

**United States District Court for the Central District of California, Eastern Division**

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Goldkorn, et al. v. County of San Bernardino, et al.,*

**Case No. 06-CV-00707 VAP (OPx)**

**TO ALL LITIGANTS, ATTORNEYS, WITNESSES, JURORS, AND OTHER PUBLIC USERS OF THE COURTHOUSE FACILITIES OF SAN BERNARDINO COUNTY WHO HAVE MOBILITY, AND/OR MANUAL DEXTERITY DISABILITIES:**

**PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY LEGAL PROCEEDINGS IN THIS LITIGATION.**

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**SUMMARY OF THE LITIGATION AND SETTLEMENT NEGOTIATIONS**

1. Plaintiffs Ruthee Goldkorn, John Lonberg, Kimberly Wilder, and Alfred Chichester (the “Named Plaintiffs”) filed a class action lawsuit in the Eastern District of the United States District Court for the Central District of California entitled *Goldkorn, et al. v. County of San Bernardino, et al.*, Case No. 06-CV-00707 VAP (OPx) (the “Federal Action”). The Named Plaintiffs alleged in the Federal Action that all courthouses in the County of San Bernardino were inaccessible to individuals with mobility disabilities in violation of Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12132, et seq., (“ADA”), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 794, et seq. (“Section 504”), the Unruh Civil Rights Act, Cal. Civ. Code §§ 51 et seq. (the “Unruh Act”), California Government Code §11135, the First, Fifth and Fourteenth Amendments to the United States Constitution and Article I section 3 of the California Constitution. In particular, Plaintiffs claimed that parking, paths of travel, courtrooms, bathrooms, and jury assembly and deliberations rooms, among other elements of the courthouse facilities, were inaccessible to individuals with mobility and/or manual dexterity disabilities. The Named Plaintiffs requested declaratory and injunctive relief on behalf of the class for these alleged violations.

2. Ms. Goldkorn also filed a lawsuit in the Superior Court of California, County of San Bernardino, alleging violations of Civ. Code §§ 51 et seq. (the “Unruh Act”), California Government Code §11135, and the California Constitution based on alleged inaccessibility of courthouses in the County of San Bernardino, Case No. SCVSS 139372 (the “State Action”). The State Action has been stayed entirely pending resolution of the Federal Action. The Federal Action and the State Action are collectively referred to herein as the “Actions.”

3. Defendants, the County of San Bernardino (“County”) and the Superior Court of California, County of San Bernardino and Stephen Nash (“Superior Court”) (collectively the County and Superior Court are referred to as the “Defendants”) denied and continue to deny the allegations and claims in the Actions.

4. The Named Plaintiffs and Defendants (collectively the “Parties”) have worked cooperatively to settle the case pursuant to the terms of a settlement protocol agreed to by the Parties. The protocol required an independent third party expert to prepare written reports (“Assessments”) regarding the accessibility of the Rancho Cucamonga, Victorville, Needles, Barstow, Big Bear, Fontana, Chino, Joshua Tree, Juvenile Delinquency, Juvenile Dependency, San Bernardino Civil, San Bernardino Central, and San Bernardino Annex courthouses (“Subject Courthouses”). The protocol also required the Parties to negotiate Remediation Plans for each of the Subject Courthouses (“Remediation Plans”), based on the Assessments. The Remediation Plans have been designed to provide access to the programs, activities and services in each of the Subject Courthouses.

5. After the Assessments were completed the Parties participated in extensive arms-length settlement negotiations, which included extensive written negotiations, multiple in-person meetings, telephonic settlement negotiations, and multiple in-person and telephonic settlement conferences with District Court Judge George H. King, who acted as a settlement officer in this case. As a result of these negotiations, on or about [date] the Parties entered into a written Settlement Agreement (“Settlement Agreement”) that settles and resolves on a class-wide basis any and all claims alleged in the Actions, that occurred during the “Class Period” from July 5, 2006 through the date upon which the United States District Court for the Central District of California approves the settlement in the case, and that incorporates the terms of the Remediation Plans, among other things. The Settlement Agreement also provides for dismissal of the State Action.

6. On or about October 31, 2011, the United States District Court for the Central District of California, Eastern Division (the “District Court”) provisionally approved all terms of the Settlement Agreement and the Remediation Plans, finding them to be sufficiently fair and reasonable and in the best interests of the Class Members to warrant issuance of this Notice of Proposed Class Action Settlement (“Notice of Settlement”) to the Class Members.

### **TERMS OF THE SETTLEMENT AGREEMENT**

1. Settlement Class. The Named Plaintiffs propose to settle the Federal Action pursuant to the terms of the Settlement Agreement that will apply to and be binding upon all Class Members, which the Settlement Agreement defines to include “all litigants, attorneys, witnesses, jurors, and other public users of the courthouse facilities of San Bernardino County, with mobility, and/or manual dexterity disabilities who have used or will use courthouse

facilities of the Superior Court of California, County of San Bernardino during the Class Period” (“Plaintiff Class”).

2. Remediation Plans. The individual Remediation Plans describe structural and programmatic steps that will be taken to ensure that the class is able to access the facilities and programs, services and activities in the Subject Courthouses. The terms of each Remediation Plan are site-specific and vary from courthouse to courthouse. The details of the modifications that will be made to each courthouse are included in the individual Remediation Plans and in the Settlement Agreement. However, each Remediation Plan is designed to provide access to the following elements for each of the Subject Courthouses:

- a. Public Parking;
- b. The main path of travel, at a minimum, from public parking and public transportation to main entrances;
- c. Main entrances;
- d. Emergency exits;
- e. Witness stands;
- f. Jury boxes;
- g. Public restrooms for men and women;
- h. Interior paths of travel, including hallways, entryways and elevators;
- i. Other elements in other court areas, such as clerk’s offices, meeting rooms and self-help centers;
- j. Courtroom entrances;
- k. Courtroom paths of travel;
- l. Courtroom assembly seating (also known as public gallery seating);
- m. Other courtroom elements, such as counsel tables;
- n. Other systemic elements, such as door hardware, door pressure, electric hardware, and signage;
- o. Jury deliberation rooms and jury deliberation room bathrooms; and
- p. Jury assembly areas.

The Settlement Agreement establishes a five-year schedule by which work required by the Remediation Plan is to be completed. Please see the end of this notice for instructions describing how to obtain copies of the Subject Courthouse Remediation Plans and/or the Settlement Agreement.

3. Monitoring Requirements. The parties have agreed to monitoring of compliance with the terms of the Settlement Agreement in the following manner:

- a. Class Counsel or their designee have an ongoing right during the term of the Settlement Agreement to conduct site inspections on 72 hours' advance notice to monitor the work being performed pursuant to the individual Remediation Plans;
- b. Class Counsel or their designee will also inspect each Subject Courthouse for which Defendants have issued completion notices indicating that work is complete, to determine whether all work required by an individual Remediation Plan and the Settlement Agreement has in fact been completed; and
- c. Class Counsel will issue notices of non-compliance to Defendants if Class Counsel believes that the Defendants failed to perform and complete any of the Remediation Plans. Defendants will either remedy any issues of non-compliance or submit the matter to the dispute resolution procedure outlined in the Settlement Agreement.

4. Superior Court Policies and Procedures. The Settlement Agreement also requires Superior Court to maintain on its website and to maintain in a designated location at each Subject Courthouse's clerk's office, an Access Guide and diagrams showing accessible parking, paths of travel to main entrances, main entrances and restrooms for each of the Subject Courthouses. In addition, copies of California Rule of Court 1.100, Judicial Council Form MC-410 Request for Accommodations by Persons with Disabilities, and the Judicial Council's "Questions and Answers About Rule of Court 1.100 for Court Users" will continue to be maintained on the Superior Court's website and to be made available upon request at each Subject Courthouse.

5. ADA Coordinator Training. The Settlement Agreement further requires the Superior Court to provide annual training to the ADA Coordinators and certain additional court staff assigned to each of the Subject Courthouses regarding the requirements of the Settlement Agreement and of California Rule of Court 1.100.

6. Judicial Officer Training. The Superior Court is also obligated to provide to all judges and commissioners in the County of San Bernardino a copy of the Settlement Agreement, and to train all judges and commissioners regarding the requirements of the Settlement Agreement and of California Rule of Court 1.100.

7. Annual Reports. During the term of the Settlement Agreement, the Parties must submit annual reports to the Central District Court regarding their compliance with the Settlement Agreement's terms.

8. Attorneys' Fees, Costs, Damages for Named Plaintiffs.

- a. Class Counsel worked with the assistance of Winston & Strawn LLP to file, prosecute and negotiate a settlement of the Federal Action. Defendants have agreed to pay Class Counsel a combined total of \$690,000 in attorneys' fees and costs. As part of the motion for final approval in this matter, class counsel will request that the Court approve this amount.
- b. Class Counsel will also be paid \$61,000 for purposes of monitoring the Settlement Agreement.
- c. The Settlement Agreement obligates Defendants to pay the Named Plaintiffs and the Estate of Michael Flippin, collectively \$80,000 in damages in exchange for a full release of all claims.<sup>1</sup>

9. Continued Jurisdiction of the Court. The United States District Court for the Central District of California, Eastern Division will maintain jurisdiction during the Term of the Agreement for purposes of monitoring and enforcement. The Term of the Agreement will end 180 days after the remediation work required by the Settlement Agreement is completed.

**EFFECT OF THE SETTLEMENT AGREEMENT**

1. If it is finally approved by the District Court, the Plaintiff Class shall be bound by the terms and conditions of the Settlement Agreement, and shall be bound by the final order of the Central District Court enjoining all the Plaintiff Class from asserting against the County of San Bernardino, the State of California, the Judicial Council of California, the Administrative Office of the Courts, the Superior Court of California, County of San Bernardino, Stephen Nash, and their respective affiliates, trustees, directors, officers, employees, representatives, consultants, insurance carriers, attorneys, assigns, executors, administrators, and agents, past and present (collectively, with the County and the Superior Court the "Releasees"), any and all rights, claims, demands, liabilities, actions and causes of action for injunctive, declaratory or other equitable relief, as well as for associated attorneys' fees, costs and expenses, of whatever nature whatsoever, known or unknown, fixed or contingent, suspected or unsuspected, that all or any of the Class Releasers now have, or may ever have, against any or all of the Releasees, that

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<sup>1</sup> Mr. Flippin, one of the original Named Plaintiffs, died during the pendency of the Federal Action, and is no longer listed as a Named Plaintiff for this reason. However, the Settlement Agreement resolves damages claims on behalf of his estate.

occurred during the Class Period and that arise out of or in any way relate to: (a) the claims and allegations asserted in the Federal Action; and (b) the claims and allegations asserted in the State Action.

2. The Settlement Agreement does not apply to: non-public areas of the Subject Courthouses (e.g., judge's chambers, detention or holding areas for criminal courts, and any areas used only by Superior Court employees); alterations to the Subject Courthouses that are not required by the terms of this Agreement or the Remediation Plans; construction of new courthouse facilities; changes in physical condition of the Subject Courthouses (including, for example, buckling of sidewalks and cracking of parking lot surfaces) occurring after the District Court's Judgment becomes Final, that have not been identified in the Subject Courthouse assessments and that affect accessibility to the Superior Court's facilities, programs and services; and inclusion of new court services or programs, or relocation of existing court services or programs, within a Subject Courthouse occurring after the District Court's Judgment becomes Final.

3. The Settlement Agreement does not affect any Plaintiff Class Member's right, if any, to damages.

### **FINAL SETTLEMENT APPROVAL HEARING**

1. On February 13, 2012, at 2:00p.m., the United States District Court for the Central District of California shall conduct a "Final Settlement Approval Hearing" to determine whether to: grant final approval to the Settlement Agreement; grant Class Counsel's requests for attorneys' fees and costs; approve settlement payments to the Named Plaintiffs; and certify the class for purposes of settlement. The Final Settlement Approval Hearing shall be conducted in Courtroom 2 of the Eastern Division of the United States District Court for the Central District of California, located at 3470 Twelfth Street, Riverside, California 92501.

### **OBJECTIONS OR COMMENTS TO PROPOSED SETTLEMENT**

1. Plaintiff Class Members have a right to object to the terms of the Settlement Agreement. To be considered by the District Court, Plaintiff Class Member objections can be made via phone or in writing, but must be submitted to Class Counsel no later than January 23, 2012 at the contact information listed below:

DISABILITY RIGHTS LEGAL CENTER  
800 S. Figueroa St., Suite 1120  
Los Angeles, California 90017  
Telephone: (866) 752-6679

2. Objections must include all of the following information:

- a. The objector's contact information (name, address, phone number and email);
- b. An explanation of the basis for the objector's objection to the Settlement Agreement.
- c. Whether the objector intends to appear at the Final Settlement Approval Hearing on February 13, 2012.

All information submitted to Class Counsel will be provided to counsel for all Defendants and the District Court.

3. It is not necessary for Plaintiff Class Members to appear at the Final Settlement Approval Hearing. Any Plaintiff 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, to counsel for all Parties in his or her objection of his or her intention to do so. Objectors may withdraw their objections at any time.

### **HOW TO GET MORE INFORMATION**

Plaintiff Class Members may request a complete copy of the complete Settlement Agreement by contacting Class Counsel at the address or numbers below, or view it on the internet at [www.disabilityrightslegalcenter.org](http://www.disabilityrightslegalcenter.org). Plaintiff Class Members who have questions about the Settlement Agreement should contact Class Counsel at:

DISABILITY RIGHTS LEGAL CENTER  
800 S. Figueroa St., Suite 1120  
Los Angeles, California 90017  
Telephone: (866) 752-6679  
TDD: (213) 736-8310  
Video: (866) 912-8193

Plaintiff Class Members may also inspect the District Court's file regarding this case during business hours at the office of the Clerk of the Court, United States District Court for the Central District of California, Eastern Division, 3470 Twelfth Street Riverside, California 92501, under the file No 06-CV-00707 VAP (OPx).

**DO NOT CALL OR WRITE TO THE COURT REGARDING THIS CASE**