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8 *Attorneys for PLAINTIFF MICHAEL GARCIA and the Plaintiff Class (continued*
9 *on the next page)*

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 MICHAEL GARCIA on behalf of
13 himself and others similarly situated,

14 Plaintiff,

15 vs.

16 LOS ANGELES COUNTY SHERIFF'S
17 DEPARTMENT, a public entity, et al.,

18 Defendants.

Case No. : CV 09-08943 DMG (SHx)
Hon. Dolly M. Gee

**NOTICE OF MOTION AND
MOTION FOR: (1) PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT WITH COUNTY
OF LOS ANGELES; (2) ORDER
DIRECTING NOTICE TO THE
CLASS; AND (3) SCHEDULING A
FAIRNESS HEARING**

[Proposed] Order Filed Concurrently

Hearing Date: March 31, 2017

Time: 9:30 AM

Court: United States Courthouse, 350

West 1st Street,

Los Angeles, CA, 90012

Courtroom: 8C

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1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that Plaintiff hereby move under Federal Rules of
3 Civil Procedure 23 for an order (1) granting preliminary approval of the settlement
4 reached between Plaintiff and the Plaintiff Class and Defendants County of Los
5 Angeles, Los Angeles County Sheriff's Department, Sheriff Baca in his official
6 capacity, attached as Exhibit A to the Declaration of Anna Rivera, as fair,
7 reasonable, and adequate; (2) granting approval of the proposed notice to the Class
8 and directing provision of Class Notice in accord with the Plan for Class Notice;
9 and (3) setting a schedule for the Fairness Hearing. This motion shall be heard on
10 March 31, 2017 at 9:30 a.m., or as soon thereafter as counsel may be heard in the
11 courtroom of the Honorable Dolly M. Gee, United States District Judge, at
12 Courtroom 8C, 8th Floor of the United States Courthouse, 350 W. 1st Street, Los
13 Angeles, CA 90012.

14 This motion is based upon this Notice of Motion and Motion, the
15 Memorandum of Points and Authorities in support thereof, the Declaration of
16 Anna Rivera and the exhibits thereto, the complete files and records of this action,
17 and such other evidence and authorities as may be presented to the Court in
18 connection with the briefing and hearing of this motion. This motion is made

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8 *Attorneys for PLAINTIFF MICHAEL GARCIA and the Plaintiff Class*

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Case No. : CV 09-08943 DMG (SHx)
Honorable Dolly M. Gee

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT TO
PLAINTIFF'S NOTICE OF
MOTION AND MOTION FOR:
(1) PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
WITH COUNTY OF LOS
ANGELES; (2) ORDER
DIRECTING NOTICE TO THE
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Michael Garcia, on behalf of himself and the Plaintiff class (collectively, “Plaintiffs”), and Defendants Los Angeles County Sheriff’s Department, the County of Los Angeles, and Sheriff Leroy Baca, in his official capacity (collectively, “County Defendants”) have reached a proposed Settlement Agreement (“Settlement”). The Settlement between Plaintiffs and the County Defendants (“Parties”) establishes, *inter alia*, comprehensive procedures for notifying inmates of their rights to special education services, facilitates the provision of special education services, provides for training of Sheriff’s Department personnel, and establishes procedures for monitoring compliance with this Settlement. As a result, the Parties expect that, Class Members will be given the opportunity to receive appropriate special education and related services while in the Los Angeles County Jail (“LACJ”).

The Settlement follows several years of contested litigation, including extensive discovery and motion practice. The Settlement is fair, adequate, and reasonable and satisfies all of the preliminary approval criteria for preliminary settlement approval under Rule 23 of the Federal Rules of Civil Procedure. Accordingly, Plaintiffs and County Defendants ask this Court to: (1) grant preliminary approval of the Settlement reached between Plaintiffs and County Defendants as fair, reasonable, and adequate, and (2) approve the notice to be provided to the class members and the method for provision of such notice and (3) approve the hearing date and briefing schedule for a fairness hearing.

II. BACKGROUND

Plaintiff Michael Garcia, on behalf of himself and others similarly situated, filed his Class Action Complaint for Declaratory and Injunctive Relief on December 4, 2009, alleging violations of, *inter alia*, the Individuals with

1 Disabilities Education Act, 20 U.S.C. §§ 1400 *et seq.* (“IDEA”), Title II of the
2 Americans with Disabilities Act, 42 U.S.C. §§ 12131 *et seq.* (the “ADA”),
3 Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (“Section 504”); the
4 Due Process and Equal Protection Clauses of the Fourteenth Amendment of the
5 United States Constitution, the California Constitution, and California law
6 (“Lawsuit”). (ECF. No. 1). The Lawsuit sought injunctive relief against the
7 County Defendants, Los Angeles County Office of Education (“LACOE”), Los
8 Angeles Unified School District (“LAUSD”), California Department of Education
9 (“CDE”), and Hacienda La Puente Unified School District (“HLPUSD” and
10 collectively “Defendants”) for failing to ensure that eligible students detained in
11 the LACJ receive special education and related services. *See*, ECF No. 1,
12 Complaint at ¶ 1, 16-18.

13 Plaintiff alleged that no special education services were available or
14 provided to him during his detention in LACJ facilities. Further, as a result of
15 Defendants’ failure to provide these services, eligible students were denied
16 meaningful access to the high school education program. At the time of filing, no
17 school district provided special education services at any LACJ facility in plain
18 violation of both state and federal law. Plaintiff’s experience was by no means
19 unique. It illustrated the struggle of students who sought and needed special
20 education services while detained in the LACJ and highlighted the need for a
21 coordinated solution in LACJ facilities. Defendants denied the allegations, both as
22 to the individual Plaintiff and as to the class as a whole.

23 On or about April 29, 2010, the District Court entered an Order granting
24 Plaintiffs’ Motion for Class Certification for a class defined pursuant to Rule
25 23(b)(2) of the Federal Rules of Civil Procedure for purposes of injunctive and
26 declaratory relief as follows:

27 All students who are or were eligible for special education
28 and related services under 20 U.S.C. § 1400 *et seq.* while

1 detained in any Los Angeles County Jail (“LACJ”)
2 facility, and who:
3 (a) are currently detained at any LACJ facility;
4 (b) are detained at any LACJ facility in the future.
(ECF No.135, Order Granting Class Certification)

5 The Parties engaged in extensive discovery and motion work. In addition to
6 written discovery, Plaintiffs deposed four County of Los Angeles officials and the
7 County of Los Angeles’ expert witness. Declaration of Anna Rivera In Support of
8 Motion for Preliminary Approval (“Rivera Decl.”) ¶17. The County of Los
9 Angeles deposed the Named Plaintiff as well as Plaintiff’s expert witness. Rivera
10 Decl. ¶17. Due to disagreements that arose during the discovery process, the
11 parties met and conferred on many occasions and also filed a discovery motion. In
12 addition, the parties filed cross-motions for summary judgment. (ECF Nos. 195
13 and 208).

14 On or about January 19, 2011, the District Court entered an Order granting
15 in part County Defendants’ Motion for Summary Judgment as to Plaintiffs’ claims
16 under the ADA and Section 504. (ECF Nos. 305 and 306 Tentative Ruling on
17 Motions for Summary Judgment and Order Adopting Tentative Ruling,
18 respectively).

19 Parties began settlement negotiations in the summer of 2010. The Parties
20 participated in extensive arms-length settlement negotiations, which included
21 extensive written negotiations, multiple in-person meetings, telephonic settlement
22 negotiations, and multiple in-person settlement conferences with Judge Terry J.
23 Hatter Jr., who acted as a settlement officer in this case. Rivera Decl. ¶7.

24 Concurrently with the Lawsuit, Los Angeles Unified School District
25 commenced a civil action (“Related Case”) in the United States District Court for
26 the Central District of California, Case No. 2:09-cv-09289-VBF-CT appealing the
27 decision of the California Office of Administrative Hearings (“OAH”) which
28 found that, pursuant to California Education Code section 56041, the LAUSD was

1 the entity legally responsible for providing Plaintiff Michael Garcia with a free
2 appropriate public education (“FAPE”) while he was incarcerated in the LACJ.
3 The District Court in the Related Case subsequently entered orders affirming the
4 OAH decision.

5 LAUSD appealed that order to the United States Court of Appeals for the
6 Ninth Circuit. At the request of the Ninth Circuit Court of Appeals in the Related
7 Case, the California Supreme Court agreed to decide the certified question: “Does
8 California Education Code section 56041 - which provides generally that for
9 qualifying pupils between the ages of eighteen and twenty-two, the school district
10 where the child’s parent resides is responsible for providing special education and
11 related services – apply to children who are incarcerated in county jails?”
12 In light of the Related Case, this Court stayed the Lawsuit pending the ultimate
13 outcome of the Related Case. *See*, ECF No. 357. On or about December 12, 2013,
14 the California Supreme Court issued a seminal decision, holding that the
15 assignment of responsibility for providing special education to eligible county jail
16 inmates between the ages of 18 and 22 years is governed by the terms of California
17 Education Code Section 56041.

18 On January 28, 2014, finding that the District Court’s ruling in the Related
19 Case was consistent with the California Supreme Court’s answer to the certified
20 question, the Ninth Circuit Court of Appeals affirmed the District Court’s decision
21 affirming the 2009 decision of the administrative law judge.

22 Subsequent to this decision, the Parties renewed their settlement negotiations
23 and worked diligently to finalize the terms of the proposed Settlement Agreement.
24 On or about February 9, 2017 the Parties entered into a written Settlement
25 Agreement. Rivera Decl., Exhibit A.

1 **III. SUMMARY OF SETTLEMENT TERMS**

2 **A. Identification of Eligible Students**

3 The main terms in this Agreement require the County Defendants to
4 establish a system by which eligible students will be identified and provided access
5 to special education services. To that end, the County Defendants have agreed to
6 implement and maintain several key procedures to inform inmates of the
7 availability and method of requesting special education services¹. In particular, the
8 County Defendants have agreed to administer a questionnaire to all newly booked
9 18-22 year old individuals who are processed through the LACJ Inmate Reception
10 Center aimed at identifying those inmates who would like to receive special
11 education services while in the LACJ. Rivera Decl., Exhibit A, Settlement
12 Agreement at IV.B. The names of those individuals who affirmatively state they
13 would like to receive educational services while in jail will be forwarded to the
14 charter school which currently provide services at the LACJ. Rivera Decl., Exhibit
15 A, Settlement Agreement at IV.B. In addition, an informational pamphlet will be
16 distributed to inmates during inmate processing and all televisions in the Inmate
17 Reception Center will display information on the availability of special education
18 services and how to request them. Rivera Decl., Exhibit A, Settlement Agreement
19 at IV.C.a.i-ii. Further, the Sheriff's Department has agreed to modify its Inmate
20 Grievance//Service Request Form to include a box titled "Special Education/IEP."
21 Individuals will be able to check this box if they wish to receive special education
22 services while in the LACJ. Rivera Decl., Exhibit A, Settlement Agreement at
23 IV.C.3.a. The Sheriff's Department has also agreed to designate an employee or
24 employees who will facilitate the provision of special education services. Rivera
25 Decl., Exhibit A, Settlement Agreement at IV.C.1. This designated individual will

26 _____
27 ¹ Given the number of years this case has been pending, many of the
28 agreements outlined in the Parties settlement agreement have already been
implemented by Defendants.

1 act as the liaison between the charter schools and Sheriff's Department and will
2 receive all requests for special education made via the revised Inmate
3 Grievance//Service Request Form discussed above. Rivera Decl., Exhibit A,
4 Settlement Agreement at IV.C.1 and IV.C.3.b.

5 **B. Access to Special Education Services**

6 In addition to informing individuals of the availability of special education
7 services in the LACJ, the County Defendants have also agreed to take steps to
8 ensure that eligible students have access to such services while incarcerated.
9 Accordingly, the County Defendants have agreed, subject to safety and security
10 policies, to facilitate the movement of eligible students and/or educators to space
11 designated for the provision of special education services as well as permit eligible
12 students to have school materials and book in their cells. Rivera Decl., Exhibit A, a
13 Settlement Agreement at IV.C.4 and 8. Further, the County Defendants have
14 agreed to provide space in each LACJ facility for the provision of special
15 education services and/or to hold administrative due process hearings. Rivera
16 Decl., Exhibit A, Settlement Agreement at IV.C.5 and 7. Eligible students will
17 also be allowed to participate in administrative due process hearings – either in
18 person or remotely. Rivera Decl., Exhibit A, Settlement Agreement at IV.C.7.

19 Lastly, the Agreement requires that if, at some future date, the three charter
20 schools who are currently providing special education services to eligible students
21 within the LACJ cease providing those services, the Los Angeles County Sheriff's
22 Department shall inform the California Department of Education and continue to
23 work with school districts who seek access to the LACJ to ensure that eligible
24 students receive the special education services to which they are entitled. Rivera
25 Decl., Exhibit A, Settlement Agreement at IV.A.

26 **C. Training of Sheriff's Department Personnel**

27 The training of Sheriff's Department personnel was considered a necessary
28 and important component of settlement by Plaintiffs. As part of the Agreement,

1 the Sheriff's Department in conjunction with Class Counsel will develop training
2 materials regarding the provision of special education services to eligible students
3 in the LACJ. The training will then be administered to all relevant Sheriff's
4 Department sworn personnel who work in the LACJ as well as personnel who
5 facilitate the implementation of education programming and services to inmates in
6 the LACJ. Subsequently, all new personnel will complete the training before
7 commencing their assignment to the LACJ. Rivera Decl., Exhibit A, Settlement
8 Agreement at IV.C.9.

9 **D. Monitoring**

10 County Defendants are required to provide periodic reports to Class Counsel
11 for the purpose of monitoring compliance with the proposed Settlement
12 Agreement. Rivera Decl., Exhibit A, Settlement Agreement at V. These reports
13 are required to be provided semi-annually. Further, this reports must include: (1)
14 the names, and dates of birth, of all individuals who have been provided with
15 special education and related services in the reporting period; (2) the numbers of
16 IEP meetings held at the LACJ, if any; (3) the names of school districts that have
17 sought access to the LACJ, if any; and (4) the number of administrative due
18 process hearings conducted at the LACJ, if any. Rivera Decl., Exhibit A,
19 Settlement Agreement at V.A. Further, Class Counsel has the right to request any
20 additional reasonable, non-confidential information relating to the provision of special
21 education and related services to eligible students in LACJ. Rivera Decl., Exhibit A,
22 Settlement Agreement at V.B. And has the right to arrange for interviews with
23 Sheriff's Department personnel who are responsible for implementing and overseeing
24 the components of this Agreement. Rivera Decl., Exhibit A, Settlement Agreement
25 at V.A-C.

26 **E. Continued Jurisdiction of The Court**

27 The Agreement provides that the District Court will retain jurisdiction to
28 oversee compliance with the terms of Agreement and to hear any disputes arising

1 from the interpretation or application of the Agreement. The Agreement, including all
2 of its obligations and the continued jurisdiction of the Court, will be in effect for two
3 years. Rivera Decl., Exhibit A, Settlement Agreement at IX.B.

4 **F. Attorneys' Fees and Costs**

5 As part of the Agreement, County Defendants agree to pay attorneys' fees
6 and costs to Class Counsel in the amount of \$200,000. Rivera Decl., Exhibit A,
7 Settlement Agreement at VI. The \$200,000 in fees and costs represents only a
8 portion of the actual hours expended by Class Counsel over the course of six years
9 that this case has been active. Rivera Decl. at ¶17. Class Counsel comprised
10 substantially to make this settlement possible. Rivera Decl. at ¶18. If, during the
11 Settlement Period, Class Counsel becomes aware that County Defendants are not
12 complying with the terms of this Agreement, and action is needed by Class
13 Counsel to compel compliance, County Defendants have also agreed to pay up to
14 \$10,000 in reasonable attorney's fees associated with any necessary action. Rivera
15 Decl., Exhibit A, Settlement Agreement at V.D.

16 **IV. THE SETTLEMENT SHOULD BE PRELIMINARILY APPROVED**

17 At the preliminary approval stage, the court's task is to "determine whether
18 the proposed settlement is within the range of possible approval." *Gautreaux v.*
19 *Pierce*, 690 F.2d 616, 621 n. 3 (7th Cir. 1982) (internal quotations omitted); *see*
20 *also* 4 Newberg § 11.25 ("range of reasonableness"); *Carter v. Anderson*
21 *Merchandisers, LP*, Nos. EDCV 08-00025-VAP (OPx), EDCV 09-0216-VAP
22 (OPx), 2010 WL 144067, at *4 (C.D. Cal. Jan. 7, 2010); *In re Tableware Antitrust*
23 *Litig.*, 484 F. Supp. 2d 1078, 1079-80 (N.D. Cal. 2007). Here, the proposed
24 settlement is reasonable, providing Class Members with relief sought by the
25 Complaint. Thus, the settlement is within the range of settlements that the Court
26 could properly approve.

27 "If the proposal would bind class members, the court may approve it only
28 after a hearing and on finding that it is fair, reasonable, and adequate." Fed. R. Civ.

1 P. 23(e)(2). The Ninth Circuit sets forth the following factors for a district court to
2 consider in determining the fairness of a settlement at final approval: (1) the
3 strength of the plaintiffs' case; (2) the risk, expense, complexity and likely duration
4 of further litigation; (3) the risk of maintaining class action status throughout the
5 trial; (4) the amount offered in settlement; (5) the extent of discovery completed
6 and the stage of the proceedings; (6) the experience and views of the counsel; (7)
7 the presence of a governmental participant; and (8) the reaction of the class
8 members to the proposed settlement. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011,
9 1026 (9th Cir. 1998); *Accord. Churchill Vill., L.L.C. v. GE*, 361 F.3d 566, 575 (9th
10 Cir. 2004). Here, the Parties' settlement is "fundamentally fair, adequate, and
11 reasonable," and meets the relevant *Hanlon* factors.

12 **A. The Relief Provided By Settlement Compared To Strength Of**
13 **Plaintiffs' Case and Risk of Further Litigation**

14 The potential risks attending further litigation support preliminary approval.
15 "Estimates of what constitutes a fair settlement figure are tempered by factors such
16 as the risk of losing at trial, the expense of litigating the case, and the expected
17 delay in recovery (often measured in years)." *Schaffer v. Litton Loan Servicing,*
18 *LP*, No. CV 05-07673 MMM (JCx), 2012 WL 10274679, at *11 (C.D. Cal. Nov.
19 13, 2012).

20 "Courts judge the fairness of a proposed compromise by weighing the
21 plaintiff's likelihood of success on the merits against the amount and form of relief
22 offered in the settlement . . . They do not decide the merits of the case or resolve
23 unsettled legal questions." *Carson v. American Brands, Inc.*, 450 U.S. 79, 88 n. 14,
24 101 S.Ct. 993, 998 (1981) (internal citation omitted). Plaintiffs believe that they
25 would have likely prevailed at trial based on their claims and supporting evidence
26 that special education services were not being provided. Rivera Decl. at ¶10.

27 However, the injunctive relief in the proposed Agreement, such as the
28 implementation of inmate questionnaire and designation of space for the provision

1 of special education services, is in the best interest of the Class particularly given
2 the scope and detail of the relief provided. Negotiation of a settlement in this
3 manner allowed Plaintiffs to have considerable input into the nature and substance
4 of the relief.

5 Furthermore, while Plaintiffs' claims and allegations are disputed, the
6 Parties agree that it would be expensive and time-consuming to litigate this case
7 through trial, that the outcome of the trial is uncertain, and that resolution of this
8 action through settlement is appropriate. Rivera Decl. at ¶12. A complete trial
9 would require substantial documentary evidence and expert testimony. Such a trial
10 is unnecessary where County Defendants have agreed to the relief that Plaintiff
11 seeks. Rivera Decl. at ¶13.

12 The Parties thus recognized that there was much more to be gained through
13 reasonable settlement discussions than through continued litigation and trial in this
14 matter. Rivera Decl. at ¶14. Indeed, at the April 21, 2010 hearing on Class
15 Certification, Judge Valerie Baker Fairbank noted the value of a settlement that
16 could fashion "more creative" relief than a trial judge:

17 ... as you know, being experienced trial counsel very, often
18 a settlement discussion reached between the parties is
19 preferable to a trial for a number of obvious reasons: you
20 avoid the significant cost of litigation, including trial; you
avoid the uncertainty of litigation. Additionally, with a
settlement judge *you can craft a resolution in more creative
ways than you can in most cases before the trial judge.*

21 *See*, Rivera Decl. at ¶11, Exhibit B [April 21, 2010 Hearing on Class Certification] at
22 5:24-6:6.

23 Thus, the proposed Agreement will provide injunctive relief that is reasonably
24 calculated to create the needed policies, procedures and monitoring to effectuate the
25 necessary systems necessary for provision of special education services to eligible
26 students in the LACJ. Both Parties believe if approved, this Agreement will result in
27 substantial improvements to access to special education services for eligible
28 students detained in the LACJ. This is an excellent result for the Settlement Class,

1 and it is unlikely that this Court would order greater relief. Rivera Decl. at ¶ 14. The
2 Agreement is the result of considerable negotiations and effort to reach a mutually
3 acceptable and informal resolution of Plaintiffs' claims.

4 **B. The Settlement is Fair, Adequate, and Reasonable Given the**
5 **Extent of Discovery and Information Exchanged Between the**
6 **Parties**

7 As the Ninth Circuit has recognized, although "extensive formal discovery
8 ha[s] not been completed . . . 'in the context of class action settlements, 'formal
9 discovery is not a necessary ticket to the bargaining table' where the parties have
10 sufficient information to make an informed decision about settlement.'" *In re*
11 *Mego Financial Corp. Securities Litigation*, 213 F.3d 454, 459 (9th Cir. 2000)
12 (internal citations omitted) (quoting *Linney v. Cellular Alaska Partnership*, 151
13 F.3d 1234, 1239 (9th Cir. 1998)).

14 Plaintiffs here engaged in both informal information gathering and extensive
15 formal discovery. Rivera Decl. at ¶19. Plaintiffs' counsel also conducted
16 independent fact research and consulted with experts to better inform their
17 settlement negotiations. Rivera Decl. at ¶19. This and other information obtained
18 during negotiations informed the terms of the settlement agreement.

19 Under Rule 23(h) of the Federal Rules of Civil Procedure, Class Counsel
20 also requests approval of the negotiated settlement award for reasonable attorney's
21 fees and costs in the amount of \$200,000 for work performed on this case to date
22 related to claims against County Defendants. In conjunction with the motion for
23 Final Settlement Approval, Plaintiffs will provide the Court with information
24 regarding the hours expended litigating this matter, Class Counsel's hourly rates,
25 and expenses incurred thus far.

C. The Settlement is the Product of Serious, Informed, Non-collusive Negotiations Conducted by Experienced Counsel

Where a settlement is the product of arms-length negotiations conducted by experienced class counsel, the Court begins its analysis with a presumption that the settlement is fair and reasonable. *See* 4 Newberg § 11.41; *Fernandez v. Victoria Secret Stores, LLC*, No. CV 06-04149 MMM (SHx), 2008 WL 8150856, at *4 (C.D. Cal. July 21, 2008); *Nat’l Rural Telecomm’s Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004). Thus, at this stage, so long as the settlement falls into the range of possible approval — giving deference to the result of the parties’ arms-length negotiations and the judgment of experienced counsel following sufficient investigation and discovery — the presumption applies and the settlement should be preliminarily approved.

Further, the Ninth Circuit has recognized that “[p]arties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party’s expected outcome in litigation.” *In re Pacific Enterprises Securities Litigation*, 47 F.3d 373, 378 (9th Cir. 1995). “The weight accorded to the recommendation of counsel is dependent on a variety of factors; namely, length of involvement in the litigation, competence, experience in the particular type of litigation, and the amount of discovery completed. Usually, a consideration of the criteria involved leads the court to the conclusion that the recommendation of counsel is entitled to great weight following arm’s-length settlement negotiations.” Newberg on Class Actions, at §11:47.

Class Counsel have extensive experience litigating and settling disability rights class actions and other complex matters. Rivera Decl. ¶25; *See also*, ECF No.407 and 390 (Court approving Plaintiffs’ settlements with Defendants LACOE and LAUSD and finding Class Counsel are experienced in class actions). They have investigated the factual and legal issues raised in this action and diligently litigated Plaintiffs’ claims for 8 years. Rivera Decl. ¶25. As noted above,

1 extensive discovery and motion practice have allowed the parties to assess the
2 strengths and weaknesses of the claims herein and the benefits of the proposed
3 Settlement Agreement.

4 In sum, the settlement between the Parties is the result of arm's-length,
5 informed and non-collusive negotiations. And, the experience of the parties'
6 counsel, and the nature and quality of their negotiations, weigh greatly in favor of
7 the Court's approval of the settlement. Thus, the fact that qualified, well-informed
8 counsel endorse the proposed Agreement as being fair, reasonable, and adequate
9 weighs in favor of preliminary approval. *See True*, 749 F. Supp. 2d at 1078-79;
10 *Nat'l Rural Telecomm's Coop.*, 221 F.R.D. at 528.

11 **D. Presence of Government Participants**

12 To the extent this factor is significant, the County of Los Angeles and Los
13 Angeles Sheriff's Department are governmental entities and are utilizing limited
14 public resources. This settlement preserves those public resources by preventing
15 further use of those resources on litigation to address remaining disputed issues of
16 fact, properly balances the County's concerns with the interests of the Class,
17 avoids the time and expense of further litigation, and results in a benefit to the
18 public as a whole.

19 **E. Reaction of Class Members to the Settlement**

20 At this point, this factor is not applicable because Notice has not yet been
21 provided to the settlement class. Named Plaintiff, Mr. Garcia, has been extensively
22 consulted during the process of negotiations and approves of the Settlement
23 Agreement. Rivera Decl. at ¶15. The Parties anticipate few, if any, substantive
24 objections to the Settlement.

V. THE PROPOSED CLASS NOTICE AND PROCEDURE FOR APPROVAL ARE APPROPRIATE UNDER FED. R. CIV. P. 23(e)(1)

A. The Proposed Class Notice and Settlement Materials Provide Appropriate Information to Class Members in Easily Understandable Language

Rule 23(e)(1) of the Federal Rules of Civil Procedure requires that prior to final approval of a class settlement, “[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal.” Generally, notices to class members must be “clearly and concisely state[d] in plain, easily understood language.” Fed.R.Civ.P. 23(c)(2)(B). “Notice is satisfactory if it ‘generally describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard.’” *Churchill Vill., LLC*, 361 F.3d at 575 (quoting *Mendoza v. Tucson Sch. Dist. No. 1*, 623 F.2d 1338, 1352 (9th Cir. 1980)).

The proposed Class Notice accomplishes this. Rivera Decl., Settlement Agreement Exhibit A-1, Proposed Notice to Class. The Class Notice provides a brief description of the case and settlement, and the Class definition. The headings are in bold and plainly describe the different topics covered by the notice. The notice explains how Class members can obtain more information and a copy of the Agreement. It provides a toll-free phone number, the mailing address of Class Counsel, and an email for Class members to contact Class Counsel to ask questions or obtain additional information. Finally, the Notice also explains how Class members can exercise their right to object, the deadline for objections and the date, time, and location of the fairness hearing. Moreover, the proposed Class Notice provides this information in simple English that is easy to read and understand. *See, Id.*

B. The Process for Distribution of Class Notice is Reasonably Calculated to Reach Class Members

Rule 23(e) provides that, if a court grants preliminary approval, “[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal.” Fed. R. Civ. P. 23(e)(1). The parties have developed a Plan for Class Notice for the Class. Rivera Decl., Exhibit A-2 to Settlement Agreement. Specifically, the notice and settlement materials shall be posted to DRLC’s website. County Defendants will also post the notice and settlement materials on the Sheriff’s Department’s website. In addition, the notice shall be posted in the Inmate Reception Center in the LACJ, all LACJ classrooms that are utilized for the provision of general education, not to exceed 70 notices, and all LACJ attorney rooms. *See*, Settlement Agreement at III.B.2. All postings shall remain posted for no less than forty-five (45) days. Rivera Decl., Exhibit A, Settlement Agreement at III.B.1.b.

C. Individual Mailed Notice Is Not Required

In light of the notice scheme described above and given that this case involves a Fed. Rule of Civ. Proc. 23(b)(2) class, individualized notice of the proposed settlement to all class members should not be required. Moreover, any negligible benefit gained by providing such notice would be outweighed by the cost and delay that would be incurred.

For Rule 23(b)(3) classes, the Rules specifically require individualized notice “to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). This individualized notice is necessary so that class members can exercise their right to opt out. In contrast, for Rule 23(b)(1) and (b)(2) classes, as to which there is no right to opt out, Rule 23 provides only that “the court may direct appropriate notice to the class.” Fed. R. Civ. P. 23(c)(2)(A). The reason for the different treatment,

1 “from the nature of the relief sought in these actions. Rule
2 23(b)(1) and (b)(2) classes are cohesive in nature.
3 Because of this cohesiveness, an adequate class
4 representative can, as a matter of due process, bind all
absent class members by a judgment. . . . Rule 23(b)(3)
classes are less cohesive, and must abide by more
stringent due process constraints.”

5 *Walsh v. Great Atl. & Pac. Tea Co., Inc.*, 726 F.2d 956, 963 & fn.1 (3d Cir. 1983)
6 (citations omitted).

7 Accordingly, “the form of notice of settlement of a Rule 23(b)(1) or (b)(2)
8 class action need only be such as to bring the proposed settlement to the attention
9 of representative class members who may alert the court to inadequacies in
10 representation, or conflicts in interest among subclasses, which might bear upon
11 the fairness of the settlement.” *Id.* at 963 (emphasis added); see also *Handschu v.*
12 *Special Servs. Div.*, 787 F.2d 828, 833 (2d Cir. 1986) (“Because of the common
13 interests of all its members, a Rule 23(b)(2) class seeking declaratory and
14 injunctive relief is cohesive by nature, and notice to a representative class
15 membership may be considered sufficient.” (emphasis added; citation omitted)).

16 Courts have thus approved notice of proposed settlements in (b)(1) and
17 (b)(2) cases by means of individual notice to class representatives and flyers posted
18 at a correctional center, without the requirement of individual notice to each
19 prisoner. *Van Horn v. Trickey*, 840 F.2d 604, 606 (8th Cir. 1988). Further, notice
20 of a class action settlement was found adequate where copies of the modified
21 remedial decree and a summary of its contents were placed in the “Writ Room” of
22 each state correctional unit, published in the prison newspaper, posted in inmate
23 units, and inmates were provided an opportunity to object and be heard. *Ruiz v.*
24 *McKaskle*, 724 F.2d 1149 (5th Cir. 1984). Similar and less targeted notice
25 programs have been approved as sufficient under Rule 23(e). See, e.g., *In re Toys*
26 *“R” Us-Del., Inc.—Fair and Accurate Credit Transactions Act (FACTA) Litig.*,
27 295 F.R.D. 438, 448-49 (C.D. Cal. 2014) (notice of nationwide settlement
28

1 provided through settlement website and an advertisement that was published
2 twice in USA Today held sufficient to meet requirements of Rule 23(e)).

3 The proposed notice plan here, like the plans approved in the above cases, is
4 designed to reach a substantial number of class members and will amply ensure
5 awareness of the settlement by “representative class members” who will be able to
6 inform the Court of any perceived deficiencies in the settlement—the very purpose
7 of notice in a (b)(2) case.

8 Further, not only is individualized notice not required, it would be
9 unnecessarily burdensome in this case. First, the cost of providing individualized
10 notice to the hundreds of class members would be substantial. Rivera Decl. at ¶22.
11 The Parties agree that the County’s limited resources would be better spent
12 elsewhere. Second, individualized notice would delay the settlement approval
13 process. In contrast, the proposed notice plan would post the Class Notice three
14 working days after the Court grants preliminary approval. Therefore, the cost and
15 delay involved in providing individualized notice weigh strongly in favor of the
16 proposed notice plan.

17 In sum, individualized notice of the proposed settlement to all class
18 members should not be required.

19 **D. The Settlement Approval Process Provides Adequate Opportunity**
20 **for Class Members to Raise Objections or Comment on the**
21 **Settlement**

22 The Class Notice describes the process for raising objections and provides
23 the addresses to which objections must be mailed. There is a prominent heading in
24 bold that calls the reader’s attention to the objection process. The objection
25 procedure itself is simple: the class member may submit an objection to counsel for
26 the class in writing, via regular or electronic mail, or by leaving a message with
27 their objection via telephone on a toll free number to be established by Plaintiffs’
28 counsel no later than a date set by the Court in this case. All objections received by

1 Class Counsel will be provided to defense counsel and filed with the Court. The
2 parties propose that only such objecting class members will have the right, if they
3 seek it in their objections, to present objections at the fairness hearing, if the Court
4 permits them to do so.

5 Class Counsel has utilized this method in other class settlements, including
6 the recent class settlements in *Ms. Wheelchair California, Inc. et al. v. Starline*
7 *Tours of Hollywood, Inc.*, Case No. CV 11-2620-JFW (CWx), *Sengupta v. City of*
8 *Monrovia, et al.*, Case No. CV 09-00795-ABC (SHx) and *Lauderdale, et al. v.*
9 *City of Long Beach, et al.*, Case No. CV 08-979 ABC (JWJx), and believe it
10 minimizes the burden on both the Court and class members as it provides for a
11 telephone option. Rivera Decl. at ¶22. Typically, counsel will provide any
12 responses received in a separate document for the Court's review, along with or in
13 advance of the motion for final approval. Rivera Decl. at ¶23. However, counsel
14 will of course accommodate the Court's wishes with respect to the procedure on
15 this matter.

16 **VI. PROPOSED SCHEDULE FOR NOTICE AND FINAL APPROVAL**

17 Parties propose that upon receipt of preliminary approval of the class
18 settlement from the Court, the Parties will publish the notice for forty-five (45)
19 days in the manner outlined above. Class members will have forty-five (45) days to
20 respond to the proposed notice. Upon expiration of the forty-five (45) days,
21 counsel will file with the Court any objections or comments received. Thereafter,
22 Plaintiff will file the motion for final approval, to be set on the Court's next
23 available hearing day as a regularly scheduled motion.

24 Accordingly, Plaintiffs propose the following schedule, assuming that
25 preliminary approval is granted:

26 **March 31, 2017:** Hearing re Preliminary Approval of Settlement;

27 **April 5, 2017:** Deadline to complete posting of Class (*within three (3)*
28 *working days of order granting preliminary approval*);

1 **May 22, 2017:** Last day for Class Members to object to the settlement (45
2 *days after the date of posting of Class Notice*).

3 **May 25, 2017:** Parties to file a Summary of Objections and Responses with
4 the Court. (50 days after the date of the posting of Class Notice OR a date set by
5 the Court)

6 **June 16, 2017:** Named Plaintiffs to file a Motion for Final Approval and
7 Motion for Attorneys' Fees (65 days after the date of the posting of Class Notice
8 OR a date set by the Court)

9 **June 23, 2017:** Named Plaintiff to file a Motion for Attorneys' Fees (21
10 *days prior to the Fairness Hearing*)

11 **July 14, 2017:** Fairness Hearing (*at least 100 days after parties present the*
12 *motion for preliminary approval to the Court per 28 U.S.C. § 1715(d)*)

13 **VII. CONCLUSION**

14 For the reasons discussed above, Plaintiff request that the Court:

- 15 1) Issue preliminary approval of the class-action settlement;
- 16 2) Approve the proposed Notice of Proposed Settlement and the process for
17 distribution of the Notice;
- 18 3) Establish a schedule for distribution of the Notice, handling of objections,
19 and related filings; and
- 20 4) Set a date and time for the Fairness Hearing.

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 Dated: February 28, 2017

Respectfully submitted,

2
3 DISABILITY RIGHTS LEGAL CENTER

4 /s/ Anna Rivera
5 Anna Rivera

6 —and—

7 MILBANK TWEED HADLEY & McCLOY, LLP
8 Linda Dakin-Grimm
9 Daniel M. Perry
Samir Vora

10 *Attorneys for Plaintiff MICHAEL GARCIA and*
11 *Plaintiff Class*

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7 Facsimile: (213) 736-1428

8 *Attorneys for PLAINTIFF MICHAEL GARCIA and the Plaintiff Class (continued*
9 *on the next page)*

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 MICHAEL GARCIA on behalf of
13 himself and others similarly situated,

14 Plaintiff,

15 vs.

16 LOS ANGELES COUNTY SHERIFF'S
17 DEPARTMENT, a public entity, et al.,

18 Defendants.

Case No. : CV 09-08943 DMG (SHx)
Hon. Dolly M. Gee

**DECLARATION OF ANNA
RIVERA IN SUPPORT OF
PLAINTIFFS' MOTION AND
MOTION FOR (1) PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT WITH COUNTY
OF LOS ANGELES; (2) ORDER
DIRECTING NOTICE TO THE
CLASS; AND (3) SCHEDULING A
FAIRNESS HEARING.**

Hearing Date: March 31, 2017

Time: 9:30 AM

Court: United States

Courthouse,

350 West 1st Street

Los Angeles, CA, 90012

Courtroom: 8C

1 MILBANK TWEED HADLEY & McCLOY LLP

2 Linda Dakin-Grimm (Bar No. 119630)

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8 Los Angeles, CA 90067

9 Telephone: (424) 386-4000

10 Facsimile: (213) 629-6063

1 I, Anna Rivera, declare as follow:

2 1. I am a member of the Bar of this Court and a Staff Attorney at the
3 Disability Rights Legal Center (“DRLC”). I am counsel of record together with
4 the Milbank, Tweed, Hadley & McCloy LLP (“Milbank”). I am one of the
5 primary attorneys handling this matter at DRLC. I have personal knowledge of the
6 facts set forth below and, if called as a witness, would testify competently thereto.

7 2. This declaration is submitted in support of Plaintiff’s Motion for: (1)
8 Preliminary Approval Of Class Action Settlement With County Of Los Angeles;
9 (2) Order Directing Notice To The Class; And (3) Scheduling A Fairness Hearing
10 The purpose of this declaration is to show that the settlement is fair and reasonable
11 and that the Court should preliminary approve the class settlement in this case. The
12 proposed settlement agreement is attached hereto as Exhibit A.

13 **History of the Case and Settlement Negotiations**

14 3. Plaintiff filed his Class Action Complaint for Declaratory and
15 Injunctive Relief on December 4, 2009, alleging violations of, *inter alia*, the
16 Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 *et seq.* (“IDEA”),
17 Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131 *et seq.* (the
18 “ADA”), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C §§ 794 (“Section
19 504”); the Due Process and Equal Protection Clauses of the Fourteenth
20 Amendment of the United States Constitution, the California Constitution, and
21 related California law.

22 4. On or about April 29, 2010, the District Court entered an Order
23 granting Plaintiff’s Motion for Class Certification for a class defined pursuant to
24 Rule 23(b)(2) of the Federal Rules of Civil Procedure for purposes of injunctive
25 and declaratory relief as follows:

26 All students who are or were eligible for special
27 education and related services under 20 U.S.C. §§ 1400
28 *et seq.* while detained in any Los Angeles County Jail

1 (“LACJ”) facility, and who: (a) are currently detained at
2 any LACJ facility; b) are detained at any LACJ facility in
3 the future.

4 5. Plaintiff and Defendant County of Los Angeles (“County of Los Angeles”)
5 filed cross-motions for summary judgement. After full briefing, on January 19,
6 2011, the Court entered an Order granting in part and denying in part County
7 Defendants’ Motion for Summary Judgment as to Plaintiffs’ claims under the ADA
8 and Section 504.

9 6. I understand that the Parties began settlement negotiations in the summer of
10 2010. The Parties participated in extensive arms-length settlement negotiations,
11 which included extensive written negotiations, multiple in-person meetings,
12 telephonic settlement negotiations, and multiple in-person settlement conferences
13 with Judge Terry J. Hatter Jr., who acted as a settlement officer in this case.

14 7. Concurrently with the Lawsuit, Los Angeles Unified School District
15 commenced a civil action (“Related Case”) in the United States District Court for
16 the Central District of California, Case No. 2:09-cv-09289-VBF-CT appealing the
17 decision of the California Office of Administrative Hearings (“OAH”) which
18 found that, pursuant to California Education Code section 56041, the LAUSD was
19 the entity legally responsible for providing Plaintiff Michael Garcia with a free
20 appropriate public education (“FAPE”) while he was incarcerated in the LACJ.
21 The District Court in the Related Case subsequently entered orders affirming the
22 OAH decision.

23 8. Plaintiffs’ settlement negotiations with the County of Los Angeles were
24 stayed while the Los Angeles Unified School District pursued its appeal in the
25 Related Case until the California Supreme Court issued its decision (“Decision”).
26 Subsequent to this Decision, the Parties renewed their settlement negotiations and
27 worked diligently to finalize the terms of the proposed Settlement Agreement. On

1 or about February 9, 2017 the Parties entered into a written Settlement Agreement
2 that settled and resolved on a class-wide basis any and all injunctive and
3 declaratory relief claims alleged against County of Los Angeles in the Lawsuit.

4 **Strength of the Settlement and Benefit to the Class**

5 9. Plaintiffs' counsel believes that this settlement will affect systemic change
6 within the Los Angeles County Jail (the "LACJ") by giving eligible students the
7 opportunity to receive appropriate special education and related services while in
8 the LACJ.

9 10. Plaintiffs believe that they would have likely prevailed at trial based on their
10 claims and supporting evidence that special education services were not being
11 provided. However, in Plaintiffs' counsel's estimation, the injunctive relief in the
12 settlement likely exceeds that which the Court would have ordered following a trial
13 on the merits, particularly given the scope and detail of relief, and the Plaintiffs'
14 ability to participate in fashioning of the relief, and subsequent monitoring. The
15 Parties thus recognized that there was much more to be gained through reasonable
16 settlement discussions than through continued litigation and trial in this matter.

17 11. At the April 21, 2010 hearing on Class Certification, District Court
18 Judge Valerie Baker Fairbank noted the value of a settlement that could fashion
19 "more creative" relief than a trial judge:

20 . . . as you know, being experienced trial counsel very, often a
21 settlement discussion reached between the parties is preferable
22 to a trial for a number of obvious reasons: you avoid the
23 significant cost of litigation, including trial; you avoid the
24 uncertainty of litigation. Additionally, with a settlement judge
you can craft a resolution in more creative ways than you can in
most cases before the trial judge.

25 April 21, 2010 Hrg Transcript (attached hereto as Exhibit B) at 5:24-6:6 (emphasis
26 added).
27

1 12. Furthermore, while Plaintiffs' claims and allegations are disputed, the
2 Parties agree that it would be expensive and time-consuming to litigate this case
3 through trial, that the outcome of the trial is uncertain, and that resolution of this
4 action through settlement is appropriate.

5 13. A complete trial would require substantial documentary evidence and expert
6 testimony. Such a trial is unnecessary where County Defendants have agreed to the
7 relief that Plaintiff seeks.

8 14. In my and my co-counsel's estimation, this is an excellent result for the
9 Settlement Class, and it is unlikely that this Court would order greater relief.

10 15. Plaintiff was kept informed of negotiations throughout the settlement
11 Process and extensively consulted. Plaintiff approves of the Settlement Agreement
12 and believes it is in the best interests of the class.

13 16. There is no collusion between the named Plaintiff and/or his counsel and the
14 Defendants.

15 17. The \$200,000 in fees and costs represents only a portion of the actual hours
16 expended by Class Counsel over the course of six years that this case has been
17 active.

18 18. Class Counsel comprised substantially to make this settlement possible.

19 19. Plaintiff and County of Los Angeles ("Parties") engaged in both informal
20 information gathering and extensive formal discovery. In addition to written
21 discovery, Plaintiffs deposed four County of Los Angeles officials and the County
22 of Los Angeles' expert witness. The County of Los Angeles deposed the Named
23 Plaintiff as well as Plaintiff's expert witness. Due to disagreements that arose
24 during the discovery process, the parties met and conferred on many occasions and
25 also filed discovery motions. Plaintiffs' counsel also conducted independent fact
26 research and consulted with experts to better inform their settlement negotiations.

27 20. The parties anticipate few, if any, substantive objections to the settlement.

Notice to the Class

21. The parties have prepared a draft class notice (“Notice”), which is attached to the Settlement Agreement as Exhibit A-1, and request that the Court approve that Notice. The parties have agreed that the notice will be provided within a reasonable period of time after preliminary approval by the Court. The parties further agree that the Notice will be posted, at minimum, in the following places: (1) DRLC’s website; (2) on the Sheriff’s Department’s website; and (3) at the following locations within the LACJ: (a) Inmate Reception Center, (b) all LACJ classrooms that are utilized for the provision of general education, not to exceed 70 notices, and (c) all LACJ attorney rooms.

22. The parties propose that any class members may object to the proposed agreement by filing with DRLC a written objection or by leaving an objection on a toll free line established for this purpose. The parties propose that such objecting class members will have the right, if they seek it in their objections, to present objections at the fairness hearing. DRLC has utilized this method in other class settlements, including the recent class settlements in *Ms. Wheelchair California, Inc. et al. v. Starline Tours of Hollywood, Inc.*, Case No. CV 11-2620-JFW (CWx), *Sengupta v. City of Monrovia, et al.*, Case No. CV 09-00795-ABC (SHx) and *Lauderdale, et al. v. City of Long Beach, et al.*, Case No. CV 08-979 ABC (JWJx), and believes it minimizes the burden on both the Court and class members as it provides for a telephone option. The telephone option is particularly important in that it presents a low barrier and alternate method for class members to comment on the settlement and also accommodates any class members who may have difficult writing. Plaintiff’s counsel has established a toll free number should class members wish to call in to comment on or object to the settlement. The line will provide outgoing messages in English and Spanish. Plaintiff’s counsel will provide written transcriptions to all parties and the Court of any messages or written

1 objections received. The cost of providing individualized notice to the hundreds of
2 class members would be substantial.

3 23. Typically, as class counsel, DRLC provides any responses received in a
4 separate document for the Court's review, along with the motion for final approval.
5 However, counsel will of course, accommodate the Court's wishes with respect to
6 the procedure on this matter.

7 24. The Parties agree that these methods are the most likely to reach members
8 and potential members of the class and satisfy the requirements of Rule 23(e).

9 25. Class Counsel have extensive experience litigating and settling disability
10 rights class actions and other complex matters. We have investigated the factual
11 and legal issues raised in this action and diligently litigated Plaintiffs' claims for 8
12 years.

13 26. In sum, Plaintiff's counsel believes this to be a tremendous settlement.
14 Plaintiff and County of Los Angeles worked hard to complete this settlement and
15 provide relief that will be both meaningful and effective.

16
17 I declare under penalty of perjury under the laws of California and the United
18 States that the foregoing is true and correct to the best of my knowledge and belief.

19 Executed this 28th of February 2017 in Ontario, California.
20

21
22 
23 _____
24 Anna Rivera
25
26
27
28

Exhibit A

Class Action Settlement Agreement

Garcia v. Los Angeles County Sheriff's Department, et al.
U.S.D.C. Case No. CV 09-8943-DMG (SHx)

I. RECITALS.

A. On December 4, 2009, Plaintiff Michael Garcia (hereinafter “Named Plaintiff”) commenced a civil class action in the United States District Court for the Central District of California, Case No. CV09-8943-DMG (SHx) (the “Lawsuit”), against Defendants, as defined below, alleging, inter alia, that Defendants were violating the Individuals with Disabilities Education Act codified at 20 U.S.C. §§ 1400 *et seq.* (“IDEA”) and other related federal and state laws by allegedly failing to provide and/or ensure the provision of special education and related services to eligible students detained in the Los Angeles County Jail (“LACJ”).

B. The defendants named in the Lawsuit are the Los Angeles County Sheriff’s Department (“Sheriff’s Department”), the County of Los Angeles, and Sheriff Leroy Baca, in his official capacity (together, the “County Defendants”); the Los Angeles County Office of Education (“LACOE”) and Superintendent Darline P. Robles, in her official capacity (together, the “LACOE Defendants”); the Los Angeles Unified School District (“LAUSD”) and Superintendent Ramon Cortines, in his official capacity (together, the “LAUSD Defendants”); Hacienda La Puente Unified School District (“Hacienda La Puente”) and Superintendent Barbara Nakaoka (together, the “Hacienda Defendants”), in her official capacity; and the California Department of Education (“CDE”) and Superintendent Jack O’Connell, in his official capacity (together, the “CDE Defendants”).

C. On April 29, 2010, the District Court in the Lawsuit entered an Order granting Plaintiffs’ Motion for Class Certification for a class (the “Class”)

defined pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure for purposes of injunctive and declaratory relief as follows:

“All students who are or were eligible for special education and related services under 20 U.S.C. §§ 1400 *et seq.* while detained at any Los Angeles County Jail (“LACJ”) facility, and who:

(a) are currently detained at any LACJ facility;

(b) are detained at any LACJ facility in the future.”

D. This settlement is between the County Defendants (hereafter for purposes of this Agreement, “Defendants”) and Named Plaintiff and the Plaintiff Class (“collectively Plaintiffs”).

E. Defendants deny any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit and further deny that this action is appropriate for class treatment for any purpose other than settling this Lawsuit. Defendants have denied and continue to deny material factual and legal claims asserted against them in the Lawsuit. In the interest of avoiding further litigation, Defendants desire to settle fully and finally all actual or potential claims or differences with the Plaintiffs and to cause the dismissal of all of the causes of action against the Defendants with prejudice.

F. Nothing contained in this Agreement, nor the fact of this Agreement itself, shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants. Nothing herein shall constitute an admission by Defendants that the Lawsuit was properly brought as a class action other than for settlement purposes. Settlement of the Lawsuit, the negotiation and execution of this Agreement, and all acts performed or documents executed pursuant to or in furtherance of this Agreement or the settlement: (i) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendants or of the truth of any of

the factual allegations in the operative Complaint in the Lawsuit; (ii) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omissions on the part of Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal; and (iii) are not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for class certification or administration other than for purposes of implementing this Agreement.

G. Based on their own independent investigations and evaluations, Defendants and Plaintiffs and their respective counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Agreement is fair, reasonable and adequate and that this Settlement is in the best interests of the Class and Defendants in light of all known facts and circumstances and the risks inherent in litigation. Class Counsel believe that the settlement entered into is in the best interests of the Plaintiffs and that the settlement for Plaintiffs Members is fair, reasonable and adequate, given the inherent risk of litigation.

H. Plaintiffs and the Defendants now seek to resolve their disputes by settling this Lawsuit in such a manner as to ensure that Class members are timely provided with appropriate special education and related services in accordance with the IDEA and state law.

II. DEFINITIONS.

As used in this Settlement Agreement and Release, the following terms shall have the meaning ascribed to them in this Section and in the Recitals. Except to the extent clearly required to the contrary by the context of its usage in this Agreement, any term not expressly defined in this Section or elsewhere in the Agreement that has an expressly defined meaning in the IDEA and the regulations promulgated there under shall have the meaning ascribed to it by the IDEA and its

implementing regulations. All other terms shall be interpreted according to their plain and ordinary meaning.

A. Agreement.

“Settlement Agreement” “Settlement,” and “Agreement” mean and refer to this document and any exhibits incorporated herein.

B. Class.

“Class” shall mean the class as defined in the district court’s April 29, 2010 order, ecf no. 135, as stated above and as understood in recital “c” above.

C. Charter Schools.

“Charter Schools” shall mean the 5-Keys Charter School, the New Opportunities Charter School, and the John Muir Charter School.

D. Class Counsel.

“Class Counsel” shall mean the Disability Rights Legal Center (“DRLC”) and Milbank Tweed Hadley & McCloy, LLP, including the lawyers and employees therein. For purposes of monitoring and enforcement of this Agreement, “Class Counsel” shall mean the DRLC, including the lawyers and employees therein.

E. Class Members.

“Class Members” shall mean individuals who meet the definition of the Class.

F. Defendants.

“Defendants” shall mean the County Defendants.

G. District of Residence.

“District of Residence” shall mean the school district responsible for providing Special Education and Related Services to the Eligible Student in the LACJ pursuant to California Education Code Section 56041.

H. District of Service.

“District of Service” shall mean the school district which has agreed to provide Special Education and Related Services to Eligible Students in the LACJ.

I. Effective Date.

“Effective Date” of the Agreement is the date on which the District Court issues an Order granting final approval of the Settlement Agreement. If objections are filed to the settlement, the Effective Date is the date of the final resolution of any appeal of the Final Approval of this Settlement Agreement, or, if no such appeal is filed, the expiration of the deadline for filing a Notice of Appeal.

J. Eligible Inmate.

“Eligible Inmate” shall mean an inmate eligible to receive special education and related services in Los Angeles County Jail under IDEA.

K. LACJ.

“LACJ” shall mean any Los Angeles County Jail facility in which an eligible student is housed, but does not include the Mira Loma Detention Center or any station jail.

L. Named Plaintiff.

“Named Plaintiff” shall mean Michael Garcia.

M. Notice.

“Notice,” refers to notice to the Class, which shall be effectuated as set forth in the plan for providing class notice, which will be submitted to the Court as part of the Motion for Preliminary Approval of this Settlement (which is discussed in greater detail below).

N. Parties.

“Parties” refers to the Defendants, Named Plaintiff, and Class Members together.

O. Plaintiffs.

“Plaintiffs” refers to the Named Plaintiff and Class Members together.

P. Related Services.

“Related Services” shall have the meaning ascribed to it by the Individuals with Disabilities Education Act, 20 U.S.C. §1401(26), 34 C.F.R. § 300.34 and California Education Code §§56363.

Q. Settlement Period.

The District Court shall maintain continued jurisdiction over this Agreement for a period of two (2) years from the Effective Date of the Agreement. This shall be the “Settlement Period.”

R. Special Education.

“Special Education” shall have the meaning ascribed to it by the Individuals with Disabilities Education Act, 20 U.S.C. §1401(29), 34 C.F.R. §300.39 and California Education Code §§56031.

III. APPROVAL AND NOTICE TO CLASS.

A. Finally Approved Settlement Binding on Class Members.

For the duration of the Settlement Period, this Agreement shall have preclusive effect on any Class Member bringing any class action claim (or any other claim) concerning any matters that were the subject of the Class Action Complaint in this action or that are encompassed within the terms of this Settlement Agreement.

This Agreement shall not foreclose any Class Member from filing a due process hearing complaint or State compliance complaint against responsible education agencies, alleging (1) that prospective services proposed by a local educational agency to be provided to the Class Member do not constitute a free appropriate public education (“FAPE”) under the IDEA and California law, or (2) a claim regarding compensatory education owed to a Class Member from a

local educational agency for services that the Class Member alleges should have been provided prior to this Agreement.

B. Notice.

1. Approval.

- a. Following approval of the Settlement by the Los Angeles Board of Supervisors and execution of this Agreement, Plaintiffs will file a Motion for Preliminary Approval of this settlement, as required by the Class Action Fairness Act of 2005 [“CAFA”], which will request a hearing for final approval (“Fairness Hearing”) of this Agreement.
- b. After Notice is provided to the Class as detailed below, the Court will hold a hearing to establish the fairness of the Agreement and to decide whether there will be Final Approval. The hearing will take place at a date to be set by the Court, allowing for a period of notice to the Plaintiff Class of 45 days and for the notices to State and Federal officials required by CAFA to be completed. Notice to the Plaintiff Class will be effectuated as detailed in the Notice Plan which will be submitted to the Court as an attachment to the Motion for Preliminary Approval.

2. Notice to the Class.

- a. Notice to the Plaintiff Class will be effectuated as detailed in the Notice Plan which will be submitted to the Court as an attachment to the Motion for Preliminary Approval. The Notice Plan will require posting of the Class Notice (which will also be attached as an exhibit to

the Motion for Preliminary Approval) in the following places: (1) DRLC's website; (2) on the Sheriff's Department's website; and (3) at the following locations within the LACJ: (a) Inmate Reception Center, (b) all LACJ classrooms that are utilized for the provision of general education, not to exceed 70 notices, and (c) all LACJ attorney rooms. To the extent the Court determines that any modifications to the Class Notice or the Notice Plan are required, the Parties will make such modifications prior to the provision of notice.

IV. EQUITABLE RELIEF.

The Parties hereby agree that, conditioned upon entry of Final Approval by the District Court, Defendants shall do the following:

A. Charter Schools.

The Sheriff's Department has entered into Memorandums of Understanding with the Charter Schools, who are providing Special Education and Related Service to Eligible Students in LACJ as the District of Service. Defendants shall continue to work with the Charter Schools to ensure that Eligible Students receive Special Education and Related Services as described in this Agreement. If, at some future date, the Charter Schools cease to provide Special Education and Related Services, the Sheriff's Department shall inform the California Department of Education and continue to work with school districts who seek access to the LACJ to ensure that Eligible Students receive Special Education and Related Services.

B. Inmate Reception Center Questionnaire.

1. During the booking process, The Sheriff's Department shall continue to administer a questionnaire (the "Questionnaire") to

all newly booked 18-22 year old individuals who are processed through the LACJ Inmate Reception Center, the purpose of which is to assist with the identification of Eligible Inmates. Each inmate's responses to the Questionnaire shall be recorded in writing or otherwise documented in electronic format should the Sheriff's Department elect to utilize such means at its discretion.

2. The Questionnaire shall be composed of the following questions:
 - a. Would you like to receive educational services while you are in jail? [If "no", stop.]
 - b. If you have received special education services, would you like to receive special education services in jail? [If "no", stop. If inmate is unsure, proceed to question "c".
 - c. What was the last school district you attended?
3. The Sheriff's Department shall provide the names of all individuals who, during the booking process, answered question "a" of the Questionnaire in the affirmative and answered question "b" either in the affirmative or were unsure of their answer. Names shall be forwarded to the Charter Schools as they are received and typically on a daily basis.

C. Provision of Special Education and Related Services in the Los Angeles County Jail.

1. Within 15 days of the Effective Date of this Agreement, the Sheriff's Department shall designate an employee or employees who will be responsible for facilitating the provision of Special Education and Related Services in

the LACJ. This person shall be the liaison between the Charter Schools and the Sheriff's Department. Class Counsel shall be provided the name(s) and contact information of the designated person(s).

2. Signage.

a. Inmate Reception Center.

- i.** The Sheriff's Department shall display on all televisions in the Inmate Reception Center the following language informing Eligible Inmates of their right to receive Special Education and Related Services in the LACJ and how to request and receive such Special Education and Related Services: "You can get special education in LACJ if you are eligible. If you would like to request special education, you should submit an Inmate Grievance/ Service Request form and check the IEP / Special Education box."
- ii.** The Sheriff's Department already notifies newly booked inmates of the availability of special education to eligible persons. Notification is provided through an informational pamphlet which is, and will continue to be, distributed during inmate processing, normally just before inmates are transferred to permanent housing.

- iii. The Sheriff’s Department may also, at its discretion, post signs containing the language in Section IV.B.2.a.i. of this Agreement in a limited number of locations in the Inmate Reception Center.
 - b. Inmate Grievance / Service Request boxes (along with Inmate Grievance/ Service Request forms) are already located through-out the Inmate Reception Center, and that shall continue to be the case.
3. **Requests for Special Education and Related Services.**
 - a. Forms. The Sheriff’s Department has modified its Inmate Grievance / Service Request Form to include a box titled “Special Education / IEP” that individuals may check if they wish to request Special Education or Related Services while in the LACJ.
 - b. Requests made by individuals in the LACJ.
 - i. If an individual requests Special Education or Related Services on a LACJ Inmate Grievance / Service Request Form, the Sheriff’s Department shall route the request to the designated Sheriff’s Department personnel responsible for facilitating the provision of Special Education and Related Services in the LACJ, as set forth in Section [IV.C.1] of the Agreement.
 - c. Requests made by third parties.

b. Inmate Grievance / Service Request boxes (along with Inmate Grievance/ Service Request forms) are already located through-out the Inmate Reception Center, and that shall continue to be the case.

3. Requests for Special Education and Related Services.

- a. Forms. The Sheriff's Department has modified its Inmate Grievance / Service Request Form to include a box titled "Special Education / IEP" that individuals may check if they wish to request Special Education or Related Services while in the LACJ.
- b. Requests made by individuals in the LACJ.
 - i. If an individual requests Special Education or Related Services on a LACJ Inmate Grievance / Service Request Form, the Sheriff's Department shall route the request to the designated Sheriff's Department personnel responsible for facilitating the provision of Special Education and Related Services in the LACJ, as set forth in Section [IV.C.1] of the Agreement.
- c. Requests made by third parties.

- b. Requests made by individuals in the LACJ.
 - i. If an individual requests Special Education or Related Services on a LACJ Inmate Grievance / Service Request Form, the Sheriff's Department shall route the request to the designated Sheriff's Department personnel responsible for facilitating the provision of Special Education and Related Services in the LACJ, as set forth in Section [IV.C.1] of the Agreement.

- i. If an individual requests Special Education or Related Services on a LACJ Inmate Grievance / Service Request Form, the Sheriff's Department shall route the request to the designated Sheriff's Department personnel responsible for facilitating the provision of Special Education and Related Services in the LACJ, as set forth in Section [IV.C.1] of the Agreement.

c. Requests made by third parties.

- i. If a third party (e.g., attorney, advocate, family member) contacts the Sheriff's Department and requests Special Education or Related Services on behalf of an individual, the Sheriff's Department shall inform the requesting party to contact the individual's last district of residence or the Sheriff's Department Special Education liaison identified in Section IV.C.1, .

4. Facilitating Movement of Inmates.

- a. Subject to LACJ safety and security policies and procedures, the Sheriff's Department shall ensure that Eligible Inmates are able to access and receive Special Education and Related Services while in the LACJ, including taking all reasonable steps to facilitate movement to space designated for such services as discussed below or to facilitate the movement of educators and service providers to the Eligible Inmates.
- b. Eligible Students shall not be housed in a particular LACJ facility simply because they wish to receive Special Education and Related Services while in the LACJ.
- c. Eligible Students shall not be categorically denied Special Education or Related Services in the LACJ on the basis of their security or other housing classifications; however, eligibility to receive

Special Education and Related Services is conditioned upon compliance with jail rules and regulations. Special Education or Related Services will be provided subject to LACJ safety and security policies and procedures.

5. Designating Space for the Provision of Special Education and Related Services.

- a. The Sheriff's Department shall ensure that space is available in each LACJ facility for the provision of Special Education and Related Services to Eligible Inmates.

6. Security Consultations at IEP Meetings.

The Sheriff's Department shall provide a telephonic security consultation following all IEP meetings convened for Eligible Inmates in the LACJ so that the Charter Schools, if necessary, may ensure that the appropriate IEPs developed for Eligible Inmates may be implemented within the safety and security regulations of the LACJ. The Sheriff's Department shall designate times when the necessary staff for a telephonic security consultation will be available, and shall convey that information to school districts scheduling IEP meetings.

7. Facilitating Student Participation in Administrative Due Process Hearings.

- a. Subject to LACJ safety and security policies and procedures (including disciplinary policies), Eligible Students shall be permitted to participate

in the entirety of any administrative due process hearing brought pursuant to the IDEA and the California Education Code §§ 56000 *et seq.* (“Due Process Hearings”) and occurring while the Student is in the LACJ. If the due process hearing takes place within an LACJ facility, Eligible Students shall be permitted to attend in person, subject to Section “b” below.

- b. Should an administrative due process hearing take place while an Eligible Student is unavailable for disciplinary reasons, the Sheriff’s Department shall contact OAH to permit the hearing to be rescheduled.
- c. The Sheriff’s Department shall permit the Office of Administrative Hearings, Special Education Division to conduct administrative Due Process Hearings in the LACJ.
 - i. When Due Process Hearings are held in the LACJ, Eligible Students shall be permitted to attend and participate in the entirety of the hearing, subject to their eligibility based on security and safety concerns and compliance with jail regulations.

8. School Materials

- a. Eligible Students are permitted to have school materials and books in their cells so long as those

materials comply with LACJ security policies and procedures

9. **Training for Sheriff's Department Personnel.**

- a. The Sheriff's Department in conjunction with Class Counsel shall develop training materials regarding the provision of Special Education and Related Services to Eligible Students in the LACJ ("Training") as they pertain to Defendants. The training shall include the agreements and obligations set forth in this Agreement.
- b. Within six months of the execution of the Agreement, the Sheriff's Department shall administer the Training to all relevant Sheriff's Department sworn personnel who work in the LACJ, as well as personnel who facilitate the implementation of education programming and services to Inmates in the LACJ.
 - i. Thereafter, all new Sheriff's Department sworn personnel and personnel responsible for the implementation of education programming and services to Eligible Students in the LACJ assigned to the LACJ shall complete the Training prior to commencing their assignment and/or position.

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V. MONITORING.

A. Defendants will provide semi-annual reports to Class Counsel for the purpose of monitoring compliance with this Agreement. The reports will include the following:

1. The names, and dates of birth, of all individuals who have been provided with Special Education and Related Services in the reporting period.
2. The numbers of IEP meetings held at the LACJ, if any.
3. The names of school districts that have sought access to the LACJ, if any.
4. The number of administrative due process hearings conducted at the LACJ, if any.

B. During the Settlement Period, Class Counsel may request additional reasonable, non-confidential information (e.g., information not protected by attorney work product protections, attorney-client communications, etc.) relating to the provision of Special Education and Related Services to Eligible Students in the LACJ. Defendants agree to provide responsive information within 30 days of a written request. If the Defendants assert that any request is unreasonable, Class Counsel agrees to meet and confer to hear any objections or proposals to narrow the scope of the request. The District Court before which the Lawsuit is currently pending shall retain continuing jurisdiction to determine whether requests are reasonable.

C. During the Settlement Period, Class Counsel may request interviews with personnel at the Sheriff's Department who are responsible for implementing and overseeing the components of this Agreement if necessary. Defendants will not unreasonably deny the requested interviews. If Defendants assert that any request is unreasonable, Class Counsel agrees to meet and confer to hear any

objections or proposals to narrow the scope of the request. The District Court before which the Lawsuit is currently pending shall retain jurisdiction to determine whether the requests are reasonable. Defendants' counsel may elect to be present during any interviews that take place pursuant to this Agreement and sufficient notice shall be required to facilitate this requirement.

D. Information obtained by Class Counsel regarding compliance with this Agreement will not be confidential and may be disclosed to the public unless such records constitute education records or disclose the identity of Class Members, in which case they will be covered by the protective order entered in this matter. Additionally, information that is protected by the attorney-client privilege or any other privilege or work product protections will not be disclosed.

If, during the Settlement Period, Class Counsel becomes aware that Defendants are not complying with the terms of this Agreement, and action is needed by Class Counsel to compel compliance, Defendants agree to pay any reasonable attorney's fees associated with any necessary action, which shall not be more than \$10,000 over the course of the Settlement Period.

VI. ATTORNEYS' FEES AND COSTS.

Defendants agree to pay Class Counsel a total of \$200,000 in attorneys' fees and costs in this matter. Defendants shall also pay the complete cost for the day of private mediation in this matter. Payment will be made no later than thirty (30) days after the Effective Date.

VII. MODIFICATION.

The Agreement may not be modified unless all Parties agree to the modification in writing, and upon a showing of good cause, the Court approves the modification.

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VIII. RELEASES.

A. In return for the consideration provided for in this Agreement, the adequacy of which is hereby acknowledged, on the Effective Date of the Agreement, all Class Members, both individually and as a Class, and including the Named Plaintiff, shall be deemed to release and shall have released the Defendants and their trustees, officers, directors, employees, attorneys, agents, and insurers, and their successors and assignees, and each of them (“Released Parties”) from any and all equitable or injunctive relief claims that are the subject of, included within, and/or arise from the Lawsuit, including the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 *et seq.*, the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, the Due Process Clause of the Fourteenth Amendment of the United States Constitution, Section 11135 of the California Government Code, the California Constitution, and California Education Code §§ 56000 *et seq.* that were brought against Released Parties. This Release shall apply to all class-wide claims for declaratory and/or injunctive relief for the duration of the Settlement Period. Plaintiff and the Class expressly waive and relinquish all rights and benefits afforded by Section 1542 of the Civil Code of the State of California, and any similar law, and do so acknowledge the significance and consequence of such specific waiver of Section 1542. Section 1542 of the Civil Code of the State of California states as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

IX. ORDERS AND DISMISSAL.

A. Duration of the Agreement.

This Agreement, including all of its obligations will be in effect for two (2) years, and no longer.

B. Dismissal.

Within thirty days of the Effective Date of this Agreement, the Court shall enter judgment dismissing the action with prejudice. The dismissal will expressly incorporate the terms of the Agreement, and the Court will expressly retain jurisdiction for purpose of enforcing the Agreement as stated above.

X. MISCELLANEOUS.

A. Entire Agreement.

This Agreement expresses and constitutes the complete and final understanding of the Parties with respect to the subject matter of this Agreement. The parties hereto understand and agree that the terms of this Agreement supersede any prior discussions, understandings, or agreements, whether orally or in writing, between them related to the subject matter hereof.

B. Counterparts.

This Agreement may be executed in counterparts, each of which shall be considered an original, but all of which, taken together, shall constitute one and the same instrument.

C. Interpretation.

The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any of the Parties. The headings in this Agreement are solely for convenience and shall not be considered in its interpretation. Where required by context, the plural includes the singular and the singular includes the plural, and the terms “and” and “or” shall mean “and/or.”

This Agreement is the product of negotiation and joint drafting so that any ambiguity shall not be construed against any party.

D. Severability.

In the event any portion of this Agreement is deemed to be unenforceable, or is in conflict with applicable law, the remainder of this Agreement will be enforced and will remain in full force and effect. Nothing in this Agreement shall be construed to require the Defendants to act contrary to state or federal laws, regulations or guidelines.

E. Additional Documents.

To the extent any documents are required to be executed by any of the Parties to effectuate this Agreement, each party hereto agrees to execute and deliver such and further documents as may be required to carry out the terms of this Agreement.

F. Plaintiffs Have Consulted With Counsel.

Plaintiffs represent and warrant that they have consulted with and have had the advice of counsel and that they have entered into this Settlement Agreement voluntarily, after independent investigation, and without fraud, duress or undue influence.

G. Future Developments.

If any Court issues binding precedent regarding the issues covered by this Agreement, the parties shall meet and confer to address any changes that need to be made in the content of this Agreement to comport with any subsequent decision. Nothing in this Agreement shall prevent the Sheriff from changing, modifying and/or updating the policies reflected in this Agreement based on legal developments, security needs and/or administrative needs. Plaintiffs are entitled to challenge any such changes, modifications and/or updates if they contend that they are inconsistent with the terms and spirit of this Agreement.

H. Authority to Bind.

Each signatory to this Agreement certifies that it, he or she is fully authorized by the party it, he or she represents to enter into the Agreement, to execute it on behalf of the party represented, and to legally bind that party thereto.

Dated: 8-24, 2016

Michael Garcia
Plaintiff MICHAEL GARCIA on
behalf of himself and the Class

Dated: 2/9/17, 2016

[Signature]
COUNTY OF LOS ANGELES, LOS
ANGELES COUNTY SHERIFF'S
DEPARTMENT, and SHERIFF BACA,
in his official capacity

APPROVED AS TO FORM:

For Plaintiff Michael Garcia and the Class:

DISABILITY RIGHTS LEGAL CENTER
MILBANK TWEED HADLEY &
MCCLOY LLP

Dated: 8/24, 2016

[Signature]
ANNA RIVERA

For County Defendants:

H. Authority to Bind.

Each signatory to this Agreement certifies that it, he or she is fully authorized by the party it, he or she represents to enter into the Agreement, to execute it on behalf of the party represented, and to legally bind that party thereto.

Dated: 8-24, 2016

Michael Garcia
Plaintiff MICHAEL GARCIA on
behalf of himself and the Class

Dated: _____, 201~~6~~⁷

COUNTY OF LOS ANGELES, LOS
ANGELES COUNTY SHERIFF'S
DEPARTMENT, and SHERIFF BACA,
in his official capacity

APPROVED AS TO FORM:

For Plaintiff Michael Garcia and the Class:

DISABILITY RIGHTS LEGAL CENTER
MILBANK TWEED HADLEY &
MCCLOY LLP

Dated: 8/24, 2016

AR
ANNA RIVERA

For County Defendants:

LAWRENCE BEACH ALLEN & CHOI
PC

Dated: 2-9-17, ~~2016~~



JUSTIN W. CLARK

Exhibit A-1

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Garcia v. Los Angeles County Sheriff's Department, et al.,
Case No. CV 09-8943- DMG (SHx)

To: All Inmates of the Los Angeles County Jail Who Are Eligible For Special Education and Related Services.

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.

This Notice is being given by Order of the Court to individuals who may be members of a class of inmates and potential inmates of the Los Angeles County Jail affected by the settlement of a class action lawsuit called *Michael Garcia v. Los Angeles County Sheriff's Department, et al.* Case Number CV 09-8943- DMG (SHx).

The District Court has scheduling a hearing to consider the settlement on _____, at ____ a.m., at the Central District of California Courtroom 8C, 8th Floor of the United States Courthouse, 350 W. 1st Street, Los Angeles, CA 90012. This hearing is referred to as the Final Settlement Approval Hearing.

SUMMARY OF THE LAWSUIT

In December 2009, Michael Garcia ("Plaintiff") filed a class action lawsuit in the United States District Court for the Central District of California (the "District Court"). Plaintiff, who was incarcerated at the Los Angeles County Jail ("LACJ"), claimed in the lawsuit that he did not receive the special education and related services he was entitled to while he was there. Plaintiff brought the lawsuit against the County of Los Angeles and Los Angeles County Sheriff's Department (together the "Sheriff's Department"), Los Angeles County Office of Education, Los Angeles Unified School District, California Department of Education, and Hacienda La Puente Unified School District. The Plaintiff sought injunctive and declaratory relief and attorneys' fees.

On April 29, 2010, the District Court ruled that the claims for injunctive and declaratory relief could go forward on behalf of a class defined as "All Students who are or were eligible for special education and related services under 20 U.S.C. §§ 1400 *et seq.* while detained in any Los Angeles County Jail facility, and who: (a) are currently detained at any LACJ facility; (b) are detained at any LACJ facility in the future" ("Class Members")."

The District Court also appointed Disability Rights Legal Center and Milbank, Tweed, Hadley & McCloy LLP to serve as counsel to the class in this lawsuit ("Class Counsel").

DESCRIPTION OF THE PROPOSED SETTLEMENT AGREEMENT

The Settlement Agreement provides, in summary, that the:

1. Sheriff's Department will continue to ask individuals who are being processed in the jail questions to help identify inmates who are eligible for special education services during their incarcerations.
2. Sheriff's Department will notify inmates, by displaying signs and providing a pamphlet, that special education and related services are available to eligible inmates in the LACJ.
3. Sheriff's Department agreed to, and has designated a person to be responsible for facilitating special education services in the LACJ.
4. Sheriff's Department agreed to, and has modified its grievance form to include a box titled "Special Education / IEP" that individuals may check if they want to request special education while in the LACJ.
5. Sheriff's Department will ensure each LACJ facility has space available for the provision of special education services.

6. If an administrative due process hearing takes place inside LACJ, eligible students will be able to participate.
7. Sheriff's Department will train its personnel about the availability of special education and related services in LACJ.
8. The Court will retain jurisdiction to enforce this Agreement for two years.
9. Sheriff's Department will pay \$200,000 for attorneys' fees and costs to Class Counsel.
10. Sheriff's Department will also pay up to \$10,000 for the cost associated with monitoring Agreement to Plaintiff's lawyers if the Sheriff's Department fails to comply with the above requirements.
11. Plaintiff has agreed to settle and release all of his claims against the County. Class Members have agreed to release and settle all class claims for injunctive relief, but do not release any future claims or claims for compensatory education or damages claims.

OBJECTIONS OR COMMENTS TO PROPOSED SETTLEMENT

Class Members have a right to object to the terms of this Settlement. To be considered by the District Court, Class Member objections can be made via phone or in writing. Objections must be submitted to Class Counsel no later than [10 days after the close of the Notice Period] at the contact information listed below:

DISABILITY RIGHTS LEGAL CENTER
350 S. Grand Ave Suite 1520
Los Angeles, CA 90071
Toll-free Telephone: (866) 752-6679

Objections must include all of the following information:

- 1) The objector's contact information (name, address, phone number and/or email);
- 2) An explanation of the basis for the objector's objection to the Settlement Agreement; and
- 3) Whether the objector intends to appear at the Final Settlement Approval Hearing on [DATE].

All information submitted to Class Counsel will be provided to counsel for the Sheriff's Department and the District Court. It is not necessary for Class Members to appear at the Final Settlement Approval Hearing. Any Class Member who has submitted a timely objection as provided above and who wishes to appear at the Final Settlement Approval Hearing must give notice, either in writing or by the phone number provided, at least [___] days in advance of the Final Settlement Approval Hearing, to counsel for all Parties in his/her objection of his/her intention to do so. Objectors may withdraw their objections at any time

HOW TO GET MORE INFORMATION

This is a summary of the Settlement Agreement. You can go to the Court any time during regular business hours to look at the pleadings in this case and the Settlement Agreement. The Court is the Central District of California Courtroom 8C, 8th Floor of the United States Courthouse, 350 W. 1st Street, Los Angeles, CA 90012. You can also contact Class Counsel for more information as follows:

DISABILITY RIGHTS LEGAL CENTER
350 S. Grand Ave Suite 1520
Los Angeles, CA 90071
Toll-free Telephone: (866) 752-6679
Website: www.DRLCenter.org

DO NOT CALL OR WRITE TO THE COURT REGARDING THIS CASE

Exhibit A-2

EXHIBIT A-2 TO CLASS ACTION SETTLEMENT AGREEMENT

Garcia v. Los Angeles County Sheriff's Department, et al.
U.S.D.C. Case No. CV 09-8943-DMG (SHx)

PLAN FOR CLASS NOTICE AND RESPONSE TO OBJECTIONS

A. PLAN FOR CLASS NOTICE

1. Plaintiff Michael Garcia, on behalf of himself and the Plaintiff class (collectively, "Plaintiffs"), and Defendants Los Angeles County Sheriff's Department, the County of Los Angeles, and Sheriff Leroy Baca, in his official capacity (collectively, "County Defendants") have reached a proposed Settlement Agreement ("Settlement") in the class action lawsuit entitled, *Garcia v. Los Angeles County Sheriff's Department, et al.* CThe class is defined as "all students who are or were eligible for special education and related services under 20 U.S.C. § 1400 *et seq.* while detained in any Los Angeles County Jail ("LACJ") facility, and who: (a) are currently detained at any LACJ facility; (b) are detained at any LACJ facility in the future. "Class Counsel" as used herein means the Disability Rights Legal Center ("DRLC") and Milbank Tweed Hadley & McCloy LLP ("Milbank").
2. The parties have agreed that two documents will be used to notify Class Members of the terms of the proposed settlement. These documents, collectively referred to as "Settlement Materials," are:
 - i. Class Notice
 - ii. Settlement Agreement with all exhibits

PROPOSED PLAN FOR CLASS NOTICE
Garcia v. Los Angeles County Sheriff's Department, et al.

3. The notice requirements outlined in this plan shall remain posted (as described below) for a period of no less than forty-five (45) days.
4. Website Posting – The parties will post a blurb in English regarding the settlement, with a link to the Settlement Materials on the front page of their respective websites (www.disabilityrightslegalcenter.org and www.lasd.org) within three (3) working days of the date of the Court’s order granting Preliminary Approval.
5. Notice Posting - Defendants will post the Class Notice in the following locations within the Los Angeles County Jail: (a) Inmate Reception Center, (b) all LACJ classrooms that are utilized for the provision of general education, not to exceed 70 notices, and (c) all LACJ attorney rooms.
6. If requested, the Class Notice will be made available in large print to Class Members with visual impairments. Reasonable accommodations, to the extent needed, will also be provided to Class Members, if any, with visual or hearing impairments for purposes of providing notice of the settlement.

B. PLAN FOR RESPONSE TO OBJECTIONS AND REQUESTS FOR INFORMATION

1. DRLC will set up (a) a toll-free telephone number to accept messages, (b) a mailing address for letters from Class Members and (c) an email address for Class Members to make inquiries and request additional information about the settlement. These options for communicating with Class Counsel will be described in the Class Notice and available during

PROPOSED PLAN FOR CLASS NOTICE

Garcia v. Los Angeles County Sheriff’s Department, et al.

- the period for submitting objections. Class Counsel will review and log all communications from Class Members.
2. In responding to communications from Class Members, Class Counsel will first identify objections, which will be logged and shared with counsel for Defendants within 5 business days. Similarly, if Defendants receive any complaints, grievances or communications from Class Members that appear to be objections to the Settlement Agreement, Defendants will log and share such objections with Class Counsel within 5 business days.
 3. At the close of the objection period, the parties will confer, categorize the objections and provide the Court with a joint report summarizing all objections. Counsel will also respond to untimely objections by informing the Class Member that the time period has ended (but providing additional information if requested).

Exhibit B

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UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CENTRAL DIVISION
- - -
HONORABLE VALERIE BAKER FAIRBANK
UNITED STATES DISTRICT JUDGE
- - -

MICHAEL GARCIA,)	CERTIFIED COPY
)	
PLAINTIFF,)	
)	CR 09-8943-VBF (CTX)
VS.)	
)	
LOS ANGELES COUNTY SHERIFF'S,)	
DEPARTMENT, ET AL.,)	
)	
DEFENDANT.)	
_____)	

HEARING ON MOTION FOR CLASS CERTIFICATION

LOS ANGELES, CALIFORNIA

WEDNESDAY, APRIL 21, 2010

ROSALYN ADAMS, CSR 11794
OFFICIAL COURT REPORTER
100 UNITED STATES COURTHOUSE
312 NORTH SPRING STREET, ROOM 410
LOS ANGELES, CALIFORNIA 90012
(213) 894-2665

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1 APPEARANCES:

2 ON BEHALF OF PLAINTIFF:

3 MILBANK, TWEED, HADLEY & MC COY LLP
4 BY: DELILAH VINZON
5 REVI-RUTH B. ENRIQUEZ
6 601 SOUTH FIGUEROA STREET
7 LOS ANGELES, CALIFORNIA 90017
8 (213) 892-4537

9 DISABILITY RIGHTS LEGAL CENTER
10 LOYOLA LAW SCHOOL
11 BY: ANDREA F. OXMAN
12 SHAWNA L. PARKS
13 919 ALBANY STREET
14 LOS ANGELES, CALIFORNIA 90015
15 (213) 736-8188

16 ON BEHALF OF DEFENDANT, COUNTY OF LOS ANGELES:

17 LAWRENCE BEACH ALLEN & CHOI
18 BY: JUSTIN W. CLARK
19 MATTHEW P. ALLEN
20 100 WEST BROADWAY
21 SUITE 1200
22 GLENDALE, CALIFORNIA 91210
23 (818) 545-1925

24 ON BEHALF OF DEFENDANT, DEPARTMENT OF EDUCATION AND JACK
25 O'CONNELL, SUPERINTENDENT:

DEPARTMENT OF JUSTICE
BY: GLENDA N. REAGER
13001 I STREET
P.O. BOX 944255
SACRAMENTO, CALIFORNIA 94244-2550
(916) 445-8220

ON BEHALF OF DEFENDANT, LOS ANGELES UNIFIED SCHOOL DISTRICT:

LITTLER MENDELSON, P.C.
BY: DANIEL L. GONZALEZ
BARRETT W. GREEN
2049 CENTURY PARK EAST
5TH FLOOR
LOS ANGELES, CALIFORNIA 90067-3107
(310) 772-7228

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1 APPEARANCES (CONTINUED):

2 ON BEHALF OF DEFENDANT, LOS ANGELES UNIFIED SCHOOL DISTRICT:

3 ATKINSON, ANDELSON, LOYA, RUUD & ROMO

4 BY: MARLON WADLINGTON

5 12800 CENTER COURT DRIVE

6 SUITE 300

7 CERRITOS, CALIFORNIA 90703

8 (562) 653-3200

9

10 ON BEHALF OF DEFENDANT, HACIENDA LA PUENTE UNIFIED SCHOOL
11 DISTRICT:

12 BEST BEST & KRIEGER

13 BY: JACK B. CLARKE, JR.

14 3750 UNIVERSITY AVENUE

15 SUITE 400

16 RIVERSIDE, CALIFORNIA 92502

17 (951) 686-1450

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1 LOS ANGELES, CALIFORNIA; THURSDAY, APRIL 21, 2010; 3:00 PM

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5 THE COURT: GOOD AFTERNOON. PLEASE BE SEATED. I

6 WOULD ASK MY CLERK TO CALL THE NEXT CASE.

7 THE CLERK: CALLING ITEM NUMBER TWO, CASE NUMBER CV

8 09-8943-VBF: MICHAEL GARCIA, ET AL. V. L.A. COUNTY SHERIFF'S

9 DEPARTMENT, ET AL.

10 COUNSEL, PLEASE STATE YOUR APPEARANCES FOR THE

11 RECORD.

12 THE COURT: BEGINNING WITH THE PLAINTIFF.

13 MS. VINZON: DELILAH VINZON FROM MILBANK, TWEED,

14 HADLEY AND MC COY ON BEHALF OF PLAINTIFF, MICHAEL GARCIA, AND

15 THE PUTATIVE CLASS.

16 MS. ENRIQUEZ: REVI-RUTH ENRIQUEZ ALSO ON BEHALF OF

17 PLAINTIFF, MICHAEL GARCIA, AND THE PUTATIVE CLASS, ALSO FROM

18 MILBANK TWEED.

19 MS. PARKS: GOOD AFTERNOON, YOUR HONOR. SHAWNA

20 PARKS FROM THE DISABILITY RIGHTS LEGAL CENTER, ALSO FOR THE

21 PLAINTIFF.

22 MS. OXMAN: GOOD AFTERNOON. ANDREA OXMAN ALSO FROM

23 THE DISABILITY RIGHTS LEGAL CENTER ON BEHALF OF PLAINTIFF.

24 MR. CLARK: GOOD AFTERNOON, YOUR HONOR. JUSTIN

25 CLARK AND MATTHEW ALLEN FOR THE COUNTY DEFENDANTS.

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1 MS. REAGER: GOOD AFTERNOON, YOUR HONOR. GLENDA
2 REAGER FOR THE DEPARTMENT OF EDUCATION AND ITS
3 SUPERINTENDANT, JACK O'CONNELL.

4 MR. GREEN: GOOD AFTERNOON, YOUR HONOR. BARRETT
5 GREEN AND DANIEL GONZALEZ FOR L.A. UNIFIED DEFENDANTS.

6 MR. WADLINGTON: GOOD AFTERNOON, YOUR HONOR.
7 MARLON WADLINGTON FOR LOS ANGELES COUNTY OF EDUCATION.

8 MR. CLARKE: GOOD AFTERNOON, YOUR HONOR. JACK
9 CLARKE, APPEARING ON BEHALF OF THE HACIENDA-LA PUENTE SCHOOL
10 DISTRICT.

11 THE COURT: THANK YOU. THIS IS A HEARING ON THE
12 MOTION FOR CLASS CERTIFICATION. AFTER READING THE PAPERS, I
13 ISSUED A TENTATIVE WITH SOME QUESTIONS AND PRELIMINARY
14 REMARKS ON APRIL 8TH; NOT REACHED A DECISION. I WOULD INVITE
15 ARGUMENT FROM ALL PARTIES, ESPECIALLY AS TO THE ISSUES I
16 UNDERSCORED IN THE TENTATIVE.

17 BEFORE I DO THAT, I WOULD STATE THAT I UNDERSTAND
18 THAT YOU HAD A SETTLEMENT CONFERENCE BEFORE JUDGE HATTER. AS
19 THE TRIAL JUDGE, I WILL NOT KNOW WHAT HAPPENS AT THE
20 SETTLEMENT CONFERENCE. HOWEVER, I DO KNOW THAT YOU HAD ONE;
21 IT WAS REPORTED TO ME. AND LOOKING AT THE MINUTE ORDER, IT
22 WOULD APPEAR THAT JUDGE HATTER WOULD BE AVAILABLE FOR FURTHER
23 DISCUSSIONS.

24 AND, AS YOU KNOW, BEING EXPERIENCED TRIAL COUNSEL
25 VERY, OFTEN A SETTLEMENT DISCUSSION REACHED BETWEEN THE

Page 6

1 PARTIES IS PREFERABLE TO A TRIAL FOR A NUMBER OF OBVIOUS
2 REASONS: YOU AVOID THE SIGNIFICANT COST OF LITIGATION,
3 INCLUDING TRIAL; YOU AVOID THE UNCERTAINTY OF LITIGATION.
4 ADDITIONALLY, WITH A SETTLEMENT JUDGE YOU CAN CRAFT A
5 RESOLUTION IN MORE CREATIVE WAYS THAN YOU CAN IN MOST CASES
6 BEFORE THE TRIAL JUDGE.

7 IS THERE ANY REASON THAT THE DECISION ON THIS
8 MOTION FOR CLASS CERTIFICATION OR A RULING ON THE MOTION
9 SHOULD BE POSTPONED FOR a SHORT PERIOD OF TIME SO YOU COULD
10 WORK WITH JUDGE HATTER TO SEE IF YOU COULD REACH A
11 RESOLUTION?

12 YES.

13 MS. VINZON: DELILAH VINZON ON BEHALF OF THE
14 PLAINTIFFS. I CAN SPEAK TO THAT ISSUE, YOUR HONOR. I THINK
15 THAT THE ISSUE THERE WITH POSTPONING CLASS CERTIFICATION FOR
16 THIS MATTER IS THAT MR. GARCIA IS CURRENTLY RESIDING IN THE
17 LOS ANGELES COUNTY JAIL. HE'S DETAINED THERE NOW. AS
18 EVERYBODY RECOGNIZES THAT A TIME PERIOD IN THE JAIL IS NOT
19 GOING TO LAST FOREVER. SO, THEORETICALLY, HE'S A PRETRIAL
20 DETAINED. HIS DATES WILL BE LIMITED AT SOME POINT AND IF WE
21 HOLD OFF ON CLASS CERTIFICATION, THE RISK OF ARGUMENTS THAT
22 WOULD DISQUALIFY MR. GARCIA AS A CLASS PLAINTIFF AFTER HE HAS
23 PARTICIPATED IN A GREAT DEAL OF PROCEEDINGS BEFORE THIS COURT
24 AND OTHERS IN ORDER TO REACH THE POINT THAT HE COULD GET
25 CLASS CERTIFICATION WOULD BE A SIGNIFICANT DETRIMENT TO THE

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1 ADDRESS THE ISSUES RAISED HERE. WITH REGARD TO LEE AND
2 NELSON, THOSE CASES INVOLVED PLAINTIFFS WHO NEVER HAD
3 STANDING. IT WASN'T AN ISSUE OF -- IT WAS AN ISSUE THERE IN
4 BOTH OF THOSE CASES WHERE THE COURT BASICALLY SAID THERE WAS
5 TOO MANY CONTINGENCIES THAT WOULD BE REQUIRED IN ORDER TO
6 REACH A POINT WHERE THEY COULD EVER HAVE THE STANDING TO COME
7 FORWARD. THEY'RE DISTINGUISHABLE CASES.

8 THE COURT: THANK YOU.

9 MS. VINZON: THANK YOU, YOUR HONOR.

10 THE COURT: IF THERE'S NOTHING FURTHER, I WILL TAKE
11 THE MATTER UNDER SUBMISSION AND YOU'LL HAVE A RULING IN A FEW
12 DAYS OR CERTAINLY NO LATER THAN ONE WEEK, AND IT WILL BE SENT
13 TO YOU.

14 IF THERE'S NO OBJECTION, I WOULD ORDER THAT COUNSEL
15 CONFER WITH EACH OTHER, NOW OR TELEPHONICALLY, AND CONTACT
16 JUDGE HATTER'S CLERK BY FRIDAY TO SEE IF YOU CAN GET A DATE
17 BEFORE HIM. THANK YOU VERY MUCH.

18 (END OF PROCEEDINGS.)

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CERTIFICATE OF REPORTER

COUNTY OF LOS ANGELES)
STATE OF CALIFORNIA) SS.

I, ROSALYN ADAMS, OFFICIAL COURT REPORTER, IN AND FOR THE
UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA, DO HEREBY CERTIFY THAT PURSUANT TO SECTION 753,
TITLE 28, UNITED STATES CODE, THE FOREGOING IS A TRUE AND
CORRECT TRANSCRIPT OF THE STENOGRAPHICALLY REPORTED
PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER AND THAT THE
TRANSCRIPT PAGE FORMAT IS IN CONFORMANCE WITH THE REGULATIONS
OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

DATED: APRIL 29, 2010

_____/S/____

ROSALYN ADAMS, CSR 11794
OFFICIAL COURT REPORTER

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

MICHAEL GARCIA on behalf of
himself and others similarly situated,

Plaintiff,

vs.

LOS ANGELES COUNTY SHERIFF'S
DEPARTMENT, a public entity, et al.,

Defendants.

Case No. : CV 09-08943 DMG (SHx)

**[PROPOSED ORDER] GRANTING
PLAINTIFF'S MOTION FOR:
(1) PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
WITH COUNTY OF LOS ANGELES;
(2) ORDER DIRECTING NOTICE
TO THE CLASS; AND (3)
SCHEDULING A FAIRNESS
HEARING**

1 The Court, having considered Plaintiff's Unopposed Motion For: (1)
2 Preliminary Approval Of Class Action Settlement With County Of Los Angeles;
3 (2) Order Directing Notice To The Class; And (3) Scheduling A Fairness Hearing
4 filed on February 28, 2017 (the "Motion), and all papers filed in support of the
5 Motion, hereby GRANTS the Motion.

6
7 **IT IS SO ORDERED.**

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9 Dated: _____
10
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12 _____
13 HON. DOLLY M. GEE
14 United States District Court Judge
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