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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 DENYING MOTION TO  
INTERVENE, FINALLY APPROVING  
SETTLEMENT OF CLASS ACTION,  
AND DIRECTING ENTRY OF FINAL  
JUDGMENT**



1 WHEREAS, no Class Member has timely filed an objection with the Court;

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3 WHEREAS, the County of Santa Clara (the "County") filed "preliminary"  
4 objections to the proposed settlement on September 10, 2009, and filed "final" objections to  
5 the proposed settlement on September 17, 2009 (collectively, the "County Objections");

6 WHEREAS, concurrent with the filing of its preliminary objections, the County  
7 also filed a motion to intervene in this action;

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9 NOW, THEREFORE, having carefully considered the written submissions of the  
10 parties, Class Members and Others, including the County, and all oral argument presented at the  
11 Final Fairness Hearing, the Court hereby FINDS and ORDERS as follows:

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13 1. Motion to Intervene. The County's motion to intervene is DENIED. First,  
14 the County's motion to intervene is untimely. Intervention at the post-settlement stage of  
15 proceedings is disfavored, especially where, as here, implementation of the settlement  
16 agreement is already underway. Second, in this case, post-settlement intervention would cause  
17 great prejudice to the parties, and especially to the members of the settlement class, who are  
18 particularly vulnerable and whose need for prompt relief is especially great. Third, the County  
19 has made an insufficient showing to justify the untimeliness of its proposed intervention.  
20 *Orange County v. Air California*, 799 F.2d 535, 537 (9th Cir. 1986); *Aleut Corp. v. Tyonek*  
21 *Native Corp.*, 725 F.2d 527, 530 (9th Cir. 1984); *Alaniz v. Tillie Lewis Foods*, 572 F.2d 657,  
22 659 (9th Cir. 1978). Furthermore, the County has failed to show any "direct, non-contingent,  
23 substantial and legally protectable" interest in the "subject of the litigation." Fed. R. Civ. P.  
24 24(a)(2); *Dilks v. Aloha Airlines, Inc.*, 642 F.2d 1155, 1157 (9th Cir. 1981). The County's only  
25 plausible direct interest in the settlement is its putative claim to reimbursement of "interim  
26 assistance" provided to the proposed settlement class, pursuant to 42 U.S.C. § 1383(g), and  
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2 nothing in the Stipulation of Settlement would impair or impede this interest. *Van de Kamp v.*  
3 *Tahoe Reg. Planning Agency*, 792 F.2d 779, 781-82 (9th Cir. 1986); *Westlands Water Dist. v.*  
4 *United States*, 700 F.2d 561, 563 (9th Cir. 1983). To the contrary, the Stipulation of Settlement  
5 affirmatively protects this interest. See Stipulation of Settlement art. 2.5. Nonetheless, the  
6 Court has considered the objections of the County as the view of a friend of the Court.

7           2.       Objections to Settlement. The County Objections are hereby  
8 DISMISSED. Because the County's motion to intervene is denied, and because the County is  
9 not a member of the proposed settlement class, the County lacks standing to object to the  
10 proposed Stipulation of Settlement. Under Rule 23(e), the County is not entitled to submit  
11 objections. *Gould v. Alleco, Inc.*, 883 F.2d 281, 284 (4th Cir. 1989); *San Francisco NAACP v.*  
12 *San Francisco Unified Sch. Dist.*, 59 F.Supp.2d 1021, 1032-33 (N.D. Cal. 1999).

13           3.       To the extent that the County has standing to object to the proposed  
14 Stipulation of Settlement, its objections are without merit. These objections therefore would  
15 be, and hereby are, OVERRULED. To begin, the County does not object to the proposed  
16 Stipulation of Settlement on the basis that the Stipulation of Settlement is unfair, unreasonable,  
17 or inadequate to the members of the settlement class. Further, the County's proposed  
18 modifications to the settlement agreement are not permissible under the Rules of Federal  
19 Procedure, which hold that a proposed settlement "must stand or fall in its entirety" and cannot  
20 be revised or edited piecemeal by the Court. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026  
21 (9th Cir. 1998); *Officers for Justice v. The Civil Serv. Comm'n of San Francisco*, 688 F.2d 615,  
22 628 (9th Cir. 1982). Finally, even if the Court could adapt the Stipulation of Settlement to meet  
23 the County's substantive objections, such objections to the proposed Stipulation of Settlement  
24 are not well-taken, for the reasons set forth in greater detail below. (Defendant did make  
25 representations on the record responsive to the County's procedural suggestions.)  
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2 4. Final Approval of Settlement Agreement. The Court finds that the terms  
3 of the parties' Stipulation of Settlement are fair, reasonable, and adequate. Fed. R. Civ. P.  
4 23(e). Specifically, the Court finds that the SSA's agreement to amend the challenged policy  
5 constitutes substantial and immediate prospective relief that has benefited and will benefit the  
6 Settlement Class. The Court further finds that the direct relief provided to the vast majority of  
7 the Settlement Class—including (a) the reinstatement of class members' benefits denied or  
8 suspended on or after January 1, 2007, insofar as the denial or suspension was premised on the  
9 application of the challenged policy, as explained in the Stipulation of Settlement, and (b) the  
10 elimination of outstanding overpayment balances based on the application of the challenged  
11 policy with the availability of a protective filing date of April 1, 2009, for class members whose  
12 benefits were denied or suspended between January 1, 2000, and December 31, 2006, and are  
13 not in pay status as of April 1, 2009, based on the application of the challenged policy, as  
14 explained in the Stipulation of Settlement—is a reasonable compromise of claims in light of the  
15 complexity and risk of further litigation. Therefore, pursuant to Rule 23(e), the parties'  
16 Stipulation of Settlement is hereby finally APPROVED.

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18 5. Certification of Final Settlement Class. As described in its order  
19 granting preliminary approval to the Stipulation of Settlement, and having found nothing in any  
20 submitted objections that would disturb these previous findings, the Court reiterates and holds  
21 as follows: (a) that the members of the proposed settlement class are sufficiently  
22 numerous—with tens of thousands of individuals who could be entitled to relief under the  
23 claims asserted through this action—that the joinder of all such individuals as plaintiffs in this  
24 action would be impracticable; (b) that there are questions of law common to the proposed  
25 class, including the lawfulness of certain policies adopted by the Social Security Administration  
26 in its administration of the OASDI, SSI, and SVB federal benefits programs; (c) that the claims  
27 of the named plaintiffs, or class representatives, are typical of the claims of the proposed  
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2 settlement class; and (d) that the class representatives are capable of fairly and adequately  
3 protecting the interests of the proposed settlement class. The Court further finds that the Social  
4 Security Administration has administered and applied the challenged Policy in a manner that  
5 applies generally to the proposed settlement class. Therefore, the Court concludes that  
6 certification of the proposed class is appropriate under Federal Rule of Civil Procedure  
7 23(b)(2), and for purposes of final judgment as described in greater detail below, the following  
8 class of plaintiffs (hereinafter “Settlement Class”) is hereby CERTIFIED:

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10 All persons whose SSI, SVB, or OASDI benefits have been suspended or denied,  
11 or who have been notified of a proposed suspension or denial of such benefits, for  
12 “fleeing to avoid prosecution or custody or confinement after conviction” for a  
13 felony or who are not permitted to serve as Representative Payees for SSI, SVB 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.

14 6. Notice. The Court holds that the form of notice provided to the class  
15 constitutes the best notice practicable under the circumstances and shall constitute due and  
16 sufficient notice to the Settlement Class of the pendency of the Action, certification of the  
17 Settlement Class, the terms of the Settlement Agreement, and the Final Approval Hearing. The  
18 Court’s conclusions regarding the sufficiency of the notice provided to the class are reinforced  
19 by the substantial press coverage that this class has received. In addition, the Court has reviewed  
20 28 U.S.C. § 1715 and determined that the notice provisions in Section 1715(b) do not apply to  
21 the Defendant in this case because the Defendant is a Federal official. 28 U.S.C. § 1715(f).  
22 Thus, the Court concludes that nothing in Section 1715 precludes the Court from entering this  
23 Order at this time. In short, the Court finds that the form of notice provided to class members  
24 satisfies the requirements of federal law and that further and other forms of notice to the  
25 Settlement Class are not necessary.

26 7. Confirmation of Class Counsel. The Court finds that Plaintiffs’ counsel  
27 have provided and will continue to provide representation that is adequate to protect the interests  
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2 of the Settlement Class. Specifically, the Court finds that Plaintiffs' counsel have identified and  
3 investigated potential claims, have vigorously prosecuted the lawsuit thus far, and have  
4 committed substantial resources to their representation of the Settlement Class. Further,  
5 Plaintiffs' counsel possess knowledge and expertise sufficient to represent the interests of the  
6 Settlement Class in an action regarding the rights of beneficiaries under federal entitlement and  
7 benefits programs, including the application of the policy challenged in this lawsuit. Therefore,  
8 pursuant to Rule 23(c)(1) and Rule 23(g), the Court's previous appointment of the National  
9 Senior Citizens Law Center; the law firm of Munger, Tolles & Olson LLP; the Urban Justice  
10 Center; the Legal Aid Society of San Mateo County; and Disability Rights California  
11 (hereinafter "Class Counsel") as counsel for the Settlement Class is hereby CONFIRMED.

12 8. Final Judgment. The Court directs entry of Final Judgment, dismissing  
13 this action with prejudice, pursuant to the terms of the Stipulation and Federal Rule of Civil  
14 Procedure 41(a)(1)(ii). For purposes of the final judgment, the Settlement Class shall be defined  
15 as set forth above in Paragraph 6. The Final Judgment shall incorporate and be subject to the  
16 terms of the Stipulation of Settlement, including but not limited to the terms set forth in art. IX.  
17 The Clerk shall enter judgment and close the file.

18 9. Award of Fees. The Court hereby approves the award of attorneys' fees  
19 as the parties have proposed in the Stipulation of Settlement, art. XV.

20 10. Continuing Jurisdiction. The Court will retain jurisdiction over this matter  
21 for the limited purposes as set forth in the Stipulation of Settlement, art. X.  
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23 **IT IS SO ORDERED.**

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25 DATED: September 24, 2009



26 The Honorable Claudia A. Wilken  
27 United States District Court Judge  
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