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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ROSA MARTINEZ, JIMMY HOWARD,
ROBERTA DOBBS, BRENT
RODERICK, SHARON ROZIER, and
JOSEPH SUTRYNOWICZ, on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

MICHAEL J. ASTRUE, Commissioner of
Social Security, in his official capacity,

Defendant.

CASE NO. 08-CV-4735 CW

**ORDER GRANTING PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CLASS CERTIFICATION,
AND APPOINTMENT OF CLASS
COUNSEL, AND DIRECTING CLASS
NOTICE AND SETTING FINAL
FAIRNESS HEARING**

The Hon. Claudia Wilken

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others similarly situated

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1 1. Settlement Class. The Court finds: (a) that the members of the proposed
 2 settlement class are sufficiently numerous—with tens of thousands of individuals who could be
 3 entitled to relief under the claims asserted through this action—that the joinder of all such
 4 individuals as plaintiffs in this action would be impracticable; (b) that there are questions of law
 5 common to the proposed class, including the lawfulness of certain policies adopted by the Social
 6 Security Administration in its administration of the OASDI, SSI, and SVB federal benefits
 7 programs; (c) that the claims of the named plaintiffs, or class representatives, are typical of the
 8 claims of the proposed settlement class; and (d) that the class representatives are capable of fairly
 9 and adequately protecting the interests of the proposed settlement class. The Court further finds
 10 that the Social Security Administration has administered and applied the challenged Policy in a
 11 manner that applies generally to the proposed settlement class. Therefore, the Court holds that
 12 certification of the proposed class is appropriate under Federal Rule of Civil Procedure 23(b)(2),
 13 and the following class of plaintiffs (hereinafter “Settlement Class”) is hereby CERTIFIED:

14 All persons whose SSI, SVB, or OASDI benefits have been suspended or denied,
 15 or who have been notified of a proposed suspension or denial of such benefits, for
 16 “fleeing to avoid prosecution or custody or confinement after conviction” for a
 17 felony or who are not permitted to serve as Representative Payees for SSI, SVB
 18 or OASDI benefits for “fleeing to avoid prosecution or custody or confinement
 after conviction” for a felony. The class shall not include, and this settlement shall
 not apply to, any individual who has received a final federal court disposition
 regarding payment or nonpayment of benefits due to fugitive felon status.

19 2. Class Counsel. The Court finds that Plaintiffs’ counsel have provided and will
 20 continue to provide representation that is adequate to protect the interests of the Settlement Class.
 21 Specifically, the Court finds that Plaintiffs’ counsel have identified and investigated potential
 22 claims, have vigorously prosecuted the lawsuit thus far, and have committed substantial resources
 23 to their representation of the Settlement Class. Further, Plaintiffs’ counsel possess knowledge
 24 and expertise sufficient to represent the interests of the Settlement Class in an action regarding the
 25 rights of beneficiaries under federal entitlement and benefits programs, including the application
 26 of the policy challenged in this lawsuit. Therefore, pursuant to Rule 23(c)(1) and Rule 23(g), the
 27 National Senior Citizens Law Center; the law firm of Munger, Tolles & Olson LLP; the Urban
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1 Justice Center; the Legal Aid Society of San Mateo County; and Disability Rights California
2 (hereinafter “Class Counsel”) are hereby APPOINTED as counsel for the Settlement Class.

3 3. Preliminary Approval of Stipulation of Settlement. The Court finds that the
4 terms of the parties’ Stipulation of Settlement are fair, reasonable, and adequate to the Settlement
5 Class. Specifically, the Court finds that the SSA’s agreement to amend the challenged policy
6 constitutes substantial and immediate prospective relief that has benefited and will benefit the
7 Settlement Class. The Court further finds that the direct relief provided to the vast majority of the
8 Settlement Class—including (a) the reinstatement of class members’ benefits denied or suspended
9 on or after January 1, 2007, insofar as the denial or suspension was premised on fugitive felon
10 status, as explained in the Stipulation of Settlement, and (b) the elimination of outstanding
11 overpayment balances based on such fugitive felon status with the availability of a protective
12 filing date for class members whose benefits were denied or suspended between January 1, 2000,
13 and December 31, 2006, and are not in pay status as of April 1, 2009, based on such fugitive felon
14 status, as explained in the Stipulation of Settlement—is a reasonable compromise of claims in
15 light of the complexity and risk of further litigation. Therefore, pursuant to Rule 23(e), the
16 parties’ Stipulation of Settlement is hereby preliminarily APPROVED.

17 4. Notice of Settlement. The Court hereby ORDERS that the SSA shall provide
18 notice to class members by publication of the notice, attached hereto as Exhibit A, on its website.
19 The Court further ORDERS that Class Counsel disseminate the notice to the following
20 organizations that advance generally the interests of members of the Settlement Class and that
21 have resources necessary to advise class members about the existence and terms of the Stipulation
22 of Settlement: the ABA Commission on Law and Aging; AARP; Bazelon Center for Mental
23 Health Law; Brennan Center for Justice; Center on HIV Law and Policy; Legal Action Center;
24 Consortium for Citizens with Disabilities; National Academy of Elder Law Attorneys; National
25 Alliance on Mental Illness; National Disability Rights Network; National Coalition for the
26 Homeless; National Law Center on Homelessness and Poverty; National Organization of Social
27 Security Claimants’ Representatives; National Policy and Advocacy Council on Homelessness;
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1 Philippine Veterans Affairs Office (Quezon City); and Sargent Shriver National Center on
2 Poverty Law.

3 5. Fairness Hearing. The Court ORDERS that a fairness hearing for final
4 approval of the Stipulation of Settlement shall be held on Thursday, September 24, 2009, at 2:00
5 p.m. The Court further ORDERS that any objections to the Stipulation of Settlement shall be
6 filed with the Court not later than Thursday, September 10, 2009.

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8 **IT IS SO ORDERED.**

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10 DATED: 8/12/09



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The Honorable Claudia A. Wilken
United States District Court Judge

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Submitted by:

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DATED: August 12, 2009

MUNGER, TOLLES & OLSON LLP
Attorneys for Plaintiffs

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By: /s/ Mark R. Conrad
MARK R. CONRAD

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