

**EXHIBIT 1**

TO JOINT MOTION FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT AGREEMENT AND NOTICE TO CLASS MEMBERS

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

D'ANGELO FOSTER and AMANDA  
UNDERWOOD, on behalf of themselves and  
those similarly situated,

Plaintiffs,

v.

CITY OF ALEXANDER CITY and WILLIE  
ROBINSON, in his official and individual  
capacities,

Defendants.

Case No. 3:15-cv-647-RCL-WC

**CLASS ACTION SETTLEMENT AGREEMENT**

This Class Action Settlement Agreement (“Settlement”) is entered into by and between Defendants City of Alexander City (“City”) and Willie Robinson (“Robinson”) (collectively, “Defendants”) and Named Plaintiffs D’Angelo Foster and Amanda Underwood (collectively, the “Named Plaintiffs”), both individually and on behalf of the Settlement Class Members. Defendants, Named Plaintiffs, and the Settlement Class Members are collectively referred to herein as “the Parties”.

The Parties, each having received the benefit, advice, and representation of legal counsel of their own choice, and in exchange for good, sufficient and valuable consideration as described herein, do hereby execute and enter into this Settlement in order to resolve all of the disputes, claims and causes of action that were asserted or could have been asserted in this action or that arise from the facts alleged in the Original Complaint and/or First Amended Complaint, as described herein and subject to the recitals, terms and conditions set forth below.

## **RECITALS**

1. Plaintiffs filed the above-captioned class action lawsuit (“Litigation”) against the Defendants on September 8, 2015, alleging that Defendants had violated Plaintiffs’ constitutional rights under color of state law and had committed the tort of false imprisonment by arresting and jailing Plaintiffs and others similarly situated for nonpayment of money owed to the Municipal Court.

2. The proposed class was defined in Plaintiffs’ First Amended Complaint as “All individuals who, on or after September 8, 2013, were arrested and jailed for their failure to pay fines and court costs by the Alexander City Police Department.” The same definition applies to the settlement class set forth herein (“Settlement Class”), with an addition of an end date for purposes of clarity: “All individuals who, on between September 8, 2013, and September 8, 2015, were arrested and jailed for their failure to pay fines and court costs by the Alexander City Police Department.”

3. The Parties have agreed on a list of members of the Settlement Class and, based on records provided by Defendants, on the number of days each class member spent in jail. This list is attached hereto as Exhibit A.

4. The Parties have engaged in substantial discovery in this case, including written discovery from the Named Plaintiffs, the depositions of the Named Plaintiffs, written discovery from Defendants, and seven depositions of current and former employees of the City, including the two individuals designated as 30(b)(6) representatives. Defendants produced over 10,000 pages of documents related to the class members and their policies and practices.

5. Argonaut Great Central Insurance Company (“Insurer”), who provided insurance coverage to the City over the relevant time period for the claims in this lawsuit, filed a Complaint

for Declaratory Relief against Defendants on June 8, 2016, seeking a declaration that the relevant policies precluded coverage for the claims asserted by the Named Plaintiffs and class members and that it could withdraw from the defense of the Litigation.

6. The Parties and Insurer engaged in substantial, adversarial settlement negotiations, including mediation conducted by Phil Adams on December 2, 2016, and subsequent discussions. The Insurer has agreed to fund a portion of the settlement on behalf of its insureds, and the City received approval on December 5, 2016, from its City Council to pay the remaining portion of the settlement. As a result, the Parties reached this Settlement Agreement, subject to the Court approval process set forth herein.

7. By entering into this Settlement, Defendants do not admit any responsibility or liability with respect to the allegations contained in the Original Complaint and/or the First Amended Complaint. Defendants and the Insurer will resolve the controversy embraced within the Complaint for Declaratory Relief by means of a separate settlement agreement.

8. The Named Plaintiffs and Class Counsel believe that the Settlement reached with Defendants is fair, adequate, reasonable, and in the best interests of the Settlement Class Members.

NOW THEREFORE, in consideration of the foregoing recitals and prefatory phrases, and of the covenants and promises set forth in this Settlement and in exchange for other good, valuable, and sufficient consideration more specifically set forth in this Settlement and hereby acknowledged, the Named Plaintiffs—on behalf of themselves and the Settlement Class Members—and the Defendants agree as follows:

## **TERMS OF SETTLEMENT**

### **I. SETTLEMENT TO BE APPROVED BY THE COURT**

1. As soon as practicable following the execution of this Settlement by the Parties and their counsel, and in any event no later than January 16, 2017, counsel for Plaintiffs and Defendants will submit a Joint Motion for Preliminary Approval of the Settlement and a proposed Preliminary Approval Order in substantially the same form as Exhibit B. The Parties will request that the Preliminary Approval Order schedule a Final Fairness Hearing that is at least one hundred twenty (120) days after the date the Preliminary Approval Order is entered so that the Claims Period will expire before the Final Fairness Hearing.

### **II. UNOPPOSED MOTION FOR CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS**

1. As soon as practicable following the execution of this Settlement by the Parties and their counsel, and in any event no later than January 16, 2017, and simultaneously with the filing of the Joint Motion for Preliminary Approval of the Settlement, Plaintiffs shall file an Unopposed Motion which shall seek Conditional Certification of a Settlement Class (the “Unopposed Conditional Class Certification Motion”), in substantially the same form as Exhibit C.

### **III. APPOINTMENT OF SETTLEMENT ADMINISTRATOR**

1. The Parties will ask the Court to appoint Settlement Services, Inc., whom Class Counsel believe to be a qualified administrator, to serve as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Settlement with respect to the performance of its duties. Class Counsel will retain the Settlement Administrator with the approval of the Court.

2. The Settlement Administrator will provide the Parties an invoice for its services

on a monthly basis. Defendants shall be responsible for paying up to \$3,750, with the remainder to be paid by Class Counsel. Defendants' share of these costs will not be deducted from the Settlement Fund, but instead shall be paid through funds outside of and separate from the Settlement Fund.

3. The Settlement Administrator will open and administer an interest-bearing account or accounts ("Settlement Fund Account(s)") approved by Class Counsel with a unique Tax Payer Identification Number. The monetary payments described in Section IV will be paid by Defendants into this/these Settlement Fund Account(s) according to the terms of Section IV. The Settlement Fund Account(s) will constitute a qualified settlement fund within the meaning of Treasury Regulations §§ 1.468B-1, *et seq.*, and it will be created, managed, and disbursed by the Settlement Administrator under the supervision and at the direction of Class Counsel, but at all times pursuant to, and in compliance with, the terms of this Settlement. Defendants shall hereby be deemed to have made an election under Section 468B of the Revenue Code to have the Settlement Fund treated as a "qualified settlement fund." The Insurer and the City of Alexander City shall timely furnish a statement to the Settlement Administrator that complies with Treasury Regulation § 1.468B-3(e) and shall attach a copy of the statement to any federal income tax return that is filed for the taxable year in which the required payments are made.

4. In addition to the above, the Settlement Administrator's duties shall include responsibility for all tax reporting, tax withholding, and tax withholding payments to appropriate governmental agencies associated with payments from the Settlement Fund to Class Counsel, the Named Plaintiffs and the Settlement Class Members, including the issuance of Forms 1099, as appropriate, for the payments distributed from the Settlement Fund.

#### **IV. NOTICE PURSUANT TO THE CLASS ACTION FAIRNESS ACT**

Within ten (10) days of the filing of the Settlement with the Court, Defendants will, pursuant to the Class Action Fairness Act (“CAFA”), mail the notice and documents required by CAFA to the Attorney General of the United States and the appropriate state official in Alabama. The Parties believe that no other state entities other than those identified above need to be notified of this Settlement pursuant to CAFA. Defendants shall file a Notice with the Court within five (5) business days after completion of the required CAFA mailings, advising the Court of the completion of the CAFA filings and including copies.

#### **V. NOTICE TO SETTLEMENT CLASS MEMBERS**

1. Within seven (7) days after the entry of the order by the Court preliminarily approving this Settlement and the Notice and Claim Form, Defendants will provide the Settlement Administrator and Class Counsel with last known addresses and phone numbers for the Settlement Class Members, if not already provided.

2. Within fifteen (15) days after the entry of an order by the Court giving preliminary approval of this Settlement and the Notice and Claim Form, Class Counsel will mail the attached Notice of Class Action Settlement and Claim Form (attached hereto as Exhibit D) to each of the Settlement Class Members. The Notice of Class Action Settlement describes this litigation, the settlement terms, the attorneys’ fees and costs requested by Class Counsel, how to file a Claim, the procedure for a Settlement Class Member to object to the proposed settlement and/or attend the fairness hearing scheduled by the Court, and the procedure to request exclusion from the Settlement. Among other things, the Notice will provide that a Settlement Class Member can only exclude himself or herself from this Settlement if he or she requests to be excluded in writing and postmarks this written request before the Claims Period (as defined

below) expires. Moreover, the Notice will provide that objections will only be considered by the Court if they are set forth in writing and postmarked before the Claims Period expires. Class Counsel will file a Notice with the Court within five (5) business days after completion of the mailing.

3. Defendants will post the Publication Notice (Exhibit E) at the City's Municipal Court and the City's Jail for the duration of the Claims Period. Plaintiffs will run the Publication Notice in the Alexander City Outlook every two weeks, for a total of 6 days, during the Claims Period.

4. If, after the initial mailing, any Class Notices are returned as undeliverable, the Parties will make reasonable efforts to attempt to locate the relevant Settlement Class Members. At a minimum, Defendants will provide any potential addresses within their records and, if no such address exists or if the Settlement Class Member is still unable to be located, Class Counsel will use a national locator database and make other reasonable efforts to determine additional contact information. In the event a new address is located, Class Counsel will ensure another Class Notice and Claim Form is mailed to the new address.

5. Class Counsel will make reasonable efforts to contact all Settlement Class Members, explain the benefits of the Settlement, and encourage their participation in the settlement process. Class Counsel will document all efforts to locate Settlement Class Members and will produce an affidavit detailing these efforts and status of the claims process to the Court upon request by Defendants or the Court.

## **VI. CLAIMS PROCESS**

1. The Notice of Class Action Settlement to be mailed to Settlement Class Members upon preliminary approval by the Court will include a Claim Form (attached as Exhibit D).

2. The Claim Form will explain that the deadline for submitting claims for payment from the Settlement Fund is 90 days from the date the Forms are mailed (the “Claims Period”).

3. The method for a putative Settlement Class Member to submit a claim is by returning a signed Claim Form to Class Counsel within the Claims Period.

4. All Settlement Class Members whose claims are postmarked or received at any time before the close of the Claims Period shall be considered “Claiming Class Members” and shall be entitled to receive their share of the Settlement Funds as outlined below. Claim Forms postmarked after the close of the Claims Period shall be accepted if received before the Final Approval Hearing and submitted in good faith within twenty (20) days after the 90th day from the Notice Date.

5. The Named Plaintiffs will not be required to submit a Claim Form and are automatically considered “Claiming Class Members.”

6. If Class Counsel receives a Claim Form from a person not currently recognized as a member of the Settlement Class, Class Counsel will send a copy of the form received to Defendants’ counsel. Defendants’ counsel will produce any record of court events, arrests, and/or jailings in the possession of the Alexander City Police Department or Municipal Court for that individual within the last 5 years. If the Parties agree that these documents show that the individual had an arrest and jailing for failure to pay fines and costs assessed by the Municipal Court within the period from September 8, 2013, to September 8, 2015, the Parties will agree to amend Exhibit A accordingly and add the individual as a Settlement Class Member. Class Counsel will inform the individual whether or not she has been added as a Settlement Class Member.

7. Class Counsel shall update Defendants’ counsel at least every 14 days as to

Claims Forms that are received during the Claims Period. Either Class Counsel or Defendants shall have the right to challenge any Claim Form if they believe it does not represent a valid claim from a Settlement Class Member. In the event of a dispute over a Claim Form, including but not limited to situations arising under the preceding paragraph, the Court shall retain jurisdiction to adjudicate the dispute raised by a Party or a putative Settlement Class Member.

8. The above notwithstanding, a Settlement Class Member shall not be permitted to exclude himself or herself from the Settlement, or submit an objection to the Settlement, unless he or she does so in writing during the Claims Period pursuant to the specific instructions set forth in the Notice and in Section VII of this agreement. Except for those Settlement Class Members who timely and properly request exclusion, all Settlement Class Members will be bound by this Settlement, including its release provisions, even if they do not submit a claim and/or even if they file an objection.

9. Class Counsel shall be solely responsible for any mistake or error in the validation or payment of claims to Settlement Class Members.

10. The Parties and their counsel agree that none of them will encourage Settlement Class Members to exclude themselves from the Settlement and will not solicit Settlement Class Members to exclude themselves from the Settlement.

11. Where a named Plaintiff or Settlement Class Member is deceased, upon receipt of proper identification and documentation of the payee's interest, payment will be made to the Settlement Class Member's estate or, in the event there is no estate, to the Settlement Class Member's next of kin in the following priority: (1) spouse; (2) children; (3) parents; (4) siblings; and (5) other relatives.

## **VII. REQUESTS FOR EXCLUSION BY SETTLEMENT CLASS MEMBERS**

1. Any Settlement Class Member may make a Request for Exclusion by postmarking or delivering such request in writing to the Court before the close of the Claims Period. Any Request for Exclusion shall include the name, address, and telephone number of the person requesting exclusion and include a clear statement indicating that person chooses to be excluded from the Settlement, does not wish be a Settlement Class Member and chooses to be excluded from any judgment entered pursuant to the Settlement.

2. The Parties will ask, through the Motion for Preliminary Approval, that the Clerk of Court file any requests for exclusion received in the Court's docket and send notice to the Parties through the Court's Electronic Case File system.

3. Any Settlement Class Member who submits a timely Request for Exclusion may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under this Settlement Agreement.

## **VIII. OBJECTIONS BY SETTLEMENT CLASS MEMBERS**

1. After the Settlement Class has been determined and certified, Settlement Class Members can make Objections to the Settlement before the close of the Claims Period.

2. Any Settlement Class Member who wishes to be heard orally at the Final Approval Hearing, or who wishes for any objection to be considered, must file with the Court a written notice of objection by the Objection Date. Any Objection must be postmarked no later than the Objection Date. Such objection shall state the name, address and telephone number of the person, as well as a detailed statement of each objection asserted, including the grounds for objection and reasons for appearing and being heard, together with any documents said person wishes to be considered in support of the objection. The objection shall be signed. In

accordance with law, only objections received from Settlement Class Members will be considered by the Court.

3. The Parties will ask, through the Motion for Preliminary Approval, that the Clerk of Court file any requests for exclusion received in the Court's docket and send notice to the Parties through the Court's Electronic Case File system.

4. In accordance with law, only Settlement Class Members who have objected to the Settlement pursuant to the terms above may appeal any Final Judgment. The proposed Final Judgment shall provide that any Settlement Class Member who wishes to appeal the Final Judgment, even though appeal will delay the distribution of the Settlement to the Class, shall post a bond with this Court in an amount to be determined by the Court as a condition of prosecuting such an appeal.

## **IX. MONETARY TERMS**

### **A. Settlement Fund**

1. Within ten (10) business days of the Judgment becoming Final (as defined below), Defendant City of Alexander City and the Insurer will collectively pay the gross sum of \$680,000.00 to the Settlement Administrator to establish the Settlement Fund. The Settlement Fund will be utilized in the following manner: (i) Two-Hundred and Two Thousand Dollars (\$202,000) shall be distributed to Class Counsel pursuant to Section IX.B as compensation for attorneys' fees and costs expended on the Litigation; (ii) Thirty Thousand Dollars (\$30,000) shall be divided equally between the two Lead Plaintiffs as Service Awards pursuant to Section IX.C; and (iii) the remaining \$448,000 shall be used to fund payments to Claiming Class Members calculated on a *per diem* basis. Payment of these monies by or on behalf of Defendants constitutes Defendants' entire monetary contribution to this Settlement exclusive of any

administrative settlement costs under Section III.2 to this settlement.. All monies will remain the property of Defendants until ten (10) business days after Judgment becomes Final (as defined below), at which time Defendants will deliver to the Settlement Administrator and Class Counsel the funds as described herein. All amounts paid by Defendants will be disbursed pursuant to this Settlement, and none of it will revert to Defendants under any circumstances.

**B. Costs and Attorneys' Fees**

1. Subject to the approval of the Court, as set out above in Section IX.A, Defendants will pay \$202,000.00 to Class Counsel for costs and attorneys' fees associated with the prosecution of this action. If the Court approves costs and fees for Class Counsel in an amount less than \$202,000.00, any difference (i.e., the remaining balance) will revert to the Settlement Fund and will be treated in the same manner as any Unclaimed Funds being redistributed to Claiming Class Members as outlined in Section IV.E below. Under no circumstances will any part of the \$202,000.00 in costs and attorneys' fees revert to Defendants. The attorneys' fees, costs, and expenses paid under this section shall constitute full satisfaction of Defendants' obligations to pay amounts to any person, attorney, or law firm for attorneys' fees, expenses, or costs in the action incurred on behalf of the Named Plaintiffs and/or the Settlement Class Members, and shall relieve Defendants from any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of the Named Plaintiffs and/or the Settlement Class Members.

**C. Service Award Payments**

1. As set out above in Section IX.A, in consideration for their commitment to the pursuit of the claims in this action on behalf of themselves and the Settlement Class Members, \$30,000.00 of the Settlement Fund will be equally divided and paid to the two Named Plaintiffs.

2. If the Court does not approve the payment of these service awards, or approves the payments in a lesser amount, then any amounts allocated above that are not approved will revert to the Settlement Fund and will be treated in the same manner as any Unclaimed Funds being redistributed to Claiming Class Members as outlined in Section IV.E below.

#### **D. Per Diem Payments**

1. Each Named Plaintiff and Settlement Class Member who appears on Exhibit A and submits a valid claim will receive a payment from the Settlement Fund calculated according to the number of days in jail as specified on Exhibit A, as follows:

- (a) The total amount remaining in the Settlement Fund after deduction of attorneys' fees and incentive awards will be divided by the combined total number of calendar days in jail served by all of the Settlement Class Members. This amount will constitute the *per diem* damages award. The Parties agree that, based on records provided by Defendants, there are a total of 190 Settlement Class Members and 896 calendar days in jail, and the *per diem* amount is \$500.00; this number may change only if the Parties receive a Claim Form for an individual who is discovered to have had a qualifying arrest and jailing and the Parties agree that this individual is a member of the Settlement Class; however, in no event shall the Defendants be required to contribute any additional amounts to the Settlement Fund to account for currently unknown Settlement Class Members. The days in jail for each Class Member are set forth in Exhibit A.
- (b) An initial damages amount will then be calculated for each Class Member who submits a valid claim in an amount arrived at by multiplying the number of days each individual spent in jail, pursuant to Exhibit A, by the per diem damage award described in (a).

#### **E. Redistribution of Unclaimed Funds to Claiming Class Members**

1. If at the close of the Claim Period there are Settlement Class Members who did not submit a valid and timely Claim Form, the money allocated to them under Section IV.D above (the "Unclaimed Funds") will be redistributed among the Claiming Class Members as further compensation for the injuries sustained by the Settlement Class during the arrests and jailings pursuant to Exhibit A and other arrests and jailings for which individuals are added to the

Settlement Class pursuant to the process set forth in Section VI. Claiming Class Members will receive a proportionate share of these Unclaimed Funds based on an additional adjusted *per diem* amount, calculated based upon the total amount remaining in the Settlement Fund after deduction of attorneys' fees and costs, incentive awards, the initial *per diem* distribution to all Class Members who submit a valid claim divided by the total number of days in jail served by the Class Members who submit a valid claim.

#### **F. Distribution of Settlement Fund Shares**

1. Within five (5) business days after the close of the Claims Period, Class Counsel will provide the Settlement Administrator the list of Named Plaintiffs and Settlement Class Members entitled to receive payment from the Settlement Fund (i.e., the Claiming Class Members) and the amounts they are to receive, as well as instructions on how the money will be disbursed and provided to the Named Plaintiffs and Settlement Class Members. The Settlement Administrator will make disbursal of funds from the Settlement Fund in accordance with the terms of this Settlement and only after entry of Judgment that becomes Final (as defined below). Any settlement payment not collected by any Claiming Class Member within 90 days of Class Counsel's or their agents' first attempts to contact the individual Claiming Class Member to advise him or her of the availability of his or her settlement payment shall revert back to the Settlement Fund and will be considered "Residual Funds." The reversion of a Claiming Class Member's settlement payment under this Section shall not impact the terms of this Settlement, and each such Claiming Class Member will continue to be bound by this Settlement, including its release provisions.

#### **G. Residual Funds**

1. Monies, if any, remaining in the Settlement Fund Account as a result of the

accrual of interest on the Fund after the settlement amounts were calculated and/or any Residual Funds shall be distributed to Volunteer Connections of Central Alabama, a 501(c)(3), tax exempt organization located in Alexander City that assists seniors, low income persons, and the local community.

**X. EFFECTIVE DATE**

1. This Settlement Agreement shall become effective only after the Court finally approves it, dismisses the case with prejudice, and enters a Judgment that becomes Final. “Final” means the last of the following dates, as applicable:

- (1) The last date on which a notice of appeal from the Judgment may be filed, and none is filed.
- (2) If a timely appeal from the Judgment is filed, the last of the following dates:
  - (a) The last date by which a petition for review by the United States Court of Appeals for the Eleventh Circuit or the Supreme Court of the United States’ decision affirming the Judgment may be filed, and none is filed;
  - (b) The last date by which a petition for a writ of *certiorari* to the Supreme Court of the United States of a decision by the United States Court of Appeals for the Eleventh Circuit affirming the judgment may be filed, and none is filed;
  - (c) If a petition for review by the United States Court of Appeals for the Eleventh Circuit, or a petition for a writ of *certiorari* to the Supreme Court of the United States, seeking review of the Judgment or of the United States Court of Appeals for the Eleventh Circuit’s decision on an appeal from the Judgment is timely filed, the date on which the highest reviewing court renders its decision denying the petition (where the immediately lower court affirmed the Judgment) or affirming the Judgment.

2. In the event an appeal is filed from any of the Court’s orders, or any other appellate review is sought prior to the complete administration and implementation of all aspects

of the Settlement, administration and implementation of the Settlement shall be stayed pending final resolution of the appeal or other appellate review.

#### **XI. MUTUAL RELEASES**

1. In consideration of all payments made by or on behalf of the Defendants, the Named Plaintiffs' and Settlement Class Members' eligibility to receive their allocated settlement payments, and all other relief described herein, the Named Plaintiffs and the Settlement Class Members, along with their attorneys, agents, successors, affiliates, heirs and assigns, fully, finally and forever release, discharge and agree to hold harmless Defendants and any and all officers, municipal judges and clerks, jailers, police officers, directors, and any other employees, representatives, attorneys, agents, contractors, and insurance carriers, as well as anyone acting or authorized to act on their behalf, from any and all claims (known or unknown, accrued or unaccrued) that have been or could have been alleged or asserted, on the basis of, in connection with, or arising out of past arrests or jailings pursuant to the alleged arrest and jailing policy that is the subject of the Litigation, including all such claims that were actually asserted in this case or that arise from the facts alleged in Plaintiffs' Original Complaint and/or First Amended Complaint.

2. This Settlement Agreement does not affect the rights of Settlement Class Members who timely and properly exclude themselves from the Settlement.

3. Defendants and their officers, employees, representatives, attorneys, agents, and anyone acting or authorized to act on their behalf, fully, finally, and forever release, discharge, and agree to hold harmless the named Plaintiffs and the Settlement Class Members, and their attorneys, agents, and anyone acting or authorized to act on their behalf, from any and all claims, demands, and causes of action arising from the act of bringing or participating in this lawsuit.

## **XII. FINAL COURT APPROVAL AND JUDGMENT**

1. All Parties agree to take such actions and affirmative steps as are reasonably necessary to obtain the Court's Final Approval of this Settlement, including filing memoranda in opposition to any objections to this Settlement or its terms and defending this Settlement from any challenges at the Final Fairness Hearing.

2. In advance of the Final Fairness Hearing, the parties will submit a motion for final approval of the Settlement, along with a supporting brief and proposed Final Approval Order. During the Final Fairness Hearing, or as soon as practicable after the close of the Final Fairness Hearing, Named Plaintiffs and Defendants shall request and shall take such actions as are reasonably necessary to have the Court grant a Final Judgment in the lawsuit by entering a final Order, which provides that the Court approves this Settlement and its terms as fair, reasonable and adequate, provides for the implementation of all of the Settlement's terms and provisions, approves the service award payments outlined in Section IV.C, awards costs and attorneys' fees as outlined in Section IV.B, finds that the notice given to the class satisfied the requirements of due process and Rule 23(e) of the Federal Rules of Civil Procedure, dismisses the claims of the Named Plaintiffs and Settlement Class Members with prejudice, and retains jurisdiction to enforce the provisions of this Settlement.

3. Should the Court not grant Final Approval of this Settlement or its terms then this Settlement shall immediately be null and void and each Party shall return to the *status quo ante*.

## **XIII. ADDITIONAL PROVISIONS**

1. This Settlement is the result of a compromise between the Parties, and nothing in this Agreement constitutes an admission of liability or of the propriety of class certification by any Party with regard to the subject matter of the action. Nothing set forth in this Settlement, the

fact of Settlement, or any act performed or document executed pursuant to or in furtherance of the Settlement may be construed or be used as an admission or evidence of the validity of any claim or allegation, or of any act, omission, liability or wrongdoing on the part of Defendants or as supporting certification in any action or proceeding of any kind whatsoever.

2. This Agreement falls within the protection afforded compromises and offers to compromise under Federal Rule of Evidence 408, or any other comparable rule of evidence.

3. The Parties to this Settlement hereby waive any and all rights they, or any of them, have or may have to appeal from any order of Court previously entered in this case and from an order approving this Settlement in its current form. This waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings, or post-judgment proceedings. This paragraph does not preclude Plaintiffs or Class Counsel from appealing any refusal by the District Court to award the full service award payments outlined in Section IV.C, and/or the full costs and attorneys' fees outlined in Section IV.B.

4. This Settlement, including the Recitals and Exhibits, supersedes any prior agreements or understandings between the Parties with respect to settlement.

5. The Parties agree to ask the Court to retain jurisdiction of this matter to enforce the terms of this Settlement.

6. The Parties represent and warrant to each other that they have the full power and authority to enter into this Settlement, and that they have not assigned, pledged, encumbered or in any manner transferred or conveyed any portion of the claims or causes of action covered by this Settlement.

7. The Parties represent and warrant to each other that they understand this Settlement in its entirety and that they have been represented by and consulted with their respective counsel in connection with the negotiating, drafting, and execution of this Settlement.

8. This Settlement may be modified or amended only by a writing signed by all Parties or their successors-in-interest and filed with the Court.

9. The Settlement shall be binding upon and inure to the benefit of the Parties, and as applicable, their respective personal representatives, agents, executors, heirs, administrators, successors, assigns, officers, directors, shareholders, subsidiaries, parents or affiliated partnerships, corporations or divisions and employees.

10. This Settlement shall be interpreted according to Alabama law, and federal law where applicable.

11. This Settlement may be executed in one or more counterparts which, once fully executed, shall constitute one original and binding Settlement. A photocopy, scanned, or facsimile copy of any signature on this Settlement shall be considered as valid as an original signature.

12. All notices, demands, or other communications given under this Settlement, with the exception of documents filed via the Court's CM/ECF system, will be in writing and addressed as follows:

*To the Plaintiffs and the Settlement Class:*

Sara Zampierin  
Southern Poverty Law Center  
400 Washington Ave.  
Montgomery, AL 36104  
[sara.zampierin@splcenter.org](mailto:sara.zampierin@splcenter.org)

*To Defendants City of Alexander City and Willie Robinson*

David J. Canupp  
Lanier Ford Shaver & Payne, P.C.  
P.O. Box 2087  
Huntsville, Alabama 35804  
djc@lanierford.com

The Parties may from time to time change their address for purposes of this section by providing written notice of such change to the other Parties.

IN WITNESS WHEREOF, the Parties have signed this Settlement on the date written across from their signatures.

**Attorneys for the named Plaintiffs and the Settlement Class Members (“Class Counsel”):**

  
Sara Zampierin  
Southern Poverty Law Center

1/16/17

Date

William F. Cavanaugh, Jr.  
Patterson Belknap Webb & Tyler LLP

Date

**Attorneys for Defendants:**

David Canupp  
Lanier Ford Shaver & Payne, P.C.

Date

Larkin Radney  
Barnes and Radney, P.C.

Date

**Named Plaintiffs, on behalf of themselves and the Settlement Class:**

  
D'Angelo Foster  
  
Amanda Underwood

1-16-17

Date

1-17-17

Date

**Defendants:**

Larkin Radney  
*On behalf of City of Alexander City*

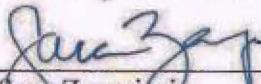
Date

Willie Robinson

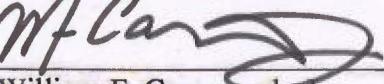
Date

IN WITNESS WHEREOF, the Parties have signed this Settlement on the date written across from their signatures.

Attorneys for the named Plaintiffs and the Settlement Class Members (“Class Counsel”):

  
\_\_\_\_\_  
Sara Zampierin

Southern Poverty Law Center

  
\_\_\_\_\_  
William F. Cavanaugh, Jr.

Patterson Belknap Webb & Tyler LLP

1/16/17

Date

1/17/17

Date

Attorneys for Defendants:

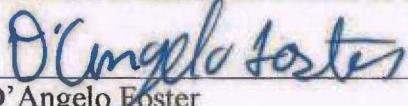
David Canupp  
Lanier Ford Shaver & Payne, P.C.

\_\_\_\_\_  
Date

Larkin Radney  
Barnes and Radney, P.C.

\_\_\_\_\_  
Date

Named Plaintiffs, on behalf of themselves and the Settlement Class:

  
\_\_\_\_\_  
D'Angelo Foster

1-16-17

Date

Amanda Underwood

\_\_\_\_\_  
Date

Defendants:

Larkin Radney  
*On behalf of City of Alexander City*

\_\_\_\_\_  
Date

Willie Robinson

\_\_\_\_\_  
Date

IN WITNESS WHEREOF, the Parties have signed this Settlement on the date written across from their signatures.

Attorneys for the named Plaintiffs and the Settlement Class Members ("Class Counsel"):

Sara Zampierin  
Southern Poverty Law Center

Date

William F. Cavanaugh, Jr.  
Patterson Belknap Webb & Tyler LLP

Date

Attorneys for Defendants:

  
David Canupp

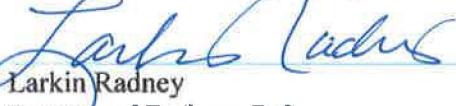
1/17/2017

Date

Lanier Ford Shaver & Payne, P.C.

1/17/2017

Date

  
Larkin Radney

Barnes and Radney, P.C.

Named Plaintiffs, on behalf of themselves and the Settlement Class:

D'Angelo Foster

Date

Amanda Underwood

Date

Defendants:

  
Larkin Radney  
*On behalf of City of Alexander City*

1/17/2017

Date

  
Willie Robinson

1/17/2017

Date