

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARION PRICE, et al.,

Plaintiffs,

v.

CITY OF SEATTLE, et al.,

Defendants.

No. C03-1365L

ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND VACATING
TRIAL DATE AND RELATED
DATES

This matter comes before the Court on Plaintiffs' "Unopposed Motion for Preliminary Approval of Class Action Settlement." (Dkt. #256). Having reviewed the materials submitted by Plaintiffs and the balance of the record, the Court finds and ORDERS as follows:

1. Counsel have advised the Court that the parties have agreed, subject to final approval by this Court following notice to the Plaintiff Class and a hearing, to settle this action upon the terms and conditions set forth in the proposed Settlement Agreement ("Settlement Agreement") filed with the Court as Exhibit A to Plaintiffs' motion.

2. The Court has reviewed the Settlement Agreement and is familiar with the files, records, and proceedings to date in this matter. Based upon its preliminary examination of the agreement, the Court will preliminarily approve the Settlement Agreement as fair, reasonable, and adequate. The Court finds: (a) the Settlement Agreement resulted from extensive arm's length

1 negotiations and only after significant discovery and litigation in the case; (b) the amount offered in
2 settlement appears reasonable and adequate in light of the costs, delays, and risks inherent in continued
3 litigation; and (c) the Settlement Agreement is sufficient to warrant notice thereof to members of the
4 Class and a full fairness hearing (“Fairness Hearing”) on the Settlement Agreement.

5 3. All discovery and other proceedings in this action are hereby stayed and suspended
6 until further order of the Court, except such actions as may be necessary to implement the Settlement
7 Agreement and this Order. The trial date and all related filing deadlines are hereby VACATED.

8 4. The Court will hold a Fairness Hearing on at 9:00 a.m. on July 9, 2007 to make a final
9 determination on whether the Settlement Agreement is fair, reasonable, and adequate and should be
10 approved. Papers in support of final approval of the Settlement Agreement, including any response to
11 Class member objections, shall be filed with the Court no later than July 2, 2007. Plaintiffs’ counsel’s
12 application for an award of attorneys’ fees, costs, and expenses (the “Fee Application”) shall be filed
13 no later than June 18, 2007. After the Fairness Hearing, the Court may enter a Settlement Order and
14 Final Judgment in accordance with the Settlement Agreement that will adjudicate the rights of Class
15 members.

16 5. Within fourteen days of the date of this Order, class counsel shall cause a Notice of
17 Proposed Settlement (“Notice”) to be mailed by United States mail to the last known valid addresses
18 of members of the Class. For the most part, the Court approves the proposed form of Notice
19 appended as Exhibit B to Plaintiffs’ motion. However, the Court directs Plaintiffs to make the
20 following changes to the proposed class notice before mailing the notices:

- 21 a. Although the acronym “DWLS” is used repeatedly in the class notice, the term
22 is defined only once in the notice. To help ensure that class members
23 understand the meaning of the term, Plaintiffs are directed to modify the first
24 sentence in Section 2 of the class notice to read: “This case involves
25 impoundment of vehicles by the City of Seattle for driving with license

1 suspended (DWLS) violations between March 20, 2000 and December 27,
2 2002 (the 'Class Period')."

- 3 b. To help ensure that class members are aware that the Settlement Agreement
4 would require them to file a claim in order to obtain reimbursement, Plaintiffs
5 are directed to modify Section 4 of the class notice to provide that the following
6 sentence appears in bold type: "**IN ORDER TO OBTAIN**
7 **REIMBURSEMENT UNDER THIS SETTLEMENT YOU MUST FILE A**
8 **CLAIM ON THE ATTACHED FORM.**"

9 6. Within fourteen days of the date of this order, Class counsel shall also provide
10 publication notice to the class through publication in two issues each of the Seattle Times and the
11 Seattle Post-Intelligencer and one issue each of The Skanner and SEA Latino. The Court approves
12 the proposed publication notice appended as Exhibit C to Plaintiff's motion.

13 7. The Court finds that the Notice and the manner of its dissemination is the best
14 practicable notice under the circumstances and is reasonably calculated, under all the circumstances, to
15 apprise Class members of the proposed settlement of this action and their rights with respect thereto.
16 The Court further finds that the notice is reasonable, that it constitutes due, adequate, and sufficient
17 notice to all persons entitled to receive notice, and that it meets the requirements of due process.

18 8. Class counsel has asked the Court to include a provision in this order that would
19 require claims under the settlement to be postmarked to Class Counsel "no later than 90 days
20 following the latest date of mailing or publication of the Notice (the 'Notice Date'), except for good
21 cause shown, in order to be eligible for compensation under the Settlement." The Court declines to
22 adopt this requirement. Putting aside the vagueness of such a deadline, the Settlement Agreement by
23 its terms provides that "[i]ndividual class member will have 150 days from the date of this Agreement
24 to proffer claims pursuant to those areas of recovery that remain in the action." Because the City
25 signed the Settlement Agreement on April 3, 2007, it would appear that the Agreement would allow

1 class members until at least August 31, 2007 (the 150th day after April 3, 2007) to submit claims.

2 Therefore, the class notice shall inform class members that they would have until August 31, 2007
3 under the Settlement Agreement to submit claim forms.

4 9. Any Class member may object to the fairness, reasonableness, or adequacy of the
5 proposed Settlement Agreement or the Fee Application. Class members may do so either on their
6 own or through counsel hired at their own expense. Any Class member who wishes to object to the
7 proposed Settlement Agreement or the Fee Application must, by June 25, 2007, file with the Clerk of
8 the Court a written statement of objection along with any other supporting materials, papers, or briefs
9 that he or she wishes the Court to consider, and must on that same date serve such papers by first-
10 class mail on:

11 For the Class:
12 Adam J. Berger, Esq.
13 Schroeter, Goldmark & Bender
14 500 Central Building
810 Third Avenue
Seattle, Washington 98104

15 For the City:
16 Theron Buck, Esq.
Stafford Frey Cooper
601 Union Street, Suite 3100
Seattle, WA 98101

17 Any objection that is not timely made shall be barred, absent a showing of good cause. Any attorney
18 hired by a Class member at that Class member's expense for the purpose of making objections must
19 file with the Clerk of the Court, and serve the counsel set forth above (the "Designated Counsel"), a
20 notice of appearance, no later than June 25, 2007.

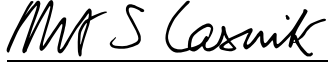
21 10. Any Class Member who timely files and serves a written objection may also appear at
22 the Fairness Hearing, either in person or through counsel hired at the Class member's expense, to
23 object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the Fee
24 Application. Any Class member who does not timely file and deliver a written objection by June 25,
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1 2007 shall not be permitted to object or appear at the Fairness Hearing, except for good cause shown,
2 shall be deemed to have waived and forfeited any objection at the Settlement Hearing, and shall be
3 bound by all proceedings, orders, and judgments of the Court.

4 11. In summary, the dates of performance are as follows:

- 5 a. The Notice shall be mailed to potential Class members within 14 days of the
6 date of this Order. Notice by publication shall also be made within 14 days of
7 the date of this Order.
- 8 b. Initial papers in support of the Fee Application shall be filed no later than June
9 18, 2007.
- 10 c. All objections to the Settlement Agreement or Fee Application shall be filed and
11 served no later than June 25, 2007.
- 12 d. Papers in support of the Settlement Agreement and in response to any
13 objections shall be filed no later than July 2, 2007.
- 14 e. The Fairness Hearing shall be held at 9:00 a.m. on July 9, 2007.
- 15 f. Unless otherwise ordered by the Court, all claims under the settlement must be
16 postmarked to Class Counsel by August 31, 2007.

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18 Dated: May 1, 2007.

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21 Robert S. Lasnik
22 United States District Judge
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