)

In June, 1993, the Board of Supervisors created a full service, integrated County health care system consisting of the Santa Clara Valley Medical Center, Department of Public Health, Department of Mental Health, Department of Custody Health Services and the Department of Alcohol & Drug Services. The Santa Clara Valley Health & Hospital System is responsible for a full continuum of preventive intervention and treatment services throughout the County, both directly under County auspices and through contracts with the private sector. The system is comprised of over 6,200 employees and has an annual operating budget of nearly \$1.4 billion.

The Executive Director is responsible for all aspects of the system's operations, long range planning, private/public partnerships, community relations, capital development and information systems. The development of a cost effective, fully integrated system is essential for the successful conversion to a full-service managed care delivery system in a highly competitive environment. In addition, the Executive Director was responsible for designing and implementing a County-wide Medi-Cal Managed Care program (Local Initiative) in June, 1996 as well as the Children's Health Initiative and Healthy Kids program in January, 2000.

Executive Director, Santa Clara Valley Medical Center (SCVMC)

Directed, administered, and coordinated all activities of the hospital and its affiliated clinics; responsibilities included: planning and establishing major current and long range objectives, goals, and policies; maintaining good employee and medical staff relations; maintaining financial solvency of the institution; organizing the functions of the Medical Center and clinics through appropriate departmentalization and delegation of duties; exercising day-to-day responsibility for the internal operations of the hospital; and directly coordinating all external activities and relations affecting the hospital and clinics.

The Santa Clara Valley Medical Center is a 500-bed regional medical center with an operating budget of over \$800 million and 4,500 full-time equivalent employees. Services range from community based primary care satellite clinics to tertiary regional services such as: Regional Burn, Spinal Cord Injury, and Head Trauma; Neonatal Intensive Care; Poison Control Center; Trauma Center; Life Flight Helicopter; and Custody (Jail) Health Services.

Associate Director, University Hospital, University of California Medical Center, San Diego

Administrative and budgetary responsibility for the following professional services: Anesthesia, Medicine, Neurology, Surgery. Responsibility included approval and control of operating and capital budgets, program planning and implementation and identification and solution of operational problems. Relate directly to Chairpersons and Division Chief of above indicated departments.

Responsible for operation of hospital planning office, including overall administrative responsibility for short- and long-range planning. Responsibilities included formulation of planning methodology, acquisition of capital resources, and coordination of all hospital construction, renovation, and space allocation.

Responsible for the activities of the Assistant Director, Hospital and Clinics, for a variety of professional services and non-professional departments including: Cardiac Catheterization Laboratory, Gastroenterology, Material Handling, Medicine, Neurology, Pathology, Pharmacy, Physical and Occupational Therapy, Radiology, Respiratory Therapy, Surgery.

Assistant Administrator, City Hospital at Elmhurst

Assisted the Administrator of this 1,000-bed teaching hospital in the general administration of a variety of professional and non-professional services, including: Anesthesia, Hematology, Inhalation Therapy, Pathology, Radiology, Social Services, Medical Records, and Medical Library. Directly responsible for administration of internship and residency training programs, and administration of Medicare compliance program.

ACADEMIC APPOINTMENTS

Assistant Clinical Professor, Department of Community Medicine,
University of California, San Diego

Clinical Lecturer, Department of Community Medicine,
University of California, San Diego

PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS

Children & Families First Commission of Santa Clara County, Commissioner: 2000 – Present
California Association of Public Hospitals & Health Systems, Board of Directors, Current Member;
Current and Past Chairman: 2003, 1984, 1985, 1989
National Association of Public Hospitals & Health Systems, Current Member; Past Chairman: 1987
Emergency Housing Consortium, Board of Directors, Member: 1998-2001
American Cancer Society, Board of Directors, Member: 2000, 2001
California Association of Hospitals and Health Systems, Board of Trustees
California Association of Hospitals and Health Systems, Chairperson, CAHHS Committee on
Finance, 1990
California Association of Hospitals and Health Systems, Marketplace Task Force, 1989; Blue
Ribbon Committee, 1990
American Hospital Association
American Hospital Association, Governing Council, Section for Metropolitan Hospitals
Hospital Council of Northern California, Board of Directors
California Hospital Association County Hospital Committee
Hospital Conference of Santa Clara County: President, 1986
Hospital Council of Northern California, Planning Committee
Hospital Council of Northern California, Finance Committee
National Association of Counties, Health and Education Steering Committee; Subcommittee, Health
Care Cost Containment; Subcommittee, Long Term Care

ROBERT SILLEN

Major Accomplishments

Planned, financed and implemented major capital expansion of Medical Center:

- \$50 million patient care tower, including new and expanded Comprehensive Emergency Room; Adult Medical, Surgical and Coronary Care Intensive Care Units, Regional Burn Center, post-partum maternity; clinical lab expansion; 40 bed telemetered Transitional Care Unit; Newborn Nursery; roof-top heliport.
- \$12 million ambulatory care/physician office building (Valley Health Center). This practice facility provides a highly competitive practice site enabling our faculty to expand our base of privately insured patients. 42,000 square foot facility includes: decentralized registration/waiting, patient care modules including exam rooms, consult rooms and offices; pharmacy; laboratory; radiology services; medical records. This facility is the locus of our prepaid health plan (Valley Health Plan) for County and other public employees.
- \$5 million physician/administrative complex that houses our faculty practice plan, physician offices and administrative support offices.
- Psychiatric Facility Expansion - As part of the same bond issue that financed the West Wing patient tower we have built a new 54 bed acute psychiatric facility (\$8 million) and purchased a free-standing, distinct part psychiatric SNF (\$4 million).
- Creation of a Magnetic Resonance Imaging Center through a joint venture.
- A Campus Development Plan has been funded and initiated which will culminate in the completion of the following projects during the next three years: Additional Patient Care Tower; 1,500 car parking structure(s); Ambulatory Care Facility; Alzheimers Treatment and Day Care Center; Long Term Care facility; new power plant and laundry; Administrative support and physician office building. The Campus Development effort will cost over \$500 million.
- \$250 million Patient Care Tower (completed in 1999).
- \$250 million Specialty Inpatient Center (to be completed in 2008).
- Four Community Based Primary Care Centers (\$200 million).

Program Development:

- Designation as Level I Trauma Center
- Occupational and Industrial Medicine Program. Developed a program for and consummated contracts with union health and welfare funds and corporate entities in Silicon Valley as well as governmental agencies and school districts.
- Valley Health Plan (VHP). Designed and implemented a prepaid health plan for County employees. This plan, licensed by the State Department of Corporations, is intended to compete with private HMO's, PPO's, IPA's and indemnity plans offered to over 13,000 County employees thus increasing our private insurance base and reducing County subsidy to the Medical Center. Since its inception, VHP has grown from 0 to 2,600 enrollees.
- Developed a Marketing and Public Relations Division that successfully maintained and enhanced our patient referral base, created community support and understanding and enhanced our image throughout the County and State.
- Created a free-standing 501(c)(3) fundraising foundation (SCVMC Foundation). The Foundation, the sole purpose of which is to raise funds and create community support for SCVMC was created in 1988. During its first year it raised over \$1 million for the Medical Center. The Foundation Board is comprised of wealthy Silicon Valley corporate leaders and civic "movers and shakers." Major support has been garnered from wealthy individuals, other local foundations, corporations (IBM, Cypress Semiconductors, Applied Materials, Hewlett-Packard, Syntex to name a few). This is a unique effort for a county medical center and we are now providing consultative services to other public hospitals that want to emulate our success.
- Service Excellence. Successfully designed and implemented a Medical Center-wide program which has significantly enhanced intra-and-interdepartmental functioning and communications, increased employee morale, aided recruitment and retention, positively impacted operating efficiency, enhanced our patient and community relations and maintained and enhanced our patient base.
- Financial Performance. Despite the adverse sponsorship mix of SCVMC's patient population (60% Medi-Cal, 20% unsponsored, 5% private insurance, 15% Medicare) our financial performance has been exemplary. The County General Fund subsidy has never exceeded 10% of our total operating budget during my 16 year tenure at SCVMC. This is unique for a California county hospital, especially the third largest in the State. Our financial and clinical successes are closely related and have created an environment of full community and political support vital to our overall success.
- Operational Re-engineering. Implemented a full-scale work re-engineering project; the goal of which was to reduce operating expenses by \$60 million over three years. This program is unique within County government in California and has the full support of the Board of Supervisors and County unions.

Tab 4

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
vs.)	Civil Action No. CV-75-S-666-S
)	
JEFFERSON COUNTY, ALABAMA, <i>et al.</i> ,)	
Defendants.)	
_____)	
JOHN W. MARTIN, <i>et al.</i> ,)	
Plaintiffs,)	
)	
vs.)	Civil Action No. CV-74-S-17-S
)	
CITY OF BIRMINGHAM, ALABAMA, <i>et al.</i> ,)	
Defendants.)	

ORDER APPOINTING RECEIVER

This Court previously adjudged defendant Jefferson County, Alabama, to be in civil contempt for failing to comply with requirements imposed upon the County by the terms of the Consent Decree entered on December 29, 1982,¹ and found that the remedy of appointing a Receiver to control all employment decisions by the County is warranted.² In furtherance of those judgments, and pursuant to the Court's inherent equitable powers and 28 U.S.C. § 1651, it is ORDERED, ADJUDGED and DECREED as follows:

¹ See doc. no. 1824 (Memorandum Opinion and Order entered Aug. 20, 2013) at, *e.g.*, 144 (“Jefferson County’s admitted violations of express and unambiguous provisions of its December 29, 1982 consent decree — standing alone, and without even taking into account the numerous, additional violations detailed in the Martin-Bryant parties’ proposed findings of fact and conclusions of law — establish a thirty-year pattern of intentional, willful disobedience of this court’s orders. Clearly, the Martin-Bryant parties’ motion to hold Jefferson County in civil contempt, and to modify some provisions of its decree, is due to be, and it hereby is, GRANTED.”).

² *Id.* at 145.

1. APPOINTMENT OF RECEIVER — Dr. Ronald R. Sims is appointed Receiver, effective immediately.³ The Receiver shall serve at the pleasure of this Court.

2. POWERS OF RECEIVER — The Receiver shall have and exercise all authority necessary to ensure that Jefferson County fully, faithfully, and lawfully complies in a timely, efficient, and cost-effective manner with all obligations required of the County by the terms of its 1982 Consent Decree, as modified by this Court on October 16, 2013 (doc. no. 1833). In furtherance of those ends, the powers vested in the Receiver shall include, but are not limited to, the following:

- a. full power to direct, control, operate, manage, and administer all decisions by the County pertaining (but not limited) to the hiring, promotion, demotion, transfer, discipline, suspension, or termination of merit- and non-merit-system employees (hereinafter “employment decisions”), together with full power to direct, control, operate, manage,

³ Dr. Ronald R. Sims holds a tenured chair (“Floyd Dewey Gottwald Sr. Professor of Business Administration”) in the Mason School of Business at the College of William and Mary in Williamsburg, Virginia. As demonstrated by the resumé attached to this opinion, Dr. Sims possesses the knowledge, skills, and abilities required for the performance of the critical duties outlined in this Order: *e.g.*, experience in reforming a public human resources management agency; education and experience in the discipline of Industrial & Organizational Psychology; experience in developing employee section procedures that comply with federal law and the EEOC’s Guidelines; experience in working with the staff and appointed members of the Personnel Board of Jefferson County, Alabama; familiarity with the Personnel Board’s enabling statutes, rules, and regulations; a demonstrated commitment to efficiency; and, some familiarity with local government.

and administer all property, funds, and assets of the County deemed by the Receiver to be necessary and proper for effecting such employment decisions, or otherwise necessary for the expeditious discharge of his duties hereunder, and including, but not limited to: (i) all powers vested by Alabama Act Nos. 2011-69 and 2011-70 in the County Manager that relate to employment decisions, including the power to hire, promote, demote, transfer, discipline, suspend, or terminate employees as necessary, and (ii) all powers reserved by Alabama Act Nos. 2011-69 and 2011-70 to the Jefferson County Commission that relate to employment decisions, including the powers to appoint non-merit system employees and to employ, appoint, promote, demote, transfer, supervise, discipline, suspend, or terminate department heads or other non-merit system employees as necessary;

- b.** the power to assess the knowledge, skills, abilities, and competencies of County employees;
- c.** the power to employ, appoint, promote, demote, transfer, discipline, suspend, or terminate all persons within the Human Resources Department, including the power to eliminate positions, create positions, expand or restructure that department — all without regard to the

Enabling Act of the Personnel Board of Jefferson County (as amended), other Personnel Board rules or regulations, or any other conflicting state or local statute, ordinance, rule, regulation, or policy;

- d. the power to employ or appoint a personal staff, the sole responsibility of which shall be to aid the Receiver in the performance of his duties hereunder, and the appointment of the members of which shall be made, and the salaries of the members of which shall be set, upon appropriate motion by the Receiver to this Court;
- e. the power to enter into contracts for the employment of persons, whether as County employees, outside consultants, or independent contractors, for such purposes as: (i) training the County's employees in the development and implementation of lawful selection procedures, including, but not limited to, expertise in the disciplines of Industrial and Organization Psychology and Human Resources Management; and/or (ii) assisting the County's employees in the development and implementation of lawful selection procedures for hiring and promotion in both classified and unclassified positions; and/or (iii) developing and implementing lawful selection procedures for hiring and promotion in both classified and unclassified positions;

- f. the power to institute suit to recover any fees paid by the County to outside consultants or independent contractors for the development and/or implementation of lawful selection procedures if such work does not, or on the date of its performance did not, conform to generally accepted standards in the disciplines of Industrial and Organization Psychology or Human Resources Management;
- g. the power to retain and employ attorneys to advise, assist, or represent the Receiver in connection with his responsibilities hereunder;
- h. the power to review without limitation past and current complaints (formal and informal) of employment discrimination against the County including, but not limited to, complaints made to any person acting as an Affirmative Action Officer or Employee Relations Officer and complaints filed with the Equal Employment Opportunity Commission, notwithstanding any prior determination by the County Attorney's Office, the County's Human Resources Department, the County Commission, or the County Manager, and without regard to the date of such complaint or the date of the underlying event(s);
- i. the power to resolve and remediate complaints of employment discrimination, provided that the Receiver shall have no power to

redress complaints of employment discrimination as to which: (i) there has been a final, nonappealable order from the Jefferson County Personnel Board or a state or federal court; (ii) the complaint has been resolved by a legally binding agreement; or (iii) the complaint is barred by the applicable statute of limitations or other legal doctrine;

- j. Notwithstanding any contrary provision contained herein, the County Manager and County Commissioners shall retain full and complete authority vested by law to make employment decisions related to their respective personal, non-merit position staffs. The County Commission shall also retain its appointing authority and other lawful authority and powers over the County Attorney and County Manager. The County Attorney shall retain full and complete authority over employment decisions for the other attorneys and staff in the Legal Department. Those elected officials of the County with statutory authority to make non-merit appointments shall retain authority over employment decisions relating to such appointments, *provided that* any subsequent decision by any such official concerning the placement or return of any such appointed person into any merit system classification shall be specifically reviewed by, and subject to the decision-making authority

of, the Receiver.⁴

Consistent with the powers vested in the Receiver by the provisions of paragraphs 2(a) through 2(i) above, it is specifically ORDERED that all powers, duties, and responsibilities pertaining to or concerning employment decisions by (and vested by Alabama Act Nos. 2011-69 and 2011-70 in) the County Manager or the five elected members of the Jefferson County Commission be, and the same hereby are, as provided for by this Order, suspended and, in lieu thereof, vested in the Receiver until further order of this Court.⁵

3. DUTIES OF RECEIVER — The Receiver’s duties include, but are not limited to, the following:

- a. oversee and direct all employment decisions of the County as defined herein, and preserve, protect, and administer all property, assets, and employees required for the discharge of his duties hereunder;
- b. assume responsibility for fulfillment and implementation of all terms of the County’s 1982 Consent Decree, as modified by this Court on October 16, 2013 (doc. no. 1833), and ensure day-to-day compliance

⁴ The officials contemplated by this sentence include Jefferson County’s Treasurer, Assistant Treasurer, Tax Assessor, Assistant Tax Assessor, Tax Collector, Assistant Tax Collector, District Attorney, elected Deputy District Attorney, Probate Judge, and Family Court Judge.

⁵ The Sheriff of Jefferson County is also a party to the Dec. 29, 1982 Consent Decree. *See* doc. no. 1832. Nevertheless, nothing in the present Order vests in the Receiver any powers or duties of the Sheriff, nor relieves the Sheriff of any of his obligations under that decree.

with the same by all employees of the County;

- c. assume responsibility for fulfillment and implementation of all functions and obligations required of the County Manager and County Commission as specified in sub-paragraph 2(a) above, and supervise day-to-day compliance with the same by all employees of the County;
- d. implement employee training and development programs, including instruction designed to institutionalize expertise in the disciplines of Industrial and Organization Psychology and Human Resources Management, and competence in the development and administration of lawful selection procedures for hiring and promotion in both classified and unclassified positions;
- e. assess the present organizational structure of the County Human Resources Department, and design appropriate infrastructures, systems, and procedures that will institutionalize the ability of employees within that department to perform all functions — and particularly the functions of developing and administering lawful selection procedures for hiring and promotion — in an efficient, professional, and cost-effective manner, which may include the restructuring of that department and the hiring, firing, promotion or demotion of persons

within that department without regard to any state or local statute, ordinance, rule, regulation, or policy, including the Enabling Act of the Personnel Board of Jefferson County (as amended) or the Personnel Board's Rules and Regulations. The prior duties notwithstanding, nothing in this Order shall be construed to require the Receiver to perform or oversee the functions of the Human Resources Department relating to pre-employment screening, risk management, employee benefits, employee leave programs, or compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*, or the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.*;

- f. develop and implement a fast-track plan for developing and administering lawful selection procedures to bring the County into compliance with all requirements of its 1982 Consent Decree, as modified by this Court on October 16, 2013 (doc. no. 1833);
- g. develop and implement a fast-track plan to bring the County Human Resources Department in compliance with all provisions of paragraph 33 of its 1982 Consent Decree, as modified by this Court on October 16, 2013 (doc. no. 1833);
- h. perform all other acts necessary to transform the County Human

Resources Department into a strong and competent institution with a clearly defined mission, the infrastructure, systems, and skills to support that mission, the ability to provide meaningful accountability to the County's department heads, Manager, and Commissioners; and, an institution that discharges all functions in an efficient, professional, and cost-effective manner in substantial compliance with all applicable federal and state laws and regulations;

- i. develop and implement effective anti-discrimination and anti-nepotism policies, on which all employees of the County shall receive periodic, mandatory training;
- j. manage the Human Resources Department in a manner compliant with all applicable federal and state laws and regulations concerning the privacy and/or confidentiality of employee information, including but not limited to personal, medical, criminal, and financial information, as well as Social Security numbers; and,
- k. develop and present to the Court for approval a plan for returning all powers, duties, and functions vested in the Receiver to the County Manager, Director of Human Resources, Affirmative Action Officer, and County Commission at the conclusion of this litigation.

4. **REPORTS** — Not later than 120 days after accepting this appointment, and after receiving input from the Special Master and parties, the Receiver shall submit to the Court, Special Master, and parties a plan detailing the manner in which the Receiver intends to fulfill the duties described above. Such plan shall include a proposed budget. Thereafter, not later than the 15th day of each month, the Receiver shall submit to the Court, Special Master, and parties monthly status reports describing: (i) significant actions taken by the Receiver during the prior month; (ii) any impediments or difficulties that may jeopardize the timely completion of the plan; and (iii) any circumstances that may warrant modification to the plan.

5. **BUDGET** — Not later than 120 days after accepting this appointment, the Receiver shall develop a budget for the remainder of the County’s fiscal year ending September 30, 2014. For each subsequent fiscal year, the Receiver shall prepare a budget and provide it to the Court, Special Master, and parties no later than July 15 annually, to enable the County to make appropriate accommodations in its budget for the monies required by the Receiver. The Receiver shall file the proposed budget with the Court, and the budget shall include, without limitation, the costs and expenses described in paragraphs 7, 8, and 9 of this Order.

a. Any party may file an objection to the budget with the Court within twenty (20) days of the Receiver’s filing. Any such objection must

contain a detailed explanation of the basis for the party's objection, as well as a statement certifying that the objecting party has conferred, or made reasonable effort to confer, with the Receiver concerning the matter in dispute prior to the filing of the objection. Such filing must also describe with particularity the steps taken by all parties to resolve the disputed issue(s).

- b.** *If a party objects*, the Court will, after notice and hearing, authorize the budget with such modifications as it deems warranted for good cause shown.
- c.** *If no party objects*, then, on the 21st day after the Receiver's filing, the budget will be deemed to have been authorized by this court.
- d.** The Receiver shall have the full power and authority to direct, control, manage, and administer all expenses as he sees fit within the constraints of the authorized budgets, including the reallocation of monies between or among different types of tasks, consistent with his obligations under this Order, and regardless of the proposed allocation of those funds in the authorized budgets.
- e.** The Receiver may request changes to an authorized budget by filing a motion with the Court, and such motion shall be subject to the

procedures provided in sub-paragraphs (a) through (c) of this paragraph, except that the time period for filing any objection shall be reduced to ten (10) days, and the amendment shall be deemed authorized if either (i) all parties consent in writing, or (ii) no party has objected by the eleventh day.

- f. The Receiver shall not have the authority to spend funds in excess of his authorized budget, except upon good cause being shown and by Order of this Court.

6. ACCOMMODATIONS, EQUIPMENT, AND SUPPLIES — The County must, and it hereby is ORDERED to, provide suitable rooms and accommodations for the Receiver, his employees, consultants, and retained contractors, and cause the same to be furnished, heated, air-conditioned, and lighted in a manner conducive to the performance of the work of the Receiver hereunder, and cause to be furnished and paid for by the County all necessary stationery, postage, printing, office supplies, computer hardware and software, and clerical assistance necessary for the performance of the work of the Receiver hereunder upon his requisition of the same.

7. IMMEDIATE AND INTERIM SELECTION — The Temporary Orders previously issued by this Court,⁶ or any that may be issued subsequent to the entry of

⁶ See doc. nos. 1780 and 1802.

this Order, shall be deemed terminated 120 days from the date of the Receiver's appointment, or sooner upon notification by the Receiver.

8. SCHEDULE AND COMPENSATION OF RECEIVER — Although the costs of the Receiver's services shall be charged to and paid by the County, the Receiver shall have no contractual relationship with the County, but shall instead be responsible solely to this Court, and shall serve at the Court's pleasure. It is contemplated by the Court that the Receiver's duties and obligations will be substantially completed in three years or less, but that the Receiver will continue functioning as a consultant to the County, County Manager, and the Director of the County's Department of Human Resources (selected by the Receiver as needed), acting under the control of, and reporting to, this Court. The Receiver's annual compensation for his first year of services shall be \$240,000. In the event the Receiver's services are terminated by this Court for any reason, the Receiver shall be compensated only through the date of such termination.

9. ADMINISTRATIVE EXPENSES OF RECEIVER — The Receiver's compensation, the salaries of all employees of the Receiver, and all other reasonable expenses of the Receiver arising under the provisions of this Order, including but not limited to travel, lodging, and the fees of any consultants or attorneys retained by the Receiver, shall be paid by requisition order submitted to the County. In the event any

requisition order is not paid within 30 days after submission, the Receiver shall institute an appropriate proceeding in this Court.

10. DUTIES OF COUNTY OFFICIALS — The purpose of this Receivership is not for the Receiver to assume the role of the elected governing body for Jefferson County. Absent further court order to the contrary, and except as otherwise provided herein with respect to employment decisions, the Jefferson County Commission retains the duties, responsibilities and authority granted to it under Title 11 of the 1975 Code of Alabama, the 1901 Constitution of Alabama, the Acts of Alabama (specifically including Alabama Act No. 2011-69, Sections 2 through 6), all other state and local laws applicable to the County, the County’s Rules of Order and Procedure, and all applicable federal laws, statutes and consent decrees, including without limitation Title 11 of the United States Code, and all orders entered by the United States Bankruptcy Court for the Northern District of Alabama in *In re Jefferson County, Alabama*, Case No. 11-05736-TBB9 (“the Bankruptcy Case”), the County’s confirmed chapter 9 plan in the Bankruptcy Case (“the Bankruptcy Plan”), and, the consent decree by and between the County and the United States Environmental Protection Agency pertaining to wastewater treatment entered in consolidated Case Nos. 93-G-2492-S and 94-G-2947-S, in the United States District Court for the Northern District of Alabama, as such consent decree may be amended

from time to time (“the CWA Consent Decree”). This includes the County’s retention of all rights and authorities relating to its property and revenues including, but not limited to, establishing, setting, collecting, charging, waiving, or repealing any and all taxes, charges, fees, receipts, licenses, levies, duties, or assessments of any nature whatsoever. Absent further court order to the contrary, except as set forth herein with respect to employment decisions, the County Manager shall retain his duties and responsibilities set forth in Alabama Act No. 2011-69, Sections 7(1)-(2) and 7(4)-(11).

- a. It shall be the duty of all elected and appointed officials, employees, and attorneys of the County to aid in all proper ways in carrying into effect the provisions of this Order, and the rules, regulations, and directives prescribed from time-to-time by the Receiver in the performance of his duties hereunder. These duties include, *but are not limited to*, those described in paragraphs 6, 8, and 9 above, and prompt and reasonable accommodation of the Receiver’s request for the use of public buildings (together with necessary heat, air-conditioning, lights, and other utilities and services) as required by this Order and the terms of the Consent Decree. In accordance with the discussion contained in Section VI.B. of the Memorandum Opinion entered on August 20, 2013 as doc. no.

1824, it is further ORDERED, ADJUDGED, and DECREED that Jefferson County, Alabama, its elected and appointed officials, employees, agents, servants, attorneys, and any other person acting in concert with the foregoing, directly or indirectly, and those persons who receive actual notice of this order by personal service or otherwise, be, and they hereby are, *restrained and enjoined* from taking any action, or failing or refusing to take any action, that has the effect of frustrating or delaying the Receiver in the performance of his duties hereunder.

- b. If the County believes in good faith that any action proposed or undertaken by the Receiver hereunder will materially interfere with the functions of the County, including but not limited to, under the CWA Consent Decree, the Bankruptcy Plan, or other orders in the Bankruptcy Case, the County shall first attempt to resolve the matter with the Receiver. After attempts to resolve the matter have been exhausted, the County may, on appropriate motion to this Court, challenge the Receiver's action.

11. DUTIES OF THE PERSONNEL BOARD — The Personnel Board of Jefferson County, Alabama (“Personnel Board”) must, and it hereby is ORDERED to, comply reasonably and promptly with the Receiver's requests (whether formal or

informal) for the production of documents and/or information held by that agency, without the necessity of a third-party subpoena issued pursuant to Federal Rule of Civil Procedure 45, and, except where the request(s) require(s) a substantial expenditure of resources, without requiring the Receiver to reimburse the Personnel Board for the costs associated with such production. The Personnel Board is expected, and it hereby is ORDERED, to cooperate with requests from the Receiver in the ordinary course of business without the necessity for Court intervention. Either the Personnel Board or the Receiver may, however, ask the Court to resolve any dispute regarding the Personnel Board's compliance with this paragraph, but only after proper procedures have been followed to frame and narrow the issues for the Court's consideration (*e.g.*, a written request by the Receiver, specifying with reasonable particularity the documents and/or information sought, followed by a reasonable period of time in which the Personnel Board may object and respond, and at least one good-faith attempt to meet and confer).

- a. Notwithstanding the foregoing, the Personnel Board shall not be required to produce copies of: (i) actual test questions or stimuli; (ii) test answers, response keys, scoring guides, or assessment benchmarks or checklists; and (iii) any other information that would be covered by Personnel Board Rule 9.14, *unless* the Receiver demonstrates a

compelling need for the information. Any documents and/or information described in clauses (i) through (iii) of this paragraph shall be subject to an appropriate confidentiality order.

- b.** In making any requests for information under this paragraph, the Receiver should give due consideration to the Personnel Board's obligation to provide timely services to all jurisdictions and governmental hiring authorities serviced by the Board in a cost-effective manner. If appropriate as to any documents or information to be produced under this paragraph, the Receiver and Personnel Board shall discuss and seek to agree upon appropriate confidentiality conditions, to be entered as Orders of this Court upon application as necessary to effectuate such conditions.
- c.** The Personnel Board shall continue to review requests by the County for independent contractors as provided in Personnel Board Rule 11.4, but both the County and the Personnel Board shall include the Receiver in any and all correspondence related to such requests. In the event of any dispute arising from the County's use of independent contractors, the Personnel Board, Receiver, or a party may, upon appropriate motion, bring the dispute to this Court.

- d. At the conclusion of the Receiver's service to the Court, any employee retained by the Receiver as an employee of the County's Department of Human Resources as provided herein shall be credited the length of his or her service for purposes of the Personnel Board's rules and regulations, and shall enjoy all rights of a merit system employee. The Personnel Board's Director of Personnel shall determine the appropriate merit system classification(s) for such employee(s), and shall fix the compensation of such employees at the grade(s) and step(s) most nearly approximating the compensation paid to such employee(s) by the Receiver. Persons the Receiver retains as consultants or temporary employees shall have no such rights as a result of their work for the Receiver.

12. APPEALS FROM DEMOTION, DISCIPLINE, SUSPENSION, OR TERMINATION DECISIONS — Merit system County employees subject to demotion, suspension, discipline, or termination at the instance of someone other than the Receiver may avail themselves of all rights and procedures of appeal as provided by the Rules and Regulations promulgated by the Personnel Board of Jefferson County and any applicable state or federal law. Consistent with the powers vested in the Receiver by sub-paragraph 2(a) above, however, the members of the Personnel Board

shall not perform the Board's quasi-judicial functions with respect to merit system County employees subject to demotion, discipline, suspension, or termination at the instance of the Receiver. Instead, for the duration of the Receivership imposed by this order, any such employee shall be entitled to a due process hearing before a Magistrate Judge of this Court randomly drawn, who shall apply the same standards of review as would otherwise be applied by the Personnel Board in such matters, but for the existence of this Court's order. *See* 28 U.S.C. §§ 636(b)(3), 1651. Any employee wishing to avail himself or herself of this procedure shall notify the Receiver in writing, and file a copy with the Clerk of this Court, within ten (10) calendar days after notification of the contested employment action. Within ten (10) calendar days thereafter, the Receiver shall file with the Clerk of Court a copy of the written notice of the contested employment action and a written statement of the reasons for the action taken with respect to the employee. The Clerk shall draw at random a Magistrate Judge of the court, who shall conduct a hearing on the matter within ten (10) working days after assignment of the case to him or her. The hearing may be continued for not more than thirty (30) days on agreement of the parties, or on motion for good cause shown. Upon completion of the hearing, the Magistrate Judge shall file a written report stating his or her findings of fact and conclusions of law, together with a recommendation for disposition of the appeal. Either party may

file objections to the Magistrate Judge's report and recommendation within ten (10) calendar days after it is entered, and this Court shall thereafter enter such orders as may be appropriate.

- a. In the event a non-merit-system County employee is demoted, disciplined, suspended, or terminated at the instance of someone other than the Receiver, that employee may submit a complaint to the Receiver.
- b. Any non-merit-system County employee who is demoted, disciplined, suspended, or terminated at the instance of the Receiver shall have no further recourse.

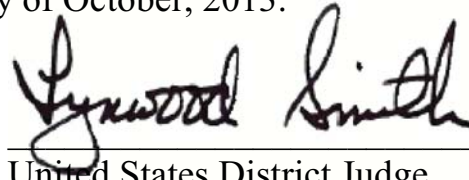
13. IMMUNITY — The Receiver shall have the status of an officer and agent of this Court; and, as such, shall be vested with such immunities as by law vest with this Court. The County shall indemnify the Receiver for liabilities, damages, and losses incurred, and shall pay, upon a certification of expenses approved by the Court, all expenses reasonably incurred in defending any lawsuit or administrative proceeding in which the Receiver is named as a party, either personally or as the Receiver, or in which liability may otherwise attach to him, if such suit or proceeding is based upon or arises out of any action taken within the scope of the Receivership as defined in this Order.

14. LEGAL SERVICES — Without limitation to the powers set forth in subparagraph 2(g) above, if this Order, or any steps taken by the Receiver in furtherance of this Order, or any subsequent Order of this Court shall be called into question in any judicial proceeding, or if any elected or appointed official, employee, or attorney of the County should fail or refuse to comply with the duties imposed by this Order (or any other provision of Alabama law pertaining to the functions of the County), then, in any of such events, the Receiver shall employ independent counsel to represent him in the performance of his duties and the enforcement of obligations imposed hereunder. The compensation of counsel retained by the Receiver shall be paid as all other administrative expenses of the Receiver are paid, as provided in paragraph 7 above.

15. RELATIONSHIP BETWEEN THE RECEIVER AND SPECIAL MASTER — The Receiver and Special Master both serve at the pleasure of this Court. Accordingly, the Receiver may call upon the Special Master for any information, advice, or counsel required to discharge the Receiver's duties hereunder.

16. MODIFICATION — This order may be modified as necessary to assure the success of the receivership and, as expeditiously as possible, to return operation of the County's employment decisions to the County Manager and elected members of the County Commission.

DONE AND ORDERED this 25th day of October, 2013.

A handwritten signature in black ink, appearing to read "Lynwood Smith". The signature is written in a cursive, flowing style. It is positioned above a horizontal line.

United States District Judge

Tab 5a

Red – Plaintiffs’ Proposal, Defendants Do Not Agree Blue – Defendants’ Proposal, Plaintiffs Do Not Agree

May 26, 2016

Draft Combined Proposal for Notice and Compensation Methodology

I. Third-Party, Neutral Claims Administrator

- A. The Court will designate the firm of BrownGreer to serve as a neutral, third-party administrator to manage the Notice and Claims Processing Plan to compensate individuals who suffered injury as a result of any violations by the MCSO of the Court’s December 23, 2011 Preliminary Injunction Order.
- B. BrownGreer’s fees will be paid by Defendants.

II. Eligibility

- A. Participation in this scheme for victim compensation is voluntary and is intended as an alternative for eligible individuals to any other means available for obtaining relief for injuries resulting from alleged violations of the Court’s Preliminary Injunction. Claimants who submit claims and are determined to be eligible to participate in the plan will waive and extinguish any right they might otherwise have to obtain relief for the same conduct through any other avenue. The rights of any individual who does not participate in the compensation plan will not be affected.
- B. Individuals who have submitted a claim regarding the same conduct in another forum and received a determination, or those who have a pending claim in another forum, are not eligible to participate in this program. If the individual has a pending claim in another forum, he or she must withdraw such a claim in order to participate in this alternative compensation scheme. As with all other individuals who choose to seek remedies through this compensation scheme, those who withdraw a claim pending in another forum in order to submit an application under this scheme will be required to waive and extinguish any right they might otherwise have to obtain relief for the same conduct through any other avenue.
- C. Compensation under this program will be available to those asserting that their constitutional rights were violated as a result of detention by MCSO

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in violation of the Court's Preliminary Injunction from December 23, 2011 to ~~the present~~ May 24, 2013.

- D. ~~Individuals detained in violation of the Court's Preliminary Injunction will be eligible for compensation, whether detained during traffic stops or otherwise.~~ Eligibility for remedies under this scheme should be limited to those who can show they were detained in violation of the Court's Preliminary Injunction in the context of a traffic stop.

III. Compensation Fund

The Board of Supervisors will create a fund of \$500,000 for payment of claims adjudicated in favor of claimants. In the event that amount is exhausted through the payment of claims and is insufficient to provide compensation to all successful claimants, additional claims adjudicated in favor of claimants will be honored and timely paid by the County through further allocations if necessary. If all claims adjudicated in favor of claimants are fully paid out and there remains an unspent sum in the originally or any supplementally allocated funds, such amount would revert to the County.

IV. Notice Plan

- A. BrownGreer would be provided with a budget of ~~\$200,000~~ \$100,000 to spend on notice and outreach to potentially eligible individuals about the availability of compensation. BrownGreer will utilize its expertise to determine how monies allocated for notice can most effectively be employed to maximize the likelihood that potential claimants will be reached.
- A. The notice plan may include use of radio, digital/online and print advertising, earned media placements, and partnership with non-governmental organizations and embassies. It should target individuals in at least Maricopa County, along the U.S./Mexico Border and in Mexico. Notice will be provided in English and Spanish, with a heavy focus on Spanish-language media and sites.
- B. BrownGreer will consult with the Parties in the development of the notice plan and the text of any notices, press releases or scripts developed. The cost for any such services will be paid out of the notice budget provided for in IV.A. above.
- C. BrownGreer will develop a claim website for the case, a toll-free phone number and an email account, to provide information about how to make a claim. The cost for any such services will be paid out of the notice budget provided for in IV.A. above.
- D. Individual notice will be provided to any individuals identified by the Parties as potentially eligible for compensation for whom a current address

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can be found, *i.e.*, through commercially available database services, and other methods. All costs for such services will be paid out of the notice budget provided for in IV.A above.

V. Claims Adjudication Plan

- A. Claims must be initiated within 365 days from the first issuance of program notice by Brown Greer through any public media outlet (which will also be the date when Brown Greer will be ready to begin receiving applications).
- B. BrownGreer will be provided a sum of \$75,000 in start-up fees to implement the claims processing program.
- C. All materials must be available in English and Spanish, and any other languages as needed. Language should be calculated to be understandable to individuals who will be making claims.
- D. In all cases, it is claimant's burden to establish their entitlement to compensation by a preponderance of the evidence. BrownGreer will be responsible for evaluating the credibility and competency of evidence and witnesses, and determining the appropriate weight to be assigned to evidence adduced.
- E. The Parties recognize that available documentation and testimony may already establish a case that some individuals were subject to violations of the Preliminary Injunction. Thus, a multi-step and multi-track system is proposed to ensure that the burden on claimants for whom such uncontested evidence exists is reduced and the resources committed to this program are used efficiently.
- F. **Claim Initiation Form.** Claimants will first be required to complete a claim initiation form. This form would ask for the following basic information:
 1. Contact information: current address and phone number where individual can be reached
 2. Identity information: name, name provided to MCSO (if different), DOB and reliable proof of identity
 3. Details of encounter: date in the applicable time period (or **approximate (*i.e.*, 30 days) a five-day** date range if precise date is unknown), type of encounter (traffic stop, other)
 4. Approximate length of detention by MCSO. (In cases involving transfer to ICE/CBP, claimant to provide length of detention up until release to ICE/CBP custody)

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5. Whether claimant will request compensation for additional harms listed in Section V.J.5.a below (using check boxes)
6. The form will be signed under oath. Claimants will also sign an acknowledgement and agreement that participation in this program, extinguishes all other rights they may have to pursue claims based upon the same conduct by MCSO.
7. The form will provide claimants with notice as to their confidentiality rights under the program, including any exceptions to confidentiality, *e.g.*, what and with whom information may be shared and for what purpose.
8. The form will also state that claimants are responsible for any tax reporting responsibilities that arise out of receiving compensation through this mechanism.

G. **Track Determination.** Within 21 days after a Claim Initiation Form is filed, BrownGreer will make a determination as to whether the claimant meets the eligibility requirements for participation in the program and, if so, what Track (A or B) his or her claim will fall under. BrownGreer will send any claimants determined not to be eligible for the program a Notice of Ineligibility, and a follow-up form to eligible claimants and information as appropriate.

1. Counsel for the Parties will agree in advance on the list of prequalified candidates and provide these names and related information to BrownGreer.
2. If BrownGreer determines, based on the information in the claim initiation form, that the person is not eligible to participate in the program, *e.g.*, because s/he was detained outside the eligible period or the conduct complained of is outside the scope of this case, then BrownGreer will inform the individual in writing that no rights that the individual may have to pursue relief through other avenues has been extinguished.

H. **Track A.** These individuals are “prequalified” to receive compensation and will be awarded the minimum amount as set forth in Section VI.A, unless they are requesting compensation for additional harms. The information provided in the Claim Initiation Form will be deemed to have met those claimants’ burden, except as to any claim for any harms other than for the detention itself. Individuals whose claims would otherwise be assigned to Track A, but who are seeking compensation for any such additional harms shall be assigned to Track B.

1. Prequalified claimants include any person identified in HSU spreadsheets as [having been detained in the context of a traffic](#)

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stop, not arrested on suspicion of conduct in violation of criminal law, and transferred to ICE/CBP in the applicable time period, as well as any other individuals that counsel for Parties can agree appear to have been subject to violations of the Preliminary Injunction based on available documentation, including MCSO incident reports, CAD data and records from the U.S. Department of Homeland Security (DHS).

2. BrownGreer will process claims for only those prequalified claimants who complete and submit a Claim Initiation Form.
3. BrownGreer will be provided an amount yet to be determined per claim for processing claims in Track A.

I. **Track B.** All individuals who do not fit into Track A will be placed in Track B. BrownGreer will send them follow-up claim forms and information necessary to gather the information in Section III.J below.

1. Claimants will be provided with contact information for Plaintiffs' counsel and 30 days to complete forms and submit supporting documentation.
2. BrownGreer will be provided an amount yet to be determined per claim for processing claims in Track B.

J. **Burden of Proof for Individuals in Track B.**

1. BrownGreer must be persuaded that a claimant has shown an entitlement to some portion or all of the compensation claimed with credible and competent evidence, including that s/he was detained in violation of the Preliminary Injunction, the length of the detention, and the fact, nature, and extent of any additional compensable injury. A claimant's statement, made under oath, shall be considered admissible evidence.
2. ***Establishing a prima facie case of a preliminary injunction violation.*** In order to establish eligibility for compensation because the claimant was detained in violation of the Preliminary Injunction in the relevant date range and shift the burden to the MCSO to rebut the claimant's prima facie case, the claimant must provide the following information under oath:
 - a. Identity information: name, name provided to MCSO (if different), DOB and reliable proof of identity
 - b. Details of encounter: date (or **an approximate (i.e., 30 days) a five-day** date range if precise date is unknown), type of encounter (traffic stop, other)

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- c. Approximate location of encounter with officer(s) (e.g., Highway 89, approximately 3 miles north of Fountain Hills)
 - d. Reason given by MCSO officer(s) for detention (if any)
 - e. Evidence that MCSO suspected unlawful presence, e.g., questioning about immigration status, ICE/CBP inquiry or turned over to ICE/CBP, including details about what happened, e.g., if ICE/CBP came to site of detention or MCSO transferred claimant to ICE/CBP
 - f. Approximate length of detention by MCSO (in cases involving transfer to ICE/CBP, claimant to provide length of detention up until release to ICE/CBP custody)
 - g. Whether claimant was arrested
 - h. Testimony or other evidence that the detaining agency s/he encountered was MCSO, e.g., presence of an MCSO marked patrol vehicle, description of the uniform officer was wearing, etc.
3. ***Additional buttressing information for Track B claimants***
(helpful, not required, but may be considered in weighing PFC elements to determine whether the required elements have been established)
- a. Name/badge number of MCSO officer(s) initiating encounter
 - b. Physical description of MCSO officer(s) present at the encounter
 - c. If encounter was initiated as a traffic stop, the name of the driver and/or owner of the vehicle stopped, license plate number of vehicle stopped, and/or description of vehicle (e.g., blue 1999 Chevrolet van)
 - d. Any documentation pertaining to encounter with MCSO officers and / or the claimant's detention
 - e. Identification documentation that was provided to MCSO at the time of the encounter, if it still exists
 - f. Sworn statements of witnesses to the events described by claimant
4. **If a claim form is returned to BrownGreer and appears incomplete, BrownGreer will return the form to the claimant with instructions**

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to correct the deficiency and return the form in 30 days. If the form remains incomplete at that point, BrownGreer will evaluate it “as is.”

5. ***MCSO’s Burden to Rebut PFC for Track B Claimants***

- a. If claimant meets the PFC threshold, MCSO must come forward with credible, competent evidence that casts doubt on one or more elements of the claim within 30 120 days of receiving access to a complete file from BrownGreer. Should MCSO require additional time, they may make an application to BrownGreer to have an additional 90 days (up to 120 days total), which BrownGreer will grant provided it is for a reasonable reason (i.e., high volume of claims).
- b. Examples of evidence that can satisfy MCSO’s burden to come forward with rebuttal evidence include:
 - i. Attestation that MCSO has no record of the encounter alleged by claimant in cases where the MCSO would otherwise have such records
 - ii. Testimonial or other evidence that encounter alleged by claimant did not occur
 - iii. Documentation showing that claimant’s encounter with MCSO officers was, in some significant way, other than as represented by claimant.
 - iv. Testimonial or other evidence that the length of detention was not as represented by claimant
- c. In any cases where MCSO opts to rebut a case, notice and a copy of what MCSO submits will be provided to the claimant if he or she is not represented by counsel, or any counsel who has entered an appearance and is representing the claimant with respect to his or her claim. Claimants and, where applicable, his or her counsel will have 30 120 days to respond, but may request an extension of 90 days, for a total of 120 days if BrownGreer deems the request reasonable.

6. ***Establishing eligibility for compensation for additional injury***

- a. BrownGreer will consider evidence of the following additional injuries in determining the final award amount (from Plaintiffs’ last proposal):

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- i. Damages arising out of physical harm and/or severe emotional distress that was proximately caused by the detention (up to a cumulative limit for all such damages for emotional distress of \$7,500), including, but not limited to –
 - (a) Ongoing physical harm that occurred as a result of detention and pain and suffering, if any, arising directly out of the physical injury sustained by the claimant
 - (b) Medical bills paid or other out of pocket costs that arose as a result of physical/emotional harm caused by detention
 - (c) Severe emotional distress that occurred as a result of detention and associated costs, if the claimant can establish by credible and competent evidence physical manifestation and the need for treatment (*i.e.*, claimant suffered shock or mental anguish manifested by a physical injury)
- ii. Lost Property - value of property confiscated and expenses incurred as a result of the confiscation and in trying to get it back (up to a cumulative limit for all such losses of \$5,000)
 - 1. Car impounded - loss of time / money in getting car back
 - 2. Money taken
 - 3. Credit / debit cards taken
 - 4. Identification taken - loss of time / money in getting legitimate and lawful identification returned or replaced (not including driver's licenses seized because suspended)
 - 5. Other items
- iii. Detention (and length of detention) by ICE/CBP that was proximately caused by MCSO (\$500 for first hour, or any portion thereof, of detention after first 20 minutes; plus \$35 for each additional segment of 20 minutes, or any portion thereof, up to a maximum cumulative total of \$2,915)

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- iv. Lost wages, foregone employment opportunities or loss of job (with recovery limited to the lesser of 30 days of documented lost wages or \$7,500)
 - 1. Dollar amount of wages lost (up to 30-day/\$7,500 limit) as a result of being detained (must be supported by pertinent documentation, e.g., pay stubs from pre-detention employment)
 - 2. Other costs associated with lost job, e.g., days spent trying to find new job for which claimant can show he or she was legally eligible (\$200/day up to a maximum of \$1,000)
- v. Other provable harms (up to a cumulative maximum of \$2,500)
 - 1. E.g., if claimant personally incurred and paid legal fees, or lost housing / had to find other houses as a result of detention and associated expenses
- (c) The absence of documentation of out of pocket costs will not automatically disqualify an individual from receiving compensation for that injury if there is a reasonable explanation for the absence and alternative corroborating evidence, such as affidavits from individuals with direct personal knowledge about the relevant issue (such as treating medical providers) other than the claimant.
- (d) A Social Security number (or other government identification number) will be requested of all claimants to process a claim for compensation to permit BrownGreer to ensure claim integrity. Claim forms shall state prominently that a Social Security number is not required in order to receive compensation; however, if a person who has a Social Security Number or Resident Alien Number is requesting compensation for out of pocket medical expenses, that number must be reported to receive that part of the compensation claim. Government identification numbers will be excised from all documents provided to the parties, except in cases where the individual is claiming compensation for out of pocket medical expenses. In such a case, a government identification number will be provided.
- (e) BrownGreer will be responsible for determining whether any tax documentation is required to be issued in conjunction with paying out claims, and be responsible for issuing such

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document that may be necessary for Maricopa County as the payor (*i.e.*, 1099s, W2s).

7. ***Interviewing Track B claimants and other witnesses***

- a. Either claimant or MCSO may demand the right to have BrownGreer question witnesses in any case in which the credibility and/or bias of one or more witnesses may be in issue. The party requesting such an interview shall be required to provide compensation for the BG staff member conducting the interview at the rate of \$___/ hour for the time spent in the interview and for up to two (s) hours of preparation time. Either party may, but is not required to, submit questions to be asked of the witness(es) in such interviews. Both parties and Plaintiffs' class counsel may be present at such interviews. Claimant will be given notice if he or she or their witness are to be interviewed, and may be represented by Plaintiffs' counsel or their own representative. For witnesses not in Maricopa County, efforts will be made to accommodate their interview, such as interviews by Skype or other video conference technology.
- b. Interviews will be limited to 30 minutes, and both parties may submit questions to BrownGreer to ask, although BrownGreer has the authority to ask additional questions to enable them to determine the veracity of the claims.

VI. Minimum Compensation for Detention

- A. Claimants will be awarded a base amount of ~~\$1500~~ \$500 for detention lasting up to one hour, ~~if the individual is detained past 20 minutes.~~ Claimants will be awarded an additional base amount of ~~\$1000~~ \$35 for each additional 20 minute segment of detention thereafter (or any portion thereof), ~~up to a cumulative maximum for any detention of \$2915.~~
- B. These base amounts are in addition to any compensation that BrownGreer may award for additional injury under Section V.J.5.a.

VII. No Appeal. Any party will have the ability to request reconsideration of BrownGreer's decision by BrownGreer, but otherwise have no right of appeal.

VIII. Award Disbursement. Defendants will set up an account to which BrownGreer would have access for the purpose of paying out claims adjudicated in favor of claimants, with at least monthly accounting to the County showing all disbursements made.

IX. Confidentiality. ~~A protective order will be sought to maintain the confidentiality of personal and/or private information of claimants and other individuals~~

Tab 5

mentioned in or who submit evidence in support of claimants' applications, as well as confidential documents from the U.S. Department of Homeland Security (DHS) and its components. Claim forms, with personal information (home addresses, telephone numbers, email addresses, Social Security numbers) redacted, along with the amount paid to successful claimants, are subject to disclosure pursuant to Arizona's public records laws. Defendants cannot guarantee, however, that other information in claimants' case files will not be required to be disclosed to someone who successfully sues for that information.

- X. **Program Reporting.** BrownGreer will create an online reporting portal where the parties can access claim tracking and processing information, including processing times, and create downloadable reports. BrownGreer will also be available to directly provide any reports to the Court, if necessary, at no additional cost.
- XI. **Attorneys' Fees.** If claimant successfully pursues compensation through the use of an attorney, that attorney will be entitled to fees, not to exceed \$750, and not more than the amount the claim award. A major purpose of this optional process is to make it sufficiently user-friendly that claimants can realistically determine in many cases that they do not need to be represented by counsel. If they nevertheless decide to retain counsel to advise and/or represent them in this process, they should also assume the responsibility for paying the fees of such counsel.

Tab 5b



FIRM OVERVIEW

BROWNGREER PLC
250 Rocketts Way
Richmond, VA 23231
www.browngreer.com





BROWNGREER PLC

OUR FIRM

BrownGreer PLC is a premier claims resolution firm that assists clients with the legal and administrative aspects of the design, approval, and implementation of claims facilities to provide damages payments, medical monitoring, or other benefits for the resolution of mass claims. We also develop and implement the notice campaigns and other communications to the potential and actual claimants involved in such programs. Members of our firm additionally serve as or represent the trustees or directors of claims facilities.

BrownGreer was formed in 2002, and our principals, Orran Brown, Sr. and Lynn Greer, have been at the center of some of the most significant multiple claims resolutions for more than 25 years. Our mission has been to fulfill the responsibilities of any settlement program to the satisfaction of all involved parties, including claimants, counsel, courts, and other governmental entities.

“[T]he expedited resolution of approximately fifty thousand personal injury claims could not have been achieved without the extraordinary effort and outstanding work put forth by BrownGreer PLC in its role as Claims Administrator.”

The Honorable Eldon E. Fallon
U.S. District Judge, Eastern District of Louisiana
In re Vioxx Products Liability Litigation, MDL Docket
No. 1657, December 9, 2011

As a firm of lawyers, analysts, software programmers and claims reviewers, we combine highly skilled lawyering with a practical understanding of the need for organized and centralized information and data, effective communication, and the administrative processes necessary to resolve multiple claims efficiently.

We administer and process claims for settlements arising from class actions, multidistrict litigation, government enforcement proceedings, and other aggregation vehicles. Our court-supervised and voluntary settlement program experience covers causes of action including antitrust, bankruptcy, consumer protection, labor and employment, and products liability.

“[T]he notice provided by BrownGreer was state of the art and well-tailored to reach the maximum number of class members.”

The Hon. James F. Holderman
U.S. District Judge, Northern District of Illinois,
*In re Capital One Telephone Consumer
Protection Act Litigation*, MDL No. 2416,
February 12, 2015

Our firm handles complex claims administration programs in a variety of industry contexts, including consumer products, food and beverage, financial services, pharmaceuticals and medical devices, and retail.

We create interactive databases that allow for instantaneous exchange of information, eliminating costs associated with data entry delays, thereby increasing the efficiency and ease of sharing vast amounts of information. We can establish secure web-based portals that allow for real-time data capture, ad hoc reporting by external users, access to information about claim status that is available to only the person authorized to



view such data, and automatic notification of deadlines accompanied by email blasts alerting parties to these deadlines and requirements.

BrownGreer employs a variety of market-leading strategies to measure and monitor internal quality and efficiencies in the administration of settlement programs. Our methods include continuous utilization of seasoned team trainers for employees on each program, rigorous software assessments, reviewer competency testing in a simulated processing environment, plain language FAQ development, automated discrepancy metric triggers, and dedicated quality assurance and fraud detection teams.

BrownGreer is “one of the best outfits in the country to handle this kind of a disposition of funds and management of a class action.”

The Honorable John A. Gibney, Jr.
U.S. District Judge, Eastern District of Virginia
Morgan v. Richmond School of Health and Technology, Inc., No. 3:12-cv-00373-JAG,
April 23, 2013

OUR SERVICES

- ▶ Settlement Agreement Consultation
- ▶ Notice Administration
- ▶ Special Master
- ▶ Neutral Claims Administrator
- ▶ Claims Processing
- ▶ Multiple Claim Online Fact Sheets
- ▶ Online Discovery Repositories
- ▶ Automatic Pleadings Retrieval from ECF
- ▶ Program Website Design and Hosting
- ▶ Payment Programs
- ▶ Program Communications Management
- ▶ Claims Administration Audits
- ▶ Claims Process Design
- ▶ Lien Administration

OUR TEAMS

Legal

- ▶ Founding Partners
- ▶ Partners
- ▶ Senior Counsel
- ▶ Counsel

Technical

- ▶ Information Management
- ▶ Software Architects
- ▶ Project Leaders
- ▶ Database Administrators
- ▶ Programmer Analysts

Project Management

- ▶ Project Managers
- ▶ Senior Analysts
- ▶ Analysts
- ▶ Training Department
- ▶ FAQ Team

Claims Processing

- ▶ Claims Reviewers
- ▶ Mail Handlers
- ▶ Document Scanners

Customer Support

- ▶ Call Center Representatives
- ▶ Law Firm Contacts
- ▶ Pro Se Contacts



SELECT EXPERIENCE

PERSONAL INJURY SETTLEMENT PROGRAMS

	PROGRAM DESCRIPTION	ROLE	PROGRAM SIZE	SETTLEMENT FUND
1.	<i>In re Vioxx Products Liability Litigation</i>, MDL Docket No. 1657 (E.D. La.) . Voluntary settlement program to resolve claims arising from the use of prescription painkillers.	Claims Administrator	60,000 Claimants	\$4.85 Billion
2.	<i>In re Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Products Liability Litigation</i>, MDL Docket No. 1203 (E.D. Pa.) . Class action settlement to resolve claims arising from the use of “Fen-Phen” diet drugs.	Liaison for the Defendant to the Settlement Trust	600,000 Claimants	\$3.55 Billion
3.	<i>In re A.H. Robins Company Inc., Debtor (In re Dalkon Shield Claimants Trust)</i>, MDL Docket No. 211 (Bankr. E.D. Va.) . Settlement program created in the Chapter 11 bankruptcy proceeding of the A.H. Robins Company to resolve claims arising from use of the Dalkon Shield intrauterine device.	Counsel to the Settlement Trust	400,000 Claimants	\$3 Billion
4.	<i>In re Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Products Liability Litigation</i>, MDL Docket No. 1203 (E.D. Pa.) . Voluntary settlement program to resolve opt outs from the class action settlement of claims arising from use of “Fen-Phen” diet drugs.	Claims Administrator	66,000 Claimants	\$2.63 Billion
5.	<i>In re DePuy Orthopaedics, Inc., ASR Hip Implant Products</i>, MDL Docket No. 2197 (N.D. Ohio) . Voluntary settlement program for claims relating to metal-on-metal hip implant devices.	Claims Administrator	7,500 Claimants	\$2.475 Billion
6.	<i>In Re: Actos (Pioglitazone) Products Liability Litigation</i>, MDL Docket No. 2299 (W.D. La.) . Voluntary settlement program to resolve claims arising from the use of a diabetes medication.	Claims Administrator	TBD	\$2.37 Billion
7.	<i>Confidential</i> . Voluntary settlement program of claims arising from the use of a prescription medication.	Claims Administrator	12,000 Claimants	Fund Uncapped; \$1.4 Billion Disbursed
8.	<i>In re Sulzer Orthopedics and Knee Prosthesis Products Liability Litigation</i>, MDL Docket No. 1401 (N.D. Ohio) . Class action settlement of claims relating to hip and knee implants.	Claims Administrator	27,000 Claimants	\$1.15 Billion
9.	<i>In re National Football League Players’ Concussion Injury Litigation</i>, MDL Docket No. 2323 (E.D. Pa.) . Proposed class action settlement to resolve claims by retired National Football League players relating to repetitive head impacts.	Claims Administrator	TBD	Fund Uncapped
10.	<i>In re Pradaxa (Dabigatran Etxilate) Products Liability Litigation</i>, MDL Docket No. 2385 (S.D. Illinois) . Voluntary settlement program to resolve claims arising from the use of blood thinning medication.	Claims Administrator	4,800 Claimants	\$650 Million



PERSONAL INJURY SETTLEMENT PROGRAMS

	PROGRAM DESCRIPTION	ROLE	PROGRAM SIZE	SETTLEMENT FUND
11.	Confidential. Voluntary settlement program of claims arising from the use of a prescription medication.	Claims Administrator	2,700 Claimants	Fund Uncapped; \$279 Million Disbursed
12.	<i>In re Guidant Implantable Defibrillators Products Liability Litigation Settlement, MDL Docket No. 1708 (D. Minn.)</i> . Voluntary settlement program to resolve claims related to a medical device company's cardiac resynchronization therapy devices, implantable cardiac defibrillators, and pacemakers.	Advised Defendant and Defense Counsel	26,000 Class Members	\$240 Million
13.	<i>In re Nuvaring Products Liability Litigation, MDL Docket No. 1964 (W.D. Mo.)</i> . Voluntary settlement program to resolve claims related to the use of a contraceptive device.	Claims Administrator	3,800 Claimants	\$100 Million
14.	<i>In re Phenylpropanolamine (PPA) Products Liability Litigation, MDL Docket No. 1407 (W.D. Wash.)</i> . Class action settlement trust established to resolve claims related to an over-the-counter weight loss product.	Claims Administrator	500 Claimants	\$60 Million
15.	<i>In re Yasmin and YAZ (Drospirenone) Marketing, Sales Practices and Products Liability Litigation, MDL Docket No. 2100 (S.D. Ill.)</i> . Voluntary settlement program to resolve claims related to a prescription oral contraceptive.	Claims Administrator	9,000 Claimants	\$24 Million
16.	<i>In re OxyContin Litigation - All Cases, No. 2002-CP-18-1756 (Dorchester County S.C. Ct.)</i> . Class action settlement by a pharmaceutical company regarding a prescription painkiller.	Notice and Claims Administrator	3,600 Class Members	\$4.25 Million
17.	<i>In re Seroquel Products Liability Litigation, MDL Docket No. 1769 (M.D. Fla.)</i> . Multidistrict litigation proceedings involving the antipsychotic prescription drug Seroquel.	Orran Brown, Special Master; Project Manager	Not Applicable	Not Applicable



ECONOMIC LOSS SETTLEMENT PROGRAMS

	PROGRAM DESCRIPTION	ROLE	PROGRAM SIZE	SETTLEMENT FUND
1.	<i>Gulf Coast Claims Facility.</i> Voluntary claims program to resolve economic loss and physical injury claims arising from the April 20, 2010 oil spill in the Gulf of Mexico.	Claims Administrator; Transition Coordinator	600,000 Claimants	\$20 Billion cap; \$6.5 Billion disbursed
2.	<i>In re Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010, MDL Docket No. 2179 (E.D. La).</i> Class action settlement to resolve economic loss and property damage claims arising from the April 20, 2010 oil spill in the Gulf of Mexico.	Claims Administrator	220,000 Claimants	Uncapped Fund; \$4.9 Billion disbursed
3.	<i>In re Black Farmers Discrimination Litigation, No. 08-mc-0511 PLF (D.D.C.).</i> Class action settlement to resolve claims of discrimination against African-American farmers by the U.S. Department of Agriculture regarding farm loans and loan servicing for claimants who had missed deadlines in a prior settlement.	Claims Review and Evaluation	40,000 Claimants	\$1.25 Billion
4.	<i>In re Record Company Infringement Litigation, No. 6:15-cv-00708 (M. D. Fla.)</i> Consolidated proceedings involving 65+ parties and alleged violations of copyrights and contracts.	Orran Brown, Special Master; Project Manager	Not Applicable	Not Applicable
5.	<i>United States Securities and Exchange Commission v. American International Group, Inc., No. 06-Civ. 100-LAP (S.D.N.Y.).</i> Securities enforcement action settlement between the SEC and a multinational insurance corporation over allegations of accounting fraud and related shareholder litigation.	Audited the Claims Administrator	260,000 Class Members	\$843 Million
6.	<i>In re Genetically Modified Rice Litigation, MDL Docket No. 1811 (E.D. Mo.).</i> Voluntary claims program to resolve claims concerning genetically modified rice and crop values.	Claims Administrator	12,000 Claimants	\$750 Million
7.	<i>In re Chinese-Manufactured Drywall Products Liability Litigation, MDL Docket No. 2047 (E.D. La.).</i> Class action settlement for the remediation of homes containing defective drywall manufactured in China.	Claims Administrator; Lynn Greer, Special Master	25,000 Claimants	Blend of Uncapped and Capped Funds; \$395 Million disbursed
8.	<i>United States v. National Treasury Employees Union, No. 93-1170 (D.C. App.).</i> Class action settlement between a federal employees’ union and the U.S. Government for back payment of wages.	Trustee of Settlement Trust	212,000 Class Members	\$173 Million
9.	<i>Blando v. Nextel West Corp., No. 02-0921-FJG (W.D. Mo.).</i> Class action settlement by a wireless telecommunications provider to resolve claims under Missouri law involving “cost recovery fees” charged to customers.	Advisor to the Court	5,000,000 Class Members	\$165 Million
10.	<i>In re Capital One Telephone Consumer Protection Act Litigation, MDL Docket No. 2416 (N.D. Ill.).</i> Class action settlement to resolve claims arising from alleged violations of the Telephone Consumer Protection Act.	Notice and Claims Administrator	17,500,000 Class Members	\$75.4 Million



ECONOMIC LOSS SETTLEMENT PROGRAMS

	PROGRAM DESCRIPTION	ROLE	PROGRAM SIZE	SETTLEMENT FUND
11.	<i>In re Vioxx MDL Settlement Agreement Related to Consumer Class Actions</i>, MDL Docket No. 1657 (E.D. La.). Class action settlement to resolve consumer protection claims arising from the marketing of prescription painkillers.	Claims Administrator	8,000 Claimants	\$23 Million
12.	<i>Yarger v. ING Bank, FSB</i>, No. 11-154-LPS (D. Del.). Class action settlement to resolve claims related to advertising fixed rate mortgages under Delaware consumer law.	Notice and Claims Administrator	115,000 Class Members	\$20 Million
13.	<i>Acosta v. Tyson Foods, Inc.</i>, No. 8:08-cv-86 (D. Neb.). Class action settlement by a poultry producer to resolve claims under the Fair Labor Standards Act and Nebraska law for employee compensation for time spent donning/doffing protective equipment.	Notice Administrator	3,700 Class Members	\$19 Million
14.	<i>United States of America v. Capital One, N.A.</i>, No. 1:12-cv-828 (E.D. Va.). Consent decree between a financial services company and the Department of Justice to resolve alleged violations of the Servicemembers Civil Relief Act.	Notice and Claims Administrator	44,000 Claimants	\$15 Million
15.	<i>Ene v. Maxim Healthcare Services, Inc.</i>, No. 4:09-cv-02453 (S.D. Tex.). Class action settlement by a healthcare provider to resolve claims under the Fair Labor Standards Act concerning the classification of healthcare recruiters as exempt from overtime pay.	Notice Administrator	1,600 Class Members	\$12.3 million
16.	<i>Spinelli v. Capital One Bank (USA)</i>, No. 8:08-cv-132 (M.D. Fla.). Class action settlement by a financial services company with credit cardholders to resolve claims under the Truth in Lending Act.	Notice and Claims Administrator	9,000,000 Class Members	\$5 Million
17.	<i>Hankins v. Carmax Inc.</i>, No. 03-C-07-005893 CN (Baltimore County Md. Cir. Ct.). Class action settlement to resolve claims alleging that a retail car company sold used vehicles without disclosing that the vehicles had been used previously as short-term rentals.	Notice and Claims Administrator	7,300 Class Members	\$8 Million
18.	<i>Cohen v. Warner Chilcott Public Ltd. Co.</i>, No. 1:06-cv-00401-CKK (D.D.C.). Class action settlement to resolve antitrust claims against two pharmaceutical companies regarding the sale of an oral contraceptive.	Notice Administrator	2,000,000 Class Members	\$6 Million
19.	<i>Morgan v. Richmond School of Health and Technology, Inc.</i>, No. 3:12-cv-00373-JAG (E.D. Va.). Class action settlement by a for-profit vocational college to resolve claims under the Equal Credit Opportunity Act, Title VI of the Civil Rights Act of 1964 and the Virginia Consumer Protection Act.	Notice and Claims Administrator	4,200 Class Members	\$5 Million
20.	<i>Gomez v. Tyson Foods, Inc.</i>, No. 08-021 (D. Neb.). Class action settlement by a poultry processing company of Fair Labor Standards Act and Nebraska law claims for compensation for time donning/doffing protective equipment.	Notice Administrator	5,300 Class Members	\$5 Million



ECONOMIC LOSS SETTLEMENT PROGRAMS

	PROGRAM DESCRIPTION	ROLE	PROGRAM SIZE	SETTLEMENT FUND
21.	Rogers v. City of Richmond, Virginia, No. 3:11-cv-00620 (E.D. Va.). Class action settlement under the Fair Labor Standards Act and Virginia law involving current and former city police officers alleging unpaid overtime wages.	Claims Administrator	600 Claimants	\$4.6 Million
22.	Gales v. Capital One, No. 8:13-cv-01624-WGC (D. Md.). Class action settlement to resolve claims related to vehicle purchases made through Retail Installment Sale Contracts electing Subtitle 10 of Title 12 of Maryland's Commercial Law Article.	Notice and Payment Administrator	9,300 Class Members	\$4.4 Million
23.	Llewellyn v. Big Lots Stores, Inc., No. 09-cv-5085 (E.D. La.). Class action settlement by a retailer to resolve claims under the Fair Labor Standards Act regarding the classification of assistant store managers.	Claims Administrator	200 Class Members	\$4 Million
24.	Herron v. CarMax Auto Superstores, Inc., No. 2006-CP-02-1230 (Aiken County S.C. Jud. Dist.). Class action settlement to resolve claims related to document processing fees charged to customers by a car dealer.	Notice and Claims Administrator	27,000 Class Members	\$3.8 Million
25.	Collins v. Sanderson Farms, Inc., No. 2:06-cv-02946 (E.D. La.). Class action settlement by a poultry processing company to resolve claims under the Fair Labor Standards Act regarding employee compensation for time spent donning/doffing protective equipment.	Notice and Claims Administrator	21,000 Class Members	\$3.1 Million
26.	Nader v. Capital One Bank (USA), No. CV-12-01265-DSF (RZx) (C.D. Cal.). Class action settlement by a financial institution to resolve claims under state privacy and wiretapping laws concerning the alleged recording of outbound customer service calls.	Notice and Claims Administrator	1,800,000 Class Members	\$3 Million
27.	In re Children's Ibuprofen Oral Suspension Antitrust Litigation, No. 1:04-mc-0535 (D.D.C.). Class action settlement to resolve claims of antitrust violations by two manufacturers of over-the-counter children's pain relievers.	Notice Administrator	10,000 Class Members	\$3 Million
28.	United States of America v. Chevy Chase Bank, F.S.B., No. 1:13-cv-1214 (E.D. Va.). Consent decree between a financial services company and a federal regulatory agency involving allegations under the Equal Credit Opportunity and Fair Housing Acts.	Notice and Claims Administrator	3,500 Class Members	\$2.85 Million
29.	Samuel v. EquiCredit Corp., No. 00-cs-6196 (E.D. Pa.). Class action settlement by a financial services institution to resolve claims under the Real Estate Settlement Procedures Act regarding the application of loan proceeds to pay mortgage broker fees.	Notice and Claims Administrator	13,000 Class Members	\$2.5 Million
30.	Hall v. Capital One Auto Finance, Inc., No. 1:08-cv-01181 (N.D. Ohio). Class action settlement by a financial services company to resolve claims related to automobile repossession under Ohio consumer statutes.	Notice and Claims Administrator	3,400 Class Members	\$1.5 Million



ECONOMIC LOSS SETTLEMENT PROGRAMS

	PROGRAM DESCRIPTION	ROLE	PROGRAM SIZE	SETTLEMENT FUND
31.	Watts v. Capital One Auto Finance, Inc., No. CCB-07-03477 (D. Md.) . Class action settlement by a financial services company to resolve claims related to automobile repossession under Maryland consumer statutes.	Notice and Claims Administrator	2,700 Class Members	\$990,000
32.	Churchill v. Farmland Foods, Inc., No. 4:06-cv-4023 (C.D. Ill.) . Class action settlement by a pork processing company to resolve claims under the Fair Labor Standards Act and Illinois law regarding employee compensation for time spent donning/doffing protective equipment.	Notice and Claims Administrator	2,300 Class Members	\$980,000
33.	Polanco v. Moyer Packing Company, No. C.P., 1852 (Philadelphia County Pa.) Class action settlement by a beef processing company to resolve claims under the Fair Labor Standards Act and Pennsylvania law regarding employee compensation for time spent donning/doffing protective equipment.	Notice and Claims Administrator	4,500 Class Members	\$850,000
34.	Bessey v. Packerland Plainwell, Inc., No. 4:06-cv-0095 (W.D. Mich.) . Class action settlement by a pork processing company to resolve claims under the Fair Labor Standards Act and Michigan law regarding employee compensation for time spent donning/doffing protective equipment.	Notice and Claims Administrator	3,000 Class Members	\$700,000
35.	Santiago v. GMAC Mortgage Group, Inc., No. 784574 (E.D. Pa.) . Class action settlement by a financial services company to resolve claims under the Real Estate Settlement Procedures Act concerning charges for mortgage settlement services.	Notice and Claims Administrator	84,000 Class Members	\$650,000
36.	Contreras v. PM Beef Holdings, LLC, No. 07-CV-3087 (D. Minn.) . Class action settlement by a beef processing company to resolve Fair Labor Standards Act and Minnesota law claims for compensation for time spent donning/doffing protective equipment.	Notice and Claims Administrator	3,000 Class Members	\$500,000
37.	Morales v. Greater Omaha Packing Co. Inc., No. 8:08-cv-0161 (D. Neb.) . Class action settlement by a beef processing company to resolve claims under the Fair Labor Standards Act and Nebraska law regarding employee compensation for time spent donning/doffing protective equipment.	Notice and Claims Administrator	4,000 Class Members	\$490,000
38.	Graham v. Capital One Bank (USA), N.A., 8:13-cv-00743 (C.D. Cal.) . Class action settlement related to claims under the California Unfair Competition Law regarding alleged improper disclosures and charges assessed on credit card accounts.	Notice and Claims Administrator	22,500 Class Members	\$460,000
39.	In re Moyer Packing Co., P. & S. Docket No. D-07-0053 (U.S. Dep't Agric.) . Consent decision involving a beef processing company to compensate cattle producers for goods sold based on weights derived using an allegedly malfunctioning weight calculation system.	Notice and Claims Administrator	1,100 Claimants	\$325,000



ECONOMIC LOSS SETTLEMENT PROGRAMS

	PROGRAM DESCRIPTION	ROLE	PROGRAM SIZE	SETTLEMENT FUND
40.	Confidential. Voluntary payment program by a city government to compensate current and former city police officers for unpaid overtime wages.	Claims Administrator	175 Class Members	\$300,000
41.	Wilder v. Triad Financial Corp., No. 3:03-cv-863 (E.D. Va.). Class action settlement by a financial services company to resolve claims associated with automobile loan applications under the Fair Credit Reporting Act.	Notice and Claims Administrator	80,000 Class Members	\$200,000
42.	Conerly v. Marshall Durbin Food Corp., No. 2:06-cv-205 (N.D. Ala.). Class action settlement by a poultry processing company to resolve the Fair Labor Standards Act claims for time spent donning/doffing protective equipment.	Notice and Claims Administrator	1,900 Class Members	\$150,000
43.	Ferguson v. Food Lion, LLC, No. 12-c-861 (Berkeley County W. Va. Cir. Ct.). Class action settlement by a retail company to resolve claims under the West Virginia Wage Payment and Collection Act regarding timing of paychecks issued to discharged employees.	Notice and Claims Administrator	185 Class Members	\$150,000
44.	Confidential. Voluntary settlement by a food processing company to resolve claims regarding employee compensation for donning/doffing protective equipment.	Notice Administrator	670 Class Members	\$125,000
45.	Cook v. Columbia Freightliner, LLC, No. 10-CP-02-1987 (Aiken County S.C. Jud. Dist.). Class action settlement to resolve claims regarding a trucking company and the collection of administrative fees in the sale of motor vehicles.	Notice and Claims Administrator	380 Class Members	\$17,000
46.	Confidential. Voluntary payments by a financial institution to reimburse fees charged to the credit card accounts of small business owners.	Payment Administrator	650 Class Members	\$16,000
47.	Clark v. Group Hospitalization and Medical Services, Inc., No. 3:10-CIV-00333-BEN-BLM (S.D. Cal.). Class action settlement by a health insurance provider to resolve claims under the Employee Retirement Income Security Act and California's Unfair Competition Law.	Notice and Claims Administrator	80 Class Members	\$1,300 Disbursed
48.	Quinn v. BJC Health System, No. 052-00821A (City of St. Louis Mo. Cir. Ct.). Class action settlement by a healthcare system to resolve claims associated with hospital fees charged to uninsured patients.	Claims Administrator	26,000 Class Members	Debt Reduction/ Forgiveness to Qualifying Class Members
49.	In re Lehman Brothers Holdings Inc., No. 08-13555-JMP (Bankr. S.D.N.Y.). Program to track, monitor and evaluate fees being charged by bankruptcy lawyers in the Lehman Brothers Chapter 11 bankruptcy proceeding.	Fee Committee Assistant	Not Applicable	Not Applicable

Tab 5c



FOUNDING PARTNER

ORRAN L. BROWN, SR.



BROWNGREER PLC
250 Rocketts Way
Richmond, Virginia 23219-4052
Direct Dial: (804) 521-7201
Facsimile: (804) 521-7299
obrown@browngreer.com

Orran provides guidance and leadership on the legal and administrative aspects of the design, approval, and implementation of notice programs and claims facilities for the resolution of mass claims through class action settlement, bankruptcy reorganization, voluntary agreement, or other aggregation vehicles. He serves as a neutral claims administrator, as a trustee directing the implementation of settlement programs, and as a court-appointed special master presiding over discovery, adjudicating discovery disputes and ensuring that pre-trial discovery progresses efficiently and in a timely manner.

Education

Harvard Law School, Cambridge MA

J.D. *cum laude*, 1981 (research assistant to Professor Lloyd Weinreb in criminal law and process; various student organizations)

Hampden-Sydney College, Hampden-Sydney, VA

Hampden-Sydney, Virginia. B.A. *summa cum laude*, Government and Foreign Affairs, 1978 (GPA 4.0 out of 4.0; Co-Valedictorian; Chairman of the Student Court; Baker Scholar; Jefferson Scholar; Phi Beta Kappa; Omicron Delta Kappa; Pi Sigma Alpha; Eta Sigma Phi; received Algernon Sydney Sullivan Medallion for Leadership at graduation)

Professional Experience

BrownGreer PLC, Richmond, Virginia.

2002 – Present. Partner and Co-Founder of a firm that specializes in MDL and multiple claim litigation and the legal and administrative aspects of the design, approval, and implementation of claims facilities to provide damages payments, medical monitoring, or other benefits for the resolution of mass claims through class action settlement, bankruptcy reorganization, voluntary agreement, or other aggregation vehicles, and in serving as the neutral fiduciary directing such facilities and programs.

Bowman and Brooke, LLP, Richmond, Virginia.

1999 – 2002. Partner. Founder and Director of the Mass Claims Resolution Group and member of the firm's Executive Committee. Specialized in mass tort, class action, and other group claims



facility matters, proceedings and appeals. Advised management, trustees, and claims administrators on the efficient design and operation of group claims facilities, strategies for the successful resolution of claims, the negotiation and drafting of resolution plans, legal proceedings to obtain court approval, and compliance with the agreements or court orders governing the claims resolution process. Also handled complex litigation matters.

Adjunct Professor, University of Richmond School of Law.

1997 – 2004. Taught an upper-level course on MDL proceedings and complex litigation from 2001 through 2004. Taught trial and appellate practice from 1997 through 2001.

Outside Counsel to the Dalkon Shield Claimants Trust, Richmond, Virginia.

1990 – Present. Served as the primary outside general counsel to the \$3.5 billion trust established in the Chapter 11 bankruptcy proceeding of the A. H. Robins Co. to handle over 400,000 personal injury claims arising from the Dalkon Shield IUD. Advised the Trust's management, trustees, inside counsel, and other outside counsel in the United States and other countries on the legal and managerial aspects of the Trust's fiduciary duties, operations (including employment issues and the Trust's lease, banking, investment and other contractual relationships), claims processing arrangements, and coordination and design of Alternative Dispute Resolution, arbitration, and trial proceedings on Dalkon Shield Claims. Represented the Trustees in the judicial proceedings in the bankruptcy and district courts, and many appeals to the Court of Appeals for the Fourth Circuit, arising out of implementing the bankruptcy Plan. Performed the same role for the two other trust funds created to handle Dalkon Shield Claims. Handled the steps and proceedings to close the three trusts and create insurance coverage and an escrow agent for run-off issues until 2008.

Christian, Barton, Epps, Brent & Chappell, Richmond, Virginia.

1986 – 1995. Partner and Member of the firm's Executive Committee. Handled securities fraud class actions, employment, products liability and commercial litigation in state and federal courts in Virginia and elsewhere. Counseled clients on employment law issues. Arbitrator for the American Arbitration Association for securities fraud and construction cases. Joined the partnership in 1990. Began representing the Dalkon Shield Claimants Trust in 1990 while still a member of this firm.

Litigator in Houston, Texas.

1982 – 1986. First with Liddell, Sapp, Zively, Brown & LaBoon and then with Miller, Keeton, Bristow & Brown after the Liddell, Sapp Litigation Chairman moved to that firm. General litigation matters, including the *Pennzoil v. Texaco* suit arising from Texaco's acquisition of Getty Oil. Tied for the highest score on the February 1983 Texas bar examination.

Law Clerk to the Hon. Robert R. Merhige, Jr.

1981 – 1982. United States District Court for the Eastern District of Virginia, Richmond, Virginia.



Professional Activities

- Virginia State Bar
- State Bar of Texas (Inactive status; tied for the highest score on the spring 1983 Texas Bar Examination)
- Permanent Member, Fourth Circuit Judicial Conference
- Founding Member, Richmond Inn of Court

Bar Admissions

- Virginia and Texas
- United States Supreme Court
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Fifth Circuit
- United States District Courts in Virginia and Texas

Selected Speaking and Writing

- American Conference Institute: *11th Annual Drug and Medical Device Litigation. Making the Decision to Settle and Devising Novel End-Game Strategies.* December 15, 2006.
- American Conference Institute: *Resolving Mass Tort Products Liability Claims. What You Must Know About Settlement Administration.* March 28, 2007.
- American Conference Institute: *Resolving Mass Tort Products Liability Claims. Developing Your Settlement Position with Respect to Mass Tort Product Claims.* March 28, 2007.
- Louisiana State Bar Association's 8th Annual Class Action/Mass Tort Symposium. *The Function and Scope of the Claims Administration Process.* October 17, 2008.
- Center on Civil Justice: *The Future of Class Action Litigation: A View from the Consumer Class.* November 7, 2014.

Personal

- Born in Lynchburg, Virginia, 1956
- Grew up on a family tobacco farm in Bedford County, Virginia, and worked on the farm until law school
- Married to Ellen Firsching Brown (former Environmental lawyer with Hunton & Williams, the Office of the Attorney General of Virginia and Dominion Resources; former law clerk to Hon. Frederick P. Stamp, Jr., United States District Judge for the Northern District of West Virginia)
- Four children (Orran, Jr., Carly, Read and Drew); two grandchildren (Orran III and Anne Ryland)
- Board of Trustees, Hampden-Sydney College, July 2009 – 2013; 2015 – present)
- Hampden-Sydney College Richmond Alumni Leadership Group, 2006 – 2012)
- City of Richmond Charter Review Commission, 2008 – 2010
- Board of Directors, Housing Opportunities Made Equal, 2014 – present



- Board of Directors, The Corporation for Jefferson's Poplar Forest, February 2009 – present
- Board of Directors, Monument Avenue Preservation Society, 2007 – 2010
- Board of Trustees, The Roller-Bottimore Foundation, 2011 – present
- Boy Scouts Troop 444, Assistant Scout Master, 2014 – present
- Member, St. Stephens Episcopal Church, Richmond, VA
- Various church, community and philanthropic activities
- Interests include reading, gardening and farming

Tab 6

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Case	Description	Length of Detention	Type of Resolution	Amount	Source(s)
<i>Barham v. Ramsey</i> , No. 02-CV-2283 ES (D. D.C.)	Class-member protesters were unlawfully mass detained, arrested, and hog-tied by the D.C. police department	~ 24 hours	Settlement	~ \$21,00 total in two settlement agreements to each of approximately 400 class-member protestors	<ul style="list-style-type: none"> - “<i>Truly Historic Settlement</i>” Approved in <i>Pershing Park Class Action</i>, The Partnership for Civil Justice Fund (Sept. 21, 2010), http://www.justiceonline.org/truly_historic_settlement_approved_in_pershing_park_cl - Home, Barham Settlement, www.pershingparksettlement.com
<i>Becker v. District of Columbia</i> , No. 01-CV-0811 PLF (D.D.C)	Class-member demonstrators and passersby were illegally mass arrested and detained by the D.C. police department	Overnight	Settlement	Up to \$18,000 each for class members for nearly 700 class members	<ul style="list-style-type: none"> - Notice of Class Action, Proposed Settlement, and Hearing Becker, et al. v. District of Columbia, et al., Case No. 01-CV-0811 (PLF)(JMF), available at http://www.classactionlitigation.com/becknot.pdf - <i>U.S. Federal Judge Lauds “Historic Settlement” Resolution</i>, The Partnership for Civil Justice Fund (Jul. 14, 2010), http://www.justiceonline.org/us_federal_judge_lauds_historic_settlement
<i>Flores v. City of Baldwin Park Police Dep’t</i> , No.	Plaintiff was unlawfully detained on an	4 days	Settlement	\$27,000	<ul style="list-style-type: none"> - Settlement Agreement and Release of Claims, available at

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Case	Description	Length of Detention	Type of Resolution	Amount	Source(s)
BC560031 (Los Angeles Cnty. Super. Ct.)	immigration hold, in violation of the California TRUST Act				http://maldef.org/assets/pdf/2016_04-13_Flores_Settlement_Agreement.pdf . - <i>News Release: City of Baldwin Park Settles Suit Brought by Father Unlawfully Detained in Violation of California Trust Act</i> , MALDEF (Apr. 13, 2016), http://www.maldef.org/news/releases/2016_04-13_Baldwin_Park_Settles_California_Trust_Act_Suit/
<i>Galarza v. Szalczyk</i> , No. 10-cv-6815 (E.D. Pa.)	Plaintiff, a U.S. Citizen, was unlawfully held on an immigration detainer	3 days	Settlement	\$145,000 total settlement in two settlement agreements	- <i>Galarza v. Szalczyk</i> , ACLU.org (Jun. 18, 2014), https://www.aclu.org/cases/immigrants-rights/galarza-v-szalczyk
<i>Gardner v. Federated Dep't Stores, Inc.</i> , 907 F.2d 1348 (2d Cir. 1990)	Plaintiff was falsely imprisoned and battered by defendant's security personnel, and was released to police custody	8 hours	Trial Judgment	\$50,000	- <i>Gardner v. Federated Dep't Stores, Inc.</i> , 907 F.2d 1348, 1353 (2d Cir. 1990) (ordering remittitur award)
<i>Hereford v. Reed, et al.</i> , No. 1:11-cv-01535 (N.D. Ga.)	Plaintiff claimed he was unlawfully detained without reasonable suspicion in violation of the Fourth and Fourteenth Amendments	2 hours	Settlement	\$50,000	- Complaint at 7-8, 18, <i>Hereford v. Reed, et al.</i> , No. 1:11-cv-01535 (N.D. Ga. May 11, 2011) - Verdict and Settlement Summary

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Case	Description	Length of Detention	Type of Resolution	Amount	Source(s)
					<p>of <i>Hereford v. Reed, et al.</i>, No. 1:11-cv-01535, WL 2011 WL 11709334 (Sept. 15, 2011 N.D. Ga.)</p> <ul style="list-style-type: none"> - Atlanta City Council Resolution Authorizing the Settlement of All Claims in <i>Hereford v. Reed, et al.</i>, available at http://citycouncil.atlantaga.gov/2011/images/adopted/0906/11R1264.pdf.
<i>Kebede v. City of Bellevue</i> , (State Ct. (Wash.))	Plaintiff was stopped for having an expired license, and claimed she was thereafter unreasonably detained due to her race and national origin	~ 40 minutes	Settlement	\$5,750	<ul style="list-style-type: none"> - Verdict and Settlement Summary of <i>Kebede v. City of Bellevue</i>, 2002 WL 32114127 (State Ct. (Wash.) Dec. 6 2002) - <i>Bellevue Settles Bias Complaint</i>, The Seattle Times (May 19, 2016), http://community.seattletimes.nwsourc.com/archive/?date=20021221&slug=hettle21e)
<i>Lewis et al. v. City of Detroit</i> , No. 2:05-cv-70667 (E.D. Mich.)	Plaintiffs claimed they were unlawfully detained in violation of 42 U.S.C. § 1983 as a result of a policy by the City of Detroit to detain individuals without probable cause in	A few hours to 7 days	Settlement	\$1 million paid to 25 plaintiffs	<ul style="list-style-type: none"> - Second Amended Complaint at 3, 5, <i>Lewis et al. v. City of Detroit</i>, No. 2:05-cv-70667 (E.D. Mich. June 5, 2005) - Christine MacDonald, <i>Detroit to Pay \$1M to Detainees Who Were Never Charged</i>, The Detroit

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Case	Description	Length of Detention	Type of Resolution	Amount	Source(s)
	connection with homicide investigations				News, July 12, 2007, Metro, at 2B
<i>Mason v. City of New York</i> , 949 F. Supp. 1068 (S.D.N.Y. 1996)	Plaintiff was falsely arrested and held at an airport after being mistaken for another individual who had jumped bail. Plaintiff brought false arrest claims under state law and 42 U.S.C. § 1983.	2 hours	Trial Judgment	\$10,000	- <i>Mason v. City of New York</i> , 949 F. Supp. 1068, 1075 (S.D.N.Y. 1996) (ordering remittitur award)
<i>Martinez v. Port Auth. of N.Y. & N.J.</i> , 445 F.3d 158 (2d Cir. 2006)	Plaintiff was falsely arrested and held in custody	~19 hours	Trial Judgment	\$360,000	- <i>Martinez v. Port Auth. of N.Y. & N.J.</i> , 445 F.3d 158, 160 (2d Cir. 2006) (order affirming award) - <i>Martinez v. Port Auth. of N.Y. & N.J.</i> , 2005 WL 2143333, at *1 (S.D.N.Y. Sept. 2, 2005) (plaintiff detained for approximately 19 hours)
<i>Medina v. City of New York</i> , No. 1:11-cv-03121 (E.D.N.Y.)	Plaintiff claimed that he was falsely arrested without probable cause and unlawfully imprisoned, in violation of 42 U.S.C. § 1983	~ 5 hours	Settlement	\$7,600	- Verdict and Settlement Summary of <i>Medina v. City of New York</i> , 2012 WL 8302273 (E.D.N.Y. Jan. 20, 2012) - Complaint at __, <i>Medina v. City of New York</i> , No. 1:11-cv-03121 ([date filing made] E.D.N.Y.)

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