

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**JOHN MASON, IV, ET AL.,** )  
 )  
 **PLAINTIFFS,** )  
 )  
 **v.** )  
 )  
 **MIKE HALE, ET AL.,** )  
 )  
 **DEFENDANTS.** )  
 )

**CASE NO. 2:11-CV-03155-TMP**

**JOINT MOTION FOR APPROVAL OF CLASS SETTLEMENT**

COME NOW all parties to the above entitled action and jointly move this Court for approval of class settlement regarding conditions at the Jefferson County Jail in Birmingham, Alabama and evidence thereof state as follows:

1. Plaintiffs filed this lawsuit in 2011 as a class action lawsuit claiming that the overcrowded conditions at the Jefferson County Jail in Birmingham, Alabama constituted violations of the inmates civil rights, most notably the right to be free from cruel and unusual punishment.
2. Defendants each denied liability and extensive discovery was conducted.
3. In November of 2013, this Court granted Plaintiffs' Motion for Class Certification and certified a class of current and future inmates in the Jefferson County Jail under Rule 23(b)(2) of the Federal Rules of Civil Procedure.
4. On March 11, 2014, all parties via respective counsel reached a proposed settlement agreement which is attached as Exhibit 1 to this motion.
5. All parties have also reviewed the proposed notice of class settlement attached as Exhibit 2 to this motion.

6. All parties believe that this proposed settlement is fair and just and represents a favorable outcome to this lawsuit.

WHEREFORE, all parties pray this Court enter an Order approving the proposed settlement in accordance with Rule 23 of the Federal Rules of Civil Procedure.

Respectfully submitted,

/s/ John E. Lawes

Donald W. Stewart

John E. Lawes

Attorneys for Plaintiff

OF COUNSEL:

STEWART & STEWART, P.C.  
1826 3<sup>rd</sup> Avenue North, Suite 300  
Bessemer, Alabama 35020  
Phone: (205) 425-1166  
Fax: (205) 425-5959

/s/ James E. Murrill, Jr.

James E. Murrill, Jr.

Attorney for Defendant Mike Hale

OF COUNSEL:

RILEY & JACKSON, P.C.  
3530 Independence Drive  
Birmingham, Alabama 35209  
Phone: (205) 879-5000  
Fax: (205) 879-5901

/s/ French A. McMillan  
Assistant County Attorney

280 Jefferson County Courthouse  
716 Richard Arrington Jr. Blvd. North  
Birmingham, Alabama 35203  
Phone: (205) 325-5688  
Fax: (205) 3255840

# Exhibit 1

**SETTLEMENT AGREEMENT**

Plaintiffs, by and through counsel, and Defendants, by and through respective counsel, enter into this Settlement Agreement ("Agreement") providing for resolution of the claims asserted by Plaintiffs in the civil action styled *Mason et al v. Hale et al.*, Civil Action No. 2:11-cv-03155-TMP, currently pending in the United States District Court for the Northern District of Alabama (the "Lawsuit"). The parties agree to the following terms and conditions:

**I. INTRODUCTION**

1. WHEREAS, the Lawsuit, a certified class action for injunctive relief, was filed based on allegations of overcrowding and failure to properly fund the Jefferson County Jail in Birmingham, Alabama (the "Birmingham Jail") leading to alleged unconstitutional conditions at the facility;
2. WHEREAS, Defendants deny liability in this matter, but the parties, through this Agreement, seek to make certain changes regarding staff and conditions at the Birmingham Jail and the Jefferson County Jail in Bessemer, Alabama (the "Bessemer Jail") as provided herein;
3. WHEREAS, Plaintiffs and Defendants acknowledge that this Agreement does not constitute: (a) an admission by any Defendant of any violation of law; or (b) an admission by any Defendant that any current or past policy, practice, or procedure altered by this Agreement violated or failed to comply with any applicable Constitutional provision, law, rule, or regulation; or (c) a consent decree enforceable in any court.
4. WHEREAS, the parties agree that neither this Agreement nor anything contained in this Agreement confers "prevailing party" status on any Plaintiff for any purpose whatsoever, and that Plaintiffs have not achieved that status as a result of this litigation or the entry into this Agreement by the parties. Likewise, Plaintiffs shall not be determined to be "prevailing parties" as a result of this Agreement or any performance or failure of performance hereunder.
5. WHEREAS, the parties agree that a resolution of the claims in the Lawsuit would benefit all parties by avoiding the time and expense of ongoing litigation; and
6. WHEREAS, the parties have entered into this Agreement in reliance on the mutual representations contained herein;
7. WHEREFORE, in consideration of the mutual promises of the parties set forth below, sufficiency of which is acknowledged by all of the parties, the undersigned parties agree to the final resolution of all claims related to the Lawsuit. It is hereby stipulated and agreed by and between the undersigned as follows:

**II. EFFECTIVE DATE**

8. The effective date of this Agreement shall be the date on which the Agreement is last executed by the parties, by and through counsel.

**III. PARTIES**

9. Plaintiffs are a certified class currently led by the following named individuals: Drew Thacker, Gregory Robinson, and George Van Zandt. Plaintiffs filed the Lawsuit and a class has been certified consisting of all inmates who are now, or who will in the future, be detained at the Birmingham Jail.
10. Defendants are the following persons in their official capacities only: Mike Hale, Sheriff of Jefferson County ("Sheriff Hale"); and David Carrington, George Bowman, Sandra Little Brown, Jimmie Stephens, and Joe Knight, Jefferson County Commissioners (the "Jefferson County Commission"). All of the Defendants are sued in their official capacities only and enter into this Agreement in their official capacities only. The parties recognize that Sheriff Hale has certain statutory authority regarding, and day-to-day operational responsibilities concerning, the Birmingham Jail and the Bessemer Jail. The parties likewise recognize that Sheriff Hale is dependent upon funding from the Jefferson County Commission in order to operate the Birmingham Jail and the Bessemer Jail. The parties also recognize that the Jefferson County Commission is bound by the Balanced Budget Act and is required to maintain a balanced budget in each calendar year when allocating for multiple required functions and officials in a calendar year.

**IV. DEFINITIONS**

11. "Detainee" means any person incarcerated in the Birmingham Jail or the Bessemer Jail, whether that person be a pre-trial detainee, an arrestee, a County inmate post-conviction, a state inmate either awaiting transfer to the state prison system or returning from the state prison system to answer charges in Jefferson County, a federal detainee of any kind, or any other person otherwise booked into the Birmingham Jail or the Bessemer Jail.
12. "Control Room Operators" or "CROs" means newly created positions at the Birmingham Jail and/or Bessemer Jail that will visually monitor Detainees from control booths but will not have direct contact with Detainees.

**V. REMEDIAL PROVISIONS**

**A. POPULATION**

13. At least 100 Detainees from the Birmingham Jail shall be transferred to the Bessemer Jail by February 1, 2014.

14. At least 100 additional Detainees from the Birmingham Jail shall be transferred to the Bessemer Jail by June 1, 2014.
15. Housing of Detainees shall generally be limited to two detainees per cell unless housing classification requirements and fixed design limitations require that more than two Detainees be housed in a cell. A reasonable effort shall be made to minimize the amount of time that more than two Detainees are housed in a cell.
16. Procedures for the segregation of mentally ill, physically handicapped, high risk, or otherwise special needs Detainees for the Birmingham Jail and Bessemer Jail shall be provided to class counsel no later than June 1, 2014.

**B. STAFFING**

17. Reasonable efforts shall be made to complete the hiring process for at least 40 CROs by February 1, 2014.
18. At least an additional 20 deputies shall be re-assigned to the Bessemer Jail by February 1, 2014.
19. At least 100 deputies or CROs shall be assigned to the Birmingham Jail.
20. At least an additional 3 deputies shall be assigned to the Bessemer Jail after February 1, 2014 and before June 1, 2014.

**C. PHYSICAL PLANT AND ADDITIONAL CONSIDERATIONS**

21. Qualified inmates shall be provided access to recreational activities unless doing so would endanger the lives or safety of the Detainee, other Detainees, or the Jail staff.
22. Cells, pods, dormitories, or any other form of Detainee housing shall be maintained in proper working order, including but not limited to: properly working plumbing, lighting, electrical, and HVAC systems.
23. Detainees shall be provided with clean linens and laundry on a regular basis.
24. Detainees shall be provided with prophylactic dental hygiene equipment including adequate tooth paste and tooth brushes.

**VI. PROVISIONS OF INFORMATION TO PLAINTIFFS' COUNSEL**

25. Plaintiffs' counsel and Plaintiffs' expert shall have the right to come to the offices of Riley & Jackson to review redacted reports (i.e., reports not including any names, social security numbers, dates of birth, or medical information) upon request but no more than every 3 months. These reports may not be disseminated to any other person, except as

required for this Lawsuit, and may not be used by counsel for any party in any other proceeding. Plaintiffs' expert shall sign a confidentiality agreement that any information will not be shared with anyone other than Plaintiffs' class counsel. Plaintiffs' counsel agrees to keep the information confidential and may only use it in regards to this Lawsuit. The reports contemplated under this paragraph include: a) all incident reports documenting use of force, alleged use of force, assaults with or without a weapon, fighting with or without a weapon, sexual assaults or alleged sexual assaults, (b) daily Detainee counts for each jail, and (c) staffing rosters for both jails for the 1st and 15th day of each month showing the number of deputies who actually reported for duty and where they were assigned.

26. In addition to the quarterly report contemplated by ¶ 25, Plaintiffs' counsel shall have the right to make an inspection of the Birmingham Jail. Plaintiffs' counsel shall have the right to make the aforesaid inspection between June 1, 2014 and December 31, 2014 at a mutually agreed upon time with Sheriff Hale's counsel.
27. The parties agree that should Defendants fail to comply with the preceding paragraph, Plaintiffs may ask the Court to remove this case from its administrative docket and restore this case to the Court's active docket for resolution of any dispute arising under ¶ 25. Such a motion will not relieve the parties of their obligations to produce the documents described in ¶ 25. Prior to approaching the Court for such relief, Plaintiffs' counsel will make a good faith effort to confer with Defendants' counsel to resolve the issue

#### **VII. ATTORNEY'S FEES AND COST**

28. Defendants shall pay Plaintiffs' counsel \$135,000.00 within 30 days of their execution of this Agreement and court approval as reimbursement for any and all claims for costs and fees associated with Plaintiffs' prosecution of the Lawsuit, including any such costs and fees associated with effectuating the provisions of this Agreement. By their signatures to this Agreement, Plaintiffs' counsel waive any further or additional claim for litigation costs, attorney fees, reimbursement or the like associated with the prosecution of the Lawsuit and release Defendants, and any other person or entity, from any claim of attorney's fees, litigation costs, reimbursement, or the like that Plaintiffs or their counsel may have, or claim to have, in connection with the prosecution of the Lawsuit.
29. By their signatures to this Agreement, Defendants waive any claim for litigation costs, attorney fees, reimbursement or the like associated with the defense of the Lawsuit and release Plaintiffs and Plaintiffs' counsel from any claim of attorney fees, litigation costs, reimbursement, or the like that Defendants or their counsel may have, or claim to have, in connection with the defense of the Lawsuit.



**VIII. MISCELLANEOUS PROVISIONS**

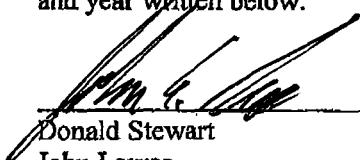
30. **Best efforts.** All parties agree to exercise their best efforts and take all reasonable steps necessary to effectuate this Agreement. The parties commit to open and timely communication about issues that arise with regard to implantation of this Agreement.
31. **Dissemination of this Agreement to Deputies:** Sheriff Hale shall educate and inform his deputies regarding the contents of this Agreement.
32. **No waiver of privilege or immunity.** Nothing in this Agreement, or undertaken pursuant to this Agreement, constitutes or is intended to constitute a waiver of any applicable privilege or immunity.
33. **Entire Agreement.** This Agreement represents the entire agreement by and among the parties as to the claims in this case and no agreement entered into at any time, nor any written agreement entered into prior to the execution of this Agreement, shall be deemed to exist or bind the parties, or to vary the terms and conditions contained herein, or to determine the meaning of any provisions therein.
34. **Mutual exclusivity of provisions.** If any provision of this Agreement is declared invalid, illegal, or unenforceable in any respect, the remaining provisions shall remain in full force and effect, unaffected and unimpaired.
35. **Persons bound.** This Agreement shall be binding upon, and inure to the benefit of, the parties hereto, their attorneys, and their respective successors and assigns.
36. **Applicable Law.** This Agreement shall be governed by the laws of the State of Alabama as to interpretation, construction, and performance.

**IX. STIPULATION OF DISMISSAL AND EXECUTION OF THE AGREEMENT**


37. Upon execution of the Agreement, the parties will jointly move the Court to stay the Lawsuit and place the Lawsuit on the Court's administrative docket until January 2, 2016.
38. The parties shall perform their respective obligations and duties under this Agreement beginning on the Effective Date. The parties agree to make a good faith effort to confer regarding any dispute that arises under the Agreement and attempt to resolve any dispute that arises under this Agreement. Counsel will make good faith efforts to resolve any dispute in a timely manner.
39. At any time prior to January 1, 2016, any party may file a motion requesting that this case be restored to the Court's active docket for such proceedings as the Court deems necessary and appropriate.

- 40. If the Plaintiffs do not file the motion described in the preceding paragraph within the prescribed time, or if the motion is filed but the Court finds after an evidentiary hearing that there is no current and ongoing violation of Plaintiffs' rights or current violations of the Agreement, the case will be dismissed with prejudice.
- 41. The Court will retain jurisdiction of the case until it is finally dismissed pursuant to the terms of this Agreement.
- 42. The parties hereto, by and through counsel, with full and complete authority, have caused this Agreement to be properly executed as of the date last executed below.
- 43. Upon payment to the Plaintiffs' counsel pursuant to paragraph 28 above, Plaintiffs shall withdraw any and all claims and proofs of claim filed on behalf of the Plaintiffs or Plaintiffs' counsel in the County's chapter 9 bankruptcy case, In re Jefferson County, United States Bankruptcy Court for the Northern District of Alabama, Case No. 11-05736-TBB9.

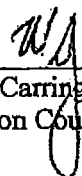
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the date and year written below.

  
\_\_\_\_\_  
Donald Stewart  
John Lawes  
On behalf of Plaintiffs as Class Counsel

4/10/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Mike Hale, in his official capacity as  
Sheriff of Jefferson County, Alabama

4/10/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
David Carrington, President  
Jefferson County Commission

3-27-14  
\_\_\_\_\_  
Date

# Exhibit 2

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>JOHN MASON, IV, <i>ET AL.</i>,</b>	)	
	)	
<b>PLAINTIFFS,</b>	)	
	)	
<b>v.</b>	)	<b>CASE No. 2:11-CV-03155-TMP</b>
	)	
<b>MIKE HALE, <i>ET AL.</i>,</b>	)	
	)	
<b>DEFENDANTS.</b>	)	
	)	

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**  
Mason v. Hale, Case No. 2:11-CV-03155-TMP

**TO: ALL PRISONERS AT THE JEFFERSON COUNTY JAIL, BIRMINGHAM, AL**

**THE PURPOSE OF THIS NOTICE IS TO INFORM YOU OF:**

- **THE TERMS OF THE PROPOSED SETTLEMENT AGREEMENT**
- **THE REASONS WHY CLASS COUNSEL BELIEVE THAT SETTLEMENT IS IN THE BEST INTERESTS OF THE CLASS**
- **YOUR RIGHT TO OBJECT TO THE SETTLEMENT**

**BACKGROUND**

On August 30, 2011, a federal lawsuit was filed in the U.S. District Court for the Northern District of Alabama alleging overcrowding at the Jefferson County Jail in Birmingham, Alabama. An Amended Complaint in this action was filed on or about November 8, 2011. Lawyers with the law firm of Stewart and Stewart, P.C. and the Law Office of Timothy L. Arnold appeared on behalf of the named plaintiffs in the lawsuit. Plaintiffs requested that the lawsuit be recognized as a Class Action, so that the interests of all inmates at the Jefferson County Jail in Birmingham, Alabama would be represented. The Court subsequently granted class certification to a class of inmates defined as “all current and future inmates in the Jefferson County Jail located in Birmingham.” The lawsuit is not one for money damages. Rather, the lawsuit asked the Court to declare that overcrowding conditions at the Jefferson County Jail unconstitutional, and order Defendants to undertake changes to the living conditions at the Jail.

## PROPOSED SETTLEMENT AGREEMENT

The Parties have agreed to settle this lawsuit on the terms stated below. The Proposed Settlement Agreement does not constitute any admission of liability by the Defendants. Defendants deny the truthfulness of the claims in this lawsuit and deny having engaged in any culpable conduct. After much deliberation, Class Counsel have concluded that the terms and conditions of the Proposed Settlement Agreement are in the best interests of the Class.

### **1. Why Class Counsel Support the Settlement**

In deciding to support a settlement of this lawsuit, Class Counsel carefully weighed the benefits of the proposed settlement terms against the risks of an unfavorable outcome in the litigation and the time needed to prosecute the case through a trial and likely appeals. After considering all these issues, it is our professional opinion that Proposed Settlement Agreement will improve the overcrowding conditions for the Class more quickly and the comprehensively than any result the Class might obtain through further litigation of this lawsuit.

### **2. A Summary of the Key Terms of the Proposed Settlement Agreement**

- Transfer of at least 200 inmates from the Birmingham Jail to the Bessemer Jail to occur by June 1, 2014.
- Housing of inmates to be generally limited to two inmates per cell.
- Qualified inmates to be provided access to recreational activities.
- Creation of substantial increase in oversight personnel.
- The lawsuit will be stayed on the inactive docket for a period of two years during which time Plaintiffs' counsel will have access to incident reports and staffing roster information
- During this time Plaintiffs' counsel and expert will be able to inspect the jail.
- If the Defendants do not comply with the terms of the lawsuit, it may be reinstated for further litigation.

The above summary does not include all the terms and conditions of the Proposed Settlement Agreement. The only complete statement of the terms of the proposed settlement is found in the actual Proposed Settlement Agreement. You may obtain a copy of the Proposed Settlement Agreement by writing to:

John E. Lawes  
Stewart & Stewart, P.C.  
ATTN: Mason v. Hale, Case No. 2:11-CV-03155-TMP  
1826 3<sup>rd</sup> Avenue North, Suite 300  
Bessemer, AL 35020

**3. The Settlement Must Be Approved By The Court Before It Is Final.**

Under federal class action rules, before this lawsuit can be settled, the Court must find that the settlement terms are fair, reasonable, and adequate to all Parties. Court approval is an additional level of protection for all class members. While Class Counsel strongly believe that this settlement is in the best interests of all current and future prisoners at the Jefferson County Jail in Birmingham, Alabama, we recognize that some class members may not support the settlement. If you do not think this settlement is a good idea, you have the right to file a formal objection with the Court.

After reviewing all timely objections, the Court will hold a Fairness Hearing on \_\_\_\_\_, 2014 at \_\_\_\_\_, in the Hugo L. Black U.S. Courthouse in Birmingham, AL, to decide whether or not to approve the Proposed Settlement Agreement. If the Court decides that the settlement terms are fair, reasonable, and adequate, then the Proposed Settlement Agreement will become final. If the Court approves the Proposed Settlement Agreement, the parties will jointly move for the case to be placed on the inactive docket for a period of two years after which the suit will be dismissed. Thereafter, any disputes regarding implementation of the Agreement will be handled through the dispute resolution mechanism set forth in the Agreement and/or state court.

If the Court decides not to approve the Proposed Settlement Agreement, the settlement will be voided and will have no further effect. The case will not be settled, but will go to trial. If that happens, there is no assurance that any decision at trial will be in favor of the class members, or would be upheld on appeal; or that, even if there is a favorable trial decision, it will be as favorable to class members as the Proposed Settlement Agreement would have been.

**4. You Have the Right to Object to the Settlement.**

If you have no objection to the Proposed Settlement Agreement, you do not have to do anything.

If, however, you believe the Court should not approve the settlement because you object for any reason to the terms of the Proposed Settlement Agreement, you may object. You must submit your objection in writing to the Court. Any objection must contain the following information:

- a. The case name and number: Mason v. Hale, Case No. 2:11-CV-03155-TMP
- b. Your full name and identification number
- c. A concise explanation of why you object to the Proposed Settlement Agreement

For your objection to be considered by the Court, you must mail it by \_\_\_\_\_ to the Clerk of the Court, with a copy to all Counsel, at the following addresses:

<p>French A. McMillan Jefferson County Attorney's Office 716 Richard Arrington Boulevard North Room 280 Birmingham, Alabama 35203</p>	<p>John E. Lawes Stewart &amp; Stewart, P.C. ATTN: Mason v. Hale, Case No. 2:11-CV-03155-TMP 1826 3<sup>rd</sup> Avenue North Suite 300 Bessemer, Alabama 35020</p>
<p>James E. Murrill, Jr. Riley &amp; Jackson, P.C. 1744 Oxmoor Road Birmingham, Alabama, 35209</p>	

**5. Money Issues**

This lawsuit does not involve money damages, so whether or not this case settles or goes to trial, no class member will obtain money from the Defendants.

The proposed settlement provides that Defendants shall pay Plaintiffs' Counsel a one-time lump sum of \$135,000 to cover their fees and costs for the last three years, as well as all future fees and costs incurred by Plaintiffs' Counsel during the monitoring period of this settlement agreement through 2016.

**6. Questions About the Proposed Settlement Agreement**

If you have any questions about the proposed settlement, you may contact Class Counsel by writing to:

John E. Lawes  
Stewart & Stewart, P.C.  
ATTN: Mason v. Hale, Case No. 2:11-CV-03155-TMP  
1826 3<sup>rd</sup> Avenue North  
Suite 300  
Bessemer, AL 35020