

## **SETTLEMENT AGREEMENT AND RELEASE**

***THIS SETTLEMENT AGREEMENT AND RELEASE*** (the “Agreement”) is made and entered into between Brian Otero (“Plaintiff” or “Otero”), individually and in his representative capacity on behalf of the Class (as defined below), and defendants Thomas J. Dart, Sheriff of Cook County (the “Sheriff”), in his official capacity, and Cook County, Illinois (“Cook County”) (the Sheriff and Cook County shall collectively be referred to herein as “Defendants”). Plaintiff and Defendants are sometimes individually referred to herein as a “Party” and collectively as the “Parties.”

### **I. RECITALS**

***WHEREAS***, on April 27, 2012, Plaintiff, individually and on behalf of other similarly situated individuals, filed suit against Defendants in the United States District Court for the Northern District of Illinois, entitled *Otero v. Dart, et al.*, Case No. 1:12-cv-03148 (the “Lawsuit”) alleging that the Sheriff maintained a “policy or practice of unlawfully detaining, holding in custody or imprisoning free citizens following a trial or other proceeding at which the citizen is found not-guilty or otherwise acquitted” in violation of the Fourth and Fourteenth Amendments to the United States Constitution, and an Amended Complaint was filed on January 15, 2014, alleging substantially the same allegations, but adding a claim alleging that the Sheriff treats “male inmates differently than similarly situated female inmates who were found not guilty ... or otherwise received a judicial determination requiring their release.”

***WHEREAS***, on September 2, 2014, the Honorable Amy J. St. Eve certified the Lawsuit as a class action and defined the class as “[a]ll male inmates who while being detained by the Cook County Sheriff’s Office were found not guilty, were acquitted, or had charges brought against them dismissed, and for whom the Sheriff’s Office no longer had any legal right to detain from April 27, 2010 through the present” (the “Class”) (each individual meeting the definition of the Class shall be referred to herein as a “Class Member”). The Court also designated Brian Otero as the class representative and appointed Myron M. Cherry and Jacie C. Zolna of Myron M. Cherry & Associates, LLC and Robert M. Foote of Foote, Mielke, Chavez & O’Neil, LLC as class counsel (the law firms of Myron M. Cherry & Associates, LLC and of Foote, Mielke, Chavez & O’Neil, LLC shall collectively be referred to herein as “Class Counsel”);

***WHEREAS***, on January 7, 2016, the Honorable Amy J. St. Eve entered an order denying Defendants’ motion for summary judgment with respect to Plaintiff’s Fourth Amendment claim, Fourteenth Amendment substantive due process claim and Equal Protection claim and granting Defendants’ motion for summary judgment with respect to Plaintiff’s Fourteenth Amendment procedural due process claim;

***WHEREAS***, the Parties have completed fact and expert discovery and the trial of this matter was scheduled to commence on March 7, 2016;

***WHEREAS***, the parties have met and conferred on numerous occasions over the past several years in an effort to reach a settlement of the Lawsuit. On February 18, 2016, the

Honorable Amy J. St. Eve held a settlement conference with the Parties, which ultimately resulted in the settlement set forth herein;

**WHEREAS**, the terms and conditions of the settlement set forth herein were reached after extensive, *bona fide*, arm's length negotiations among the Parties by their respective attorneys;

**WHEREAS**, the Parties acknowledge that settlement of the Lawsuit is not an admission of liability, nor of unconstitutional or unlawful conduct by, or on the part of Defendants;

**WHEREAS**, the Parties have investigated the facts and have analyzed the relevant legal issues with regard to the claims and defenses asserted in the Lawsuit. Based on these investigations, Plaintiff believes the Lawsuit has merit while Defendants believe the Lawsuit has no merit. The Parties have also each looked at the uncertainties of trial and the benefits to be obtained under the proposed settlement, and have considered the costs, risks, and delays associated with the continued prosecution of this complex litigation, and the likely appeals of any rulings in favor of either Plaintiff or Defendants. After undertaking this investigation and analysis, Class Counsel believes that it is in the best interest of the Class to enter into this Agreement;

**NOW, THEREFORE**, in consideration of the representations, covenants and promises contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby confessed and acknowledged as evidenced by the execution of this Agreement, the Parties agree as follows:

## **II. CLASS RELIEF**

**1. Non-Monetary Relief:** The Sheriff will make modifications to his release policies and practices to provide the following:

- a. A mechanism for promptly identifying Potential Male Court Discharges after their court appearance. For purposes of this Agreement, a "Potential Male Court Discharge" shall refer to a male detainee who while being detained by the Sheriff was found not guilty, was acquitted or otherwise had the charges brought against him dismissed in court. The Parties understand and acknowledge that in order for Potential Male Court Discharges to be identified, the Circuit Court must issue and the Clerk of the Circuit Court process and provide to Defendants a mittimus which includes the Court's order. Delays in the issuance and disclosure of the mittimus is not in the control of Defendant Cook County Sheriff.
- b. Upon identification of a Potential Male Court Discharge as set forth in Paragraph 1.a. above, a procedure under which all individuals so identified are segregated in the RCDC from other inmates returning from court as is currently done for potential female court discharges.

- c. A procedure under which individuals identified as Potential Male Court Discharges are not required to return to the general jail population.
- d. A policy in the Records Division of the Cook County Department of Corrections (the "CCDOC") under which the administrative steps necessary to release a detainee whose situation would define him as a member of the class as defined in paragraph 1(a) are given priority over processing the paperwork of other inmates returning from court back to the CCDOC who are not subject to release.
- e. A policy in the Records Division of the CCDOC under which the administrative steps necessary to release a detainee after a finding of not guilty, an acquittal or other dismissal of charges in court are undertaken in a gender-neutral manner (*i.e.*, females subject to release will not be given priority or preferential treatment over males subject to release).

**2. Timing and Enforcement of Non-Monetary Relief:** The modifications necessary to effectuate these policies and practices shall be implemented no later than ninety (90) days after the entry of a final and appealable order and/or judgment approving the settlement of this Lawsuit and the award of Class Counsel's fees and costs (the "Final Approval Order"). Within ninety (90) days after the entry of the Final Approval Order, Defendants shall also file with the Court a status report setting forth in detail the modifications the Sheriff undertook to effectuate the policies and practices set forth in Paragraph 1 above. The District Court shall retain jurisdiction with respect to the implementation and enforcement of the policies and practices set forth in Paragraph 1 above for a period of time to be determined by the Court, which shall be at least six months and no more than one year from the date of filing of the status report referenced in this Paragraph. Additional time may be sought by Defendants to implement the modifications upon a motion to the Court or by agreement of the Parties.

**3. Monetary Payment to Class Members:** In addition to the injunctive relief set forth above, Defendants will also pay one-hundred dollars (\$100) to each Class Member who submits a claim (the "Class Member Payments"). Defendants will pay all Class Member Payments up to a total of one-million one-hundred four thousand two-hundred fifty dollars (\$1,104,250). If the total amount of claims exceeds this amount then Class Member Payments will be reduced on a pro-rated basis, such that the total amount of all Class Member Payments shall not exceed one-million one-hundred four thousand two-hundred fifty dollars (\$1,104,250).

**4. Timing of Class Member Payments:** If the Court enters the Final Approval Order, Defendants, through the Claims Administrator, shall within twenty-one (21) days after the Final Settlement Date mail the Class Member Payments to those Class Members who submitted a valid and timely claim. "Final Settlement Date" shall mean the date in which either of the following events has occurred: (a) if there is no appeal from the Final Approval Order, thirty-one (31) days after the Court enters the Final Approval Order and provides any objector notice that the Court entered the Final Approval Order, or (b) if an appeal is taken from the Final Approval Order, seven (7) days after a reviewing court either affirms the Final Approval Order or denies

review and either all avenues of appeal have been exhausted or the time for seeking further appeals has expired.

### III. CLASS NOTICE AND CLAIMS ADMINISTRATION

**5. Retention of Claims Administrator:** The Parties agree to the retention of KCC, LLC (the “Claims Administrator”) to administer the notice and claims administration process.

**6. Class Notice:** Within twenty-eight (28) days after the entry of an order granting preliminary approval of the settlement of this Lawsuit and the award of Class Counsel’s fees and costs (the “Preliminary Approval Order”), Class Counsel shall, through the Claims Administrator, send notice of this settlement to the Class in the form attached hereto as **Ex. A** (the “Notice”). Within fourteen (14) days after the entry of the Preliminary Approval Order, Defendants shall provide Class Counsel with a list of all individuals who meet the class definition and who were released from the CCDOC from January 22, 2016 through and including the date that the Preliminary Approval Order was entered. The Notice shall be sent to all individuals on said list, as well as to all individuals identified on the class member lists Defendants produced to Class Counsel on January 25, 2016, which lists cover the time period of April 27, 2010 through January 21, 2016 and identify approximately 44,170 class members. The Notice shall also include a claim form in the form attached hereto as **Ex. B** (the “Claim Form”), as well as a pre-paid, self-addressed return envelope that Class Members can use to mail their Claim Form to the Claims Administrator. The Notice, Claim Form and return envelope shall be sent by U.S. Mail to the last known address of each Class Member.

**7. Vacated Release Category:** Within seven (7) days after the entry of the Preliminary Approval Order, Defendants shall provide Class Counsel with a list of all male detainees released from the CCDOC and whose discharge status was listed as “vacated” from April 27, 2010 through and including the date that the Preliminary Approval Order was entered. These individuals will also be sent the Notice and Claim Form set forth in Paragraph 6 above. Any such individual who submits a claim as provided in Paragraph 10 below shall be entitled to a Class Member Payment unless Defendants object to his status as a Class Member and provide the grounds for said objection in writing to Class Counsel within seven (7) days after receipt of the certification set forth in Paragraph 11 below. If Class Counsel disagrees with Defendants’ objection, the Parties shall meet and confer in an effort to resolve the dispute. If the Parties are unable to resolve the dispute within seven (7) days of Class Counsel’s receipt of Defendants’ objection, the Parties shall submit the dispute to the Court, which will resolve the issue of whether the individual falls within the definition of the Class and, therefore, is entitled to a Class Member Payment.

**8. Posting of Notice at the CCDOC:** The Sheriff shall also post notice of this settlement on the premises of the CCDOC in an area where male detainees are housed or frequently held and in a conspicuous manner so that it is readily viewable by male detainees at the CCDOC. If no such area exists that would allow all male detainees at the CCDOC to readily access and view said notice, then the Sheriff shall post the notice in as many locations as is necessary so that it is readily accessible to and viewable by all male detainees at the CCDOC. This Notice shall be in the form attached hereto as **Ex. C** (the “Posting Notice”). The Sheriff



shall post the Posting Notice no later than seven (7) days after entry of the Preliminary Approval Order and it shall remain posted until the entry of the Final Approval Order.

**9. Claims Administration Website:** Within twenty-eight (28) days after entry of the Preliminary Approval Order, the Claims Administrator will develop and activate a website that will generally describe the nature of the Lawsuit and provide a general outline of the terms of the proposed settlement. The website will also post a copy of the Amended Complaint (Doc. 56 in the Lawsuit), the Notice and this Agreement and shall be designed and constructed to accept electronic Claim Form submissions from Class Members. The website will be active until seventy-seven (77) days after the entry of the Preliminary Approval Order. The website may describe the allegations of the lawsuit, including, but not limited to, that constitutional violations were alleged, but shall not otherwise disparage Defendants or suggest that the Defendants have violated the constitutional rights of class members beyond the allegations as set forth in the Amended Complaint.

**10. Claims Administration:** To be eligible for a Class Member Payment, a Class Member must either (i) mail a signed Claim Form to the Claims Administrator, which must be postmarked no later than seventy-seven (77) days after the entry of the Preliminary Approval Order, or (ii) submit a claim online through the website created by the Claims Administrator within seventy-seven (77) days after the entry of the Preliminary Approval Order. A Class Member is eligible for a Class Member Payment for each separate occurrence in which he was released from the CCDOC after being found not guilty, being acquitted or otherwise having the charges brought against him dismissed in court (*i.e.*, if a Class Member was found not guilty and released from the CCDOC on May 1, 2012 and was also released on a subsequent occasion after being found not guilty on a different charge on January 15, 2016, he is eligible for two Class Member Payments of \$100 each).

**11. Confirmation of Claims and Opt-Outs:** Within one-hundred two (102) days after the entry of the Preliminary Approval Order (*i.e.*, twenty-five (25) days after the deadline for submitting claims and/or opting-out), the Claims Administrator shall provide Defendants, with a copy to Class Counsel, a certification setting forth (i) the total number of valid and timely claims that were submitted by Class Members, (ii) the total dollar amount of Class Member Payments for all valid and timely claims (the "Total Class Payment"), (iii) the name and Inmate ID of all Class Members who opted-out of the Class pursuant to Paragraph 16 below, and (iv) the name and Inmate ID of any individuals who submitted a valid and timely claim whose discharge status was listed as "vacated" on the list provided by Defendants pursuant to Paragraph 7 above.

**12. Cost of Claims Administration:** Defendants shall pay all fees and costs incurred for the administration of the settlement up to ninety-five thousand dollars (\$95,000), including, but not limited to: (i) preparing, mailing and monitoring all necessary notices, claim forms and related documents; (ii) developing, maintaining and operating a website specifically created for the settlement of the Lawsuit and the submission of claims by Class Members; (iii) communicating with and responding to Class Members; (iv) computing settlement payments for Class Members; (v) establishing or maintaining an account for Class Member Payments; (vi) distributing payments to Class Members, and (vii) other fees and costs reasonably incurred in administering the settlement contemplated herein (collectively, the "Claims Administration

Costs”). All Claims Administration Costs in excess of ninety-five thousand dollars (\$95,000) shall be incurred by Class Counsel, which amounts shall be recoverable as costs pursuant to Paragraph 15 below.

**13. Funding of Settlement:** Within twenty-one (21) days after the entry of the Preliminary Approval Order, Defendants shall remit to the Claims Administrator: (i) \$1,104,250 for Class Member Payments; (ii) \$95,000 for Claims Administration Costs; and (iii) \$15,000 for Brian Otero as the named Plaintiff’s incentive award (\$15,000). Within thirty-five (35) days after the entry of the Final Approval Order, Defendants shall remit to Myron M. Cherry & Associates, LLC the entire amount of Class Counsel attorneys’ fees and costs in accordance with Paragraph 15 below. If the Total Class Payments are less than one-million one-hundred four thousand two-hundred fifty dollars (\$1,104,250), the Claims Administrator shall remit to Defendant Cook County within twenty-one (21) days after the Final Settlement Date the difference between \$1,104,250 and the Total Class Payments. If the Claims Administration Costs are less than ninety-five thousand dollars (\$95,000), the Claims Administrator shall remit to Defendant Cook County within twenty-one (21) days after the Final Settlement Date the difference between \$95,000 and the Claims Administration Costs.

#### **IV. INCENTIVE AWARD AND CLASS COUNSEL’S FEES AND COSTS**

**14. Named Plaintiff’s Incentive Award:** Subject to the Court’s approval, Defendants shall pay Brian Otero an incentive award of fifteen thousand dollars (\$15,000), which payment shall be remitted to Brian Otero with within twenty-one (21) days after the Final Settlement Date.

**15. Class Counsel’s Attorneys’ Fees and Costs:** Subject to the Court’s approval, Defendants shall pay Class Counsel attorneys’ fees and costs in an amount of up to two-million dollars (\$2,000,000). Class Counsel shall file its motion or petition supporting its request for attorneys’ fees and costs with the Court no later than twenty-one (21) days prior to the deadline for Class Members to object to the Settlement as set forth below. Defendants will not oppose this request to the extent fees and costs do not exceed two-million dollars (\$2,000,000). The attorneys’ fees and costs awarded to Class Counsel shall be made payable and be remitted to Myron M. Cherry & Associates, LLC within thirty-five (35) days after the entry of the Final Approval Order, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on this Agreement or any part thereof, subject to Class Counsel’s obligation to make appropriate refunds or repayments to the Defendants if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the attorneys’ fees or cost award is reduced or reversed.

#### **V. RIGHT TO OPT-OUT OR OBJECT**

**16. Exclusion/Opt-Out Requests:** Class Members may elect not to be part of the Class and not to be bound by this Agreement (*i.e.*, “opt-out”). To make this election, Class Members must mail a written request to the Claims Administrator stating: (a) the name and case number of the Lawsuit: *Otero v. Dart*, No. 12-cv-3148; (b) the full name, address and telephone number of the person requesting exclusion; and (c) a statement that he wishes to be excluded

from the Class and does not wish to participate in the settlement. Opt-out requests must be postmarked no later than seventy-seven (77) days after the entry of the Preliminary Approval Order.

**17. Objections.** Any Class Member who has not submitted a timely written exclusion request pursuant to Paragraph 16 above and who wishes to object to the fairness, reasonableness or adequacy of the Agreement and the proposed settlement or to the attorneys' fees and costs requested by Class Counsel, must do so by filing a written objection with the Court and delivering a copy of the objection to Class Counsel and Defendants' counsel no later than seventy-seven (77) days after the entry of the Preliminary Approval Order. It shall be the objector's responsibility to ensure receipt of any objection by the Court, Class Counsel and Defendants' counsel. To be considered by the Court, the objection must include: (a) the name and case number of the Lawsuit: *Otero v. Dart*, No. 12-cv-3148; (b) the Class Member's name, address and telephone number; (c) a statement of each objection and the relief that the Class Member is requesting; and (d) a statement of whether the Class Member intends to appear, either in person or through counsel, at the final approval hearing. Any Class Member who files and serves a written objection, as described in this Paragraph, has the option to appear at the final approval hearing, either in person or through personal counsel hired at the Class Member's expense, to object to the fairness, reasonableness or adequacy of this Agreement and the proposed settlement or to the attorneys' fees and costs requested by Class Counsel. However, Class Members or their attorneys intending to make an appearance at the final approval hearing must include a statement of intention to appear in the written objection filed with the Court and delivered to Class Counsel and Defendants' counsel, and only those Class Members who include such a statement may speak at the final approval hearing. If a Class Member makes an objection or appears at the final approval hearing through an attorney, the Class Member will be responsible for his personal attorney's fees and costs.

## **VI. RELEASE**

**18. Plaintiff and Class Member Release:** Upon entry of the Final Approval Order, Plaintiff and all Class Members who do not validly and timely request to be excluded from the proposed settlement, and each of their respective successors, assigns, legatees, heirs and personal representatives release and forever discharge Defendants and each of their respective officers, employees, agents, representatives, attorneys, insurers, and all persons acting by, through, under or in concert with them, or any of them, from all manner of action, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages, charges, penalties, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent, which they have or may have arising out of or relating to any of the conduct that was the subject of this Lawsuit, including any claimed (i) unlawful detention or over-detention by the Sheriff after being found not guilty, being acquitted or otherwise receiving a dismissal of the charges brought against him in court, or (ii) unequal treatment in the manner or processing of their court-ordered release in relation to similarly situated female detainees.

## VII. MISCELLANEOUS PROVISIONS

**19. Final Approval Hearing:** In connection with his motion for preliminary approval of this Agreement and the settlement of this Lawsuit, Plaintiff shall request that a final approval hearing be held between one-hundred nineteen (119) and one-hundred forty (140) days after entry of the Preliminary Approval Order, subject to the Court's availability. Prior to the final approval hearing, Class Counsel shall file with the Court a complete list of all Class Members who validly and timely excluded themselves from the Class.

**20. Status of Lawsuit If Settlement Is Not Approved:** This Agreement is being entered into for settlement purposes only. If the Court conditions its approval of either the Preliminary Approval Order or the Final Approval Order on any modifications of this Agreement (other than modifications to the time periods and dates described herein) that are not acceptable to all Parties, if the Court does not approve this Agreement or enter the Final Approval Order, or if the Final Settlement Date does not occur for any reason, then this Agreement will be deemed null and void *ab initio*.

**21. Judgment and Enforcement:** The Parties agree that should the Court enter the Final Approval Order, it shall include a provision for the retention of the Court's jurisdiction over the Parties to enforce the terms of this Agreement.

**22. Change of Time Periods:** All time periods and dates described in this Agreement are subject to the Court's approval. These time periods and dates may be changed by the Court or by the Parties' written agreement without notice to the Class.

**23. Binding on Successors:** This Agreement binds and benefits the Parties' respective successors, assigns, legatees, heirs, and personal representatives.

**24. Entire Agreement:** This Agreement and the attached exhibits contain the entire agreement between the Parties and constitute the complete, final and exclusive embodiment of their agreement with respect to the settlement of the Lawsuit. This Agreement and the attached exhibits supersede any and all prior agreements, arrangements or understandings, whether written or oral, express or implied, between them relating to the subject matter hereof. The Parties agree that there are no understandings, written, oral, express, implied or otherwise, except as set forth in this Agreement and the attached exhibits, and that in entering into this Agreement, no Party has relied, or is entitled to rely, upon any promise, inducement, representation, statement, assurance or expectation unless it is contained herein in writing.

**25. Exhibits:** The exhibits to this Agreement are integral parts of the Agreement and are incorporated into this Agreement as though fully set forth herein.

**26. Recitals:** The Recitals are incorporated by this reference and are part of this Agreement.

**27. Modifications and Amendments:** No amendment, change or modification to this Agreement will be valid unless in writing signed by the Parties or their counsel.



**28. Construction and Interpretation:** Neither the Parties nor any of the Parties' respective attorneys will be deemed the drafter of this Agreement for purposes of interpreting any provision in this Agreement in any judicial or other proceeding that may arise between them. This Agreement has been, and must be construed to have been, drafted by all the Parties to it, so that any rule that construes ambiguities against the drafter will have no force or affect.

**29. Counterparts:** This Agreement may be executed in counterparts, each of which constitutes an original, but all of which together constitutes one and the same instrument. Several signature pages may be collected and annexed to one or more documents to form a complete counterpart. Photocopies or PDF copies of executed copies of this Agreement shall be treated as originals.

**30. Severability:** If any provision of this Agreement is declared by the Court to be invalid, void or unenforceable, the remaining provisions of this Agreement will continue in full force and effect.

**31. Waiver:** No delay on the part of either Party in the exercise of any right, power or remedy shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude the further exercise thereof, or the exercise of any other right, power or remedy.

**32. Governing Law:** This Agreement shall be governed and interpreted in accordance with the laws of the State of Illinois and without regard to conflict of laws principles.

**33. Attorneys' Fees and Costs:** Other than the payment by Defendants of administration costs and Class Counsel's attorneys' fees and costs in accordance with Paragraphs 12 and 15 above, each Party shall bear their own attorneys' fees and costs relating in any way to the Lawsuit or this Agreement, or the subject matter of any of them.

**34. Settlement of Disputed Claims:** This Agreement reflects the Parties' compromise and settlement of disputed claims. The provisions of this Agreement, and all related drafts, communications and discussions, cannot be construed as or deemed to be evidence of an admission or concession of any point of fact or law by any Party. To the extent permitted by law, neither this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be admissible as evidence in any pending or future civil, criminal or administrative action or proceeding to establish liability or admission by any Party, except in any proceeding brought to enforce this Agreement.

**35. Parties Represented by Counsel:** The Parties acknowledge that: (a) the Plaintiff has been represented by independent counsel of his own choosing, and that the class has been represented by court-appointed counsel, during the negotiation and preparation of this Agreement; (b) the Defendants have been represented by the Cook County State's Attorney's Office; (c) they have read this Agreement and are fully aware of its contents; and (d) their respective counsel fully explained to them the Agreement and its legal effect. The Parties executed this Agreement voluntarily and without duress or undue influence.

**36. No Admission of Liability:** Defendants are entering into this Agreement in order to compromise and resolve disputed claims that they believe are of doubtful validity so as to avoid further litigation given the current posture of the case. Defendants, by entering into this Agreement, do not admit liability and in fact expressly deny liability. It is further understood that the consideration set forth in Section II above is not an admission of liability on the part of Defendants.

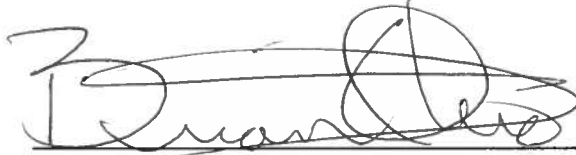
**37. Authorization:** Each of the Parties represents that it has all necessary power and authority to enter into this Agreement and to carry out such Party's obligations hereunder. This Agreement has been presented to and approved by the Cook County Board of Commissioners. Each signatory below represents that he or she is fully entitled and duly authorized to enter into this Agreement on whose behalf he or she is signing.

**38. Cooperation to Obtain Court Approval:** The Parties agree to cooperate fully to execute any documents and take all additional actions which are consistent with and which may be necessary or appropriate to secure the Court's preliminary and final approval of this Agreement.

**The remainder of this page is intentionally left blank.**

Dated: March 25, 2016

**BRIAN OTERO**

A handwritten signature in black ink, appearing to read 'Brian Otero', written over a horizontal line.

Brian Otero,  
Individually and in his Representative Capacity

Dated: March 25, 2016

**APPOINTED CLASS COUNSEL**

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Myron M. Cherry, as Class Counsel

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Jacie C. Zolna, as Class Counsel

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Robert M. Foote, as Class Counsel

Dated: March 25, 2016

**COOK COUNTY SHERIFF'S OFFICE**

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By:

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Nicholas Scouffas

Title: General Counsel, Cook County Sheriff's Office

Dated: March 25, 2016

**BRIAN OTERO**

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Brian Otero,  
Individually and in his Representative Capacity

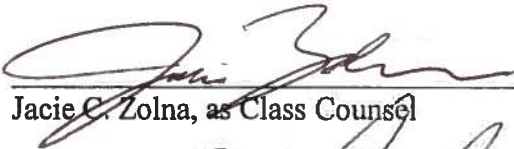
Dated: March 25, 2016

**APPOINTED CLASS COUNSEL**



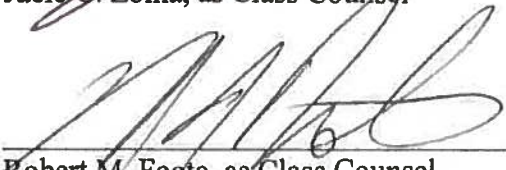
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Myron M. Cherry, as Class Counsel



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Jacie C. Zolna, as Class Counsel



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Robert M. Foote, as Class Counsel

Dated: March 25, 2016

**COOK COUNTY SHERIFF'S OFFICE**

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By:

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Nicholas Scouffas

Title: General Counsel, Cook County Sheriff's Office



Dated: March 25, 2016

BRIAN OTERO

Brian Otero,  
Individually and in his Representative Capacity

Dated: March 25, 2016

APPOINTED CLASS COUNSEL

Myron M. Cherry, as Class Counsel

Jacie C. Zolna, as Class Counsel

Robert M. Foote, as Class Counsel

Dated: March 25, 2016

*DAVE M.*  
COOK COUNTY SHERIFF'S OFFICE


By:

*ANTHONY SCOUFFAS*  
Nicholas Scouffas

*ASSISTANT STATE ATTORNEY AT*  
Title: General Counsel, Cook County Sheriff's Office *AT*  
*ATTORNEY FOR COOK COUNTY SHERIFF DAVID*

Dated: March 25, 2016

COOK COUNTY, ILLINOIS



By: ANTHONY COCCINI

Title: ASSISTANT STATE ATTORNEY

On behalf of Cook County, Illinois

**Ex. A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BRIAN OTERO, individually and on behalf of a class of similarly situated individuals,	)	
	)	
Plaintiff,	)	Case No. 1:12-cv-03148
	)	
v.	)	Honorable Amy J. St. Eve
	)	
THOMAS J. DART, SHERIFF OF COOK COUNTY and COOK COUNTY, ILLINOIS,	)	NOTICE OF PROPOSED CLASS ACTION
	)	SETTLEMENT
Defendants.	)	
	)	

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PLEASE READ THIS NOTICE CAREFULLY. IT RELATES  
TO THE PROPOSED SETTLEMENT OF A CLASS ACTION AND  
CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

**You are eligible for a settlement payment of up to \$100 if you sign  
the enclosed claim form and return it in the self-addressed, pre-paid  
return envelope provided herein or if you submit a claim online at  
[INSERT WEBSITE ADDRESS].**

**I. What is this notice about?**

This Notice is being sent to notify you of a settlement of a class action lawsuit against the Sheriff of Cook County and Cook County, Illinois (the "Lawsuit"). The Lawsuit challenges the Sheriff's policy or practice of detaining male inmates in an unreasonable and unconstitutional manner following a trial or other court appearance where they are found not guilty or otherwise had the charges against them dismissed. The Lawsuit also brought an Equal Protection claim based on the Sheriff's practice of treating male inmates differently than similarly situated female inmates who were found not guilty or otherwise had the charges against them dismissed.

On [INSERT DATE], 2016, the Court preliminarily approved a settlement of the Lawsuit, which provides both non-monetary relief and monetary payments to class members. The purpose of this Notice is to inform you of the Lawsuit and the proposed settlement. In addition, this Notice will advise you of what to do if you want to remain a part of the Lawsuit, what to do if you want to exclude yourself from the Lawsuit and how joining or not joining the Lawsuit may affect your legal rights.

**II. What is a class action lawsuit?**

A class action lawsuit is a legal action in which one or more people represent a large group, or class of people. The purpose of a class action lawsuit is to resolve at one time similar legal claims of the members of the group.



**III. Who is in the class?**

On September 2, 2014, the Court certified this case as a class action and defined the class as:

“All male inmates who while being detained by the Cook County Sheriff’s Office were found not guilty, were acquitted, or had charges brought against them dismissed, and for whom the Sheriff’s Office no longer had any legal right to detain from April 27, 2010 through the present.”

**IV. What are the terms of the proposed settlement?**

The settlement provides that Defendants will pay \$100 to each Class Member who submits the enclosed claim form, or submits a claim online at [INSERT WEBSITE ADDRESS], up to a total of \$1,104,250. If the total amount of claims exceeds that amount then individual payments to Class Members who submit a claim will be reduced on a pro-rated basis.

The settlement agreement also provides for non-monetary relief, including modifications to the release policies and practices at the Cook County Department of Corrections that will provide (i) a mechanism for promptly identifying potential male court discharges, (ii) a procedure under which all individuals so identified are segregated in the RCDC from other inmates returning from court, (iii) a procedure under which individuals so identified are not required to return to the general jail population, (iv) a policy under which priority review in the Records Division is given to individuals identified as potential court discharges, and (v) a policy under which the administrative steps necessary to release a detainee after a finding of not guilty, an acquittal or other dismissal of charges in court are undertaken in a gender-neutral manner.

Defendants will pay claims administration fees and costs up to \$95,000, as well as an incentive award of \$15,000 to the named Plaintiff for his service as class representative. Defendants will also pay a Court-approved amount for Class Counsel’s attorneys’ fees and costs.

**V. How do I receive a settlement payment?**

In order to receive the \$100 payment described in this Notice you must sign the enclosed claim form and mail it to the claims administrator by [INSERT DATE]. A self-addressed, pre-paid return envelope is provided herein that you can use to mail in your claim form.

You can also submit your claim online through the settlement website at [INSERT WEBSITE ADDRESS].

Regardless of whether you mail in the claim form or submit a claim online, you must do so by [INSERT DATE] in order to be eligible to receive a settlement payment. Settlement payments will only be issued if the proposed settlement is granted final approval by the Court.

**VI. Why is there a proposed settlement?**

The Court has not decided in favor of either side in the Lawsuit. Plaintiff and Class Counsel believe the claims have merit. Defendants deny all allegations of wrongdoing or liability against them whatsoever and further contend that their conduct was lawful at all times. Defendants are settling to avoid the expense, inconvenience and inherent risk of litigation. Plaintiff and Class Counsel believe that the proposed settlement is in the best interest of the Class because it provides appropriate recovery and other relief for Class Members now while avoiding the risk, expense and delay of pursuing the case through trial and any appeals, including the possibility of no recovery or relief for the Class whatsoever.

**VII. When and where is the final approval hearing?**

The final approval hearing has been set for [INSERT DATE AND TIME] before the Honorable Amy J. St. Eve in Courtroom 1241 of the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604. The Court will hear any comments from the parties or objections concerning the fairness of the proposed settlement at the final approval hearing, including the amount requested for the named Plaintiff's incentive award and attorneys' fees and costs.

You **do not** need to attend the final approval hearing to remain a Class Member or to obtain any benefits under the proposed settlement. You or your own personal attorney may attend the hearing if you wish, at your own expense. You do not need to attend this hearing to have a properly filed and served written objection considered by the Court.

**VIII. How can I exclude myself from the class and the settlement?**

Any Class Member has the right to be excluded from the Class by written request. If you wish to be excluded from the Class you must mail a written request to the Claims Administrator stating that you want to be excluded from the class. All exclusion requests must include (a) the name and case number of the Lawsuit: *Otero v. Dart*, No. 12-cv-3148; (b) your full name, address and telephone number; and (c) a statement that you wish to be excluded from the Class and do not want to participate in the settlement. A Class Member's exclusion request must be postmarked no later than [INSERT DATE] and sent to the Claims Administrator at the following address: [INSERT ADDRESS].

If you properly and timely request to exclude yourself from the Class, you will not have any rights as a member of the Class pursuant to the proposed settlement, you will not be eligible to receive the monetary payment described in this Notice, will not be bound by any further orders or the judgment entered in the Lawsuit and will remain able to pursue any claims alleged in the Lawsuit against Defendants on your own and at your own expense and with your own counsel. If you proceed on an individual basis after excluding yourself from the Class you may receive more, or less, of a benefit than you would otherwise receive under this proposed settlement or no benefit at all.

**IX. How can I object to the settlement?**

If you do not exclude yourself from the Class, you can comment in opposition to the settlement, including the amount requested for the named Plaintiff's incentive award and attorneys' fees and costs, which is known as an objection, and you have the right to appear before the Court to express your opposition. Your written objection in opposition to the settlement must be submitted in writing and filed with the Court by [INSERT DATE]. The address for the Clerk of the Court is: Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604. You must also send copies of your written objection to the attorneys for the parties at the following addresses:

**Class Counsel:**

Myron M. Cherry  
Jacie C. Zolna  
Myron M. Cherry & Associates, LLC  
30 North LaSalle Street, Suite 2300  
Chicago, Illinois 60602

**Counsel for Defendants:**

Anthony E. Zecchin  
Assistant State's Attorney  
Cook County State's Attorney's Office  
500 Daley Center  
Chicago, Illinois 60602

Robert M. Foote  
Foote, Mielke, Chavez & O'Neil LLC  
10 West State Street, Suite 200  
Geneva, Illinois 60134

To be valid and considered by the Court, any such written objection must include the following information: (1) a reference to *Otero v. Dart*, No. 12-cv-3148; (2) your name, address and telephone number; (3) a statement of each objection you are making and the relief that you are requesting; and (4) a statement of whether you intend to appear, either in person or through counsel, at the final approval hearing. You may, but need not, file and serve your objection through counsel of your choice and you may appear at the final approval hearing either in person or through personal counsel hired at your expense. If you make your objection or appearance at the final approval hearing through an attorney, you will be responsible for your personal attorney's fees and costs. Also, if you intend to appear at the final approval hearing through personal counsel hired at your expense, you must identify the counsel's name, address and telephone number in your written objection.

If you do not submit a written objection to the proposed settlement or the amount requested for the named Plaintiff's incentive award and attorneys' fees and costs in accordance with the deadline and procedure set forth above, you will waive your right to be heard at the final approval hearing.

If you do not object as described above and you do not exclude yourself from the Class, you will be deemed to have consented to the Court's jurisdiction over the Class, and to have released the claims at issue against Defendants as explained below and will otherwise be bound by the proposed settlement.

**X. What is the effect of final settlement approval?**

If the Court approves the proposed settlement after the final approval hearing, it will enter a judgment dismissing the lawsuit with prejudice and releasing all related legal claims against the Defendants based on the allegations in the Lawsuit. If you do not exclude yourself from the Class, the proposed settlement will be your sole mechanism for obtaining any relief.

All Class Members who do not validly and timely request to be excluded from the proposed settlement, and each of their respective successors, assigns, legatees, heirs and personal representatives will release and forever discharge Defendants and each of their respective officers, employees, agents, representatives, attorneys, insurers, and all persons acting by, through, under or in concert with them, or any of them, from all manner of action, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages, charges, penalties, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent, which they have or may have arising out of or relating to any of the conduct that was the subject of this Lawsuit, including any claimed (i) unlawful detention or over-detention by the Sheriff after being found not guilty or otherwise having the charges brought against them dismissed, or (ii) unequal treatment in the manner or processing of their court-ordered release in relation to similarly situated female detainees.

If the proposed settlement is not approved, the case will proceed as if no settlement had been reached. There can be no assurance that if the settlement is not approved and the case resumes that Class Members will recover more than what is provided for under the settlement or will recover anything at all.

**XI. Who represents the class?**

The Court appointed the following lawyers ("Class Counsel") as counsel for the Class:

Myron M. Cherry  
mcherry@cherry-law.com  
Jacie C. Zolna  
jzolna@cherry-law.com  
Myron M. Cherry & Associates, LLC  
30 North LaSalle Street, Suite 2300  
Chicago, Illinois 60602  
(312) 372-2100 (telephone)  
(312) 853-0279 (facsimile)

Robert M. Foote  
rmf@fmcolaw.com  
Foote, Mielke, Chavez & O'Neil LLC  
10 West State Street, Suite 200  
Geneva, Illinois 60134  
(630) 492-1846 (telephone)  
(630) 232-7452 (facsimile)

From the beginning of the case in 2012 to the present, Class Counsel has not received any payment for their services in prosecuting this case or in obtaining this proposed settlement, nor have they been reimbursed for any out-of-pocket costs they have incurred. Class Counsel will apply to the Court for an award of attorneys' fees and costs in a total amount of up to, and not more than, \$2 Million. If the Court approves Class Counsel's motion or petition for fees and costs, it will be paid by the Defendants. Class Members will not have to pay anything toward the fees or costs of Class Counsel. You do not need to hire your own lawyer because Class Counsel is working on your behalf and will seek final approval of the settlement on behalf of the Class Members. You may hire your own lawyer to represent you in this case if you wish, but it will be at your own expense.

**XII. Where can I get more information about the Lawsuit and the proposed settlement?**

This notice provides only a summary of the matters relating to the settlement. More detailed information is provided in the settlement agreement. You can view the settlement agreement and obtain more information about the settlement at [INSERT WEBSITE ADDRESS]. In order to see the complete case file, including the settlement agreement and all other pleadings and papers filed in the Lawsuit, you may also examine the court file at the office of the Clerk of the Court in the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604.

**PLEASE DO NOT CONTACT THE COURT (INCLUDING  
THE CLERK OF THE COURT OR THE JUDGE) OR DEFENDANTS  
WITH QUESTIONS ABOUT THE SETTLEMENT OR THE LAWSUIT**

**PLEASE ADDRESS ANY FURTHER CONTACT TO THE CLAIMS ADMINISTRATOR AT:**

[INSERT NAME, ADDRESS AND EMAIL ADDRESS]

Dated: [INSERT DATE]

BY ORDER OF THE UNITED STATES DISTRICT COURT



**Ex. B**

## CLAIM FORM

*Otero v. Dart, et al.*

Case No. 1:12-cv-03148

United States District Court for the Northern District of Illinois, Eastern Division

«Barcode»

Claim#: «ClaimID»-«MailRec»

«First1» «Last1»

«CO»

«Addr2»

«Addr1»

«City», «St» «Zip»

«Country»

**INSTRUCTIONS:** Please sign below and return this claim form in the enclosed, self-addressed pre-paid envelope or mail it to: [INSERT NAME AND ADDRESS OF CLAIMS ADMINISTRATOR].

**In order to receive your settlement payment, you must submit your claim no later than [INSERT DATE] by mailing this claim form to the claims administrator or by submitting a claim online at [INSERT WEBSITE ADDRESS].**

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

**Mail this claim form on or before [INSERT DATE] (postmark deadline).**

*By submitting this claim form, you will be included as a member of the class identified in the Class Notice, and thereby will be releasing Thomas J. Dart, Sheriff of Cook County and Cook County, Illinois from all claims as provided in the Settlement Agreement and the Class Notice. If you also submit a request for exclusion from the class and settlement in addition to this claim form, the request for exclusion will be deemed invalid.*

**Ex. C**

## NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

*Otero v. Dart, et al.*

Case No. 1:12-cv-03148

United States District Court for the Northern District of Illinois, Eastern Division

If you are a male who, while being detained at the Cook County Department of Corrections, was found not guilty or otherwise had the charges brought against you dismissed in court from April 27, 2010 through [INSERT DATE] you may be a class member in a lawsuit that was filed against the Sheriff of Cook County and Cook County, Illinois (the "Lawsuit").

The Lawsuit alleges that the Sheriff maintains a policy or practice of detaining male inmates in an unreasonable and unconstitutional manner following a trial or other court appearance where they are found not guilty or otherwise had the charges against them dismissed. The Lawsuit also claims that the Sheriff treats male detainees differently than similarly situated female detainees in terms of processing their court-ordered release. On September 2, 2014, the Court certified the Lawsuit as a class action and defined the class as:

All male inmates who while being detained by the Cook County Sheriff's Office were found not guilty, were acquitted, or had charges brought against them dismissed, and for whom the Sheriff's Office no longer had any legal right to detain from April 27, 2010 through the present.

On [INSERT DATE], 2016, the Court preliminarily approved a settlement of the Lawsuit, which provides both non-monetary relief and monetary payments to class members. If you meet the class definition set forth above you should receive by a mail a Notice of Proposed Class Action Settlement (the "Notice"), which will explain your rights and options, as well as give you instructions on how you can claim a payment from the settlement. In order to receive a payment under the terms of the proposed settlement you must submit a claim **no later than** [INSERT DATE]. If you did not receive the Notice and believe you are a member of the class, you can obtain the Notice from the claims administrator at: [INSERT NAME, ADDRESS AND EMAIL ADDRESS].

More information about the Lawsuit and the proposed settlement, as well as a copy of the Notice, can also be found at [INSERT WEBSITE ADDRESS].

A final approval hearing has been set for [INSERT DATE AND TIME] before the Honorable Amy J. St. Eve in Courtroom 1241 of the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604.

Dated: [INSERT DATE]

BY ORDER OF THE UNITED STATES DISTRICT COURT