

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

DARNELL SMITH, et al.,	)	
	)	
<i>Plaintiffs,</i>	)	
	)	
	)	Case No. 15-cv-03467
	)	
v.	)	
	)	
CITY OF CHICAGO, a municipal	)	Magistrate Judge Heather K. McShain
corporation, CHICAGO POLICE	)	
SUPERINTENDENT GARRY	)	
McCARTHY, et al.,	)	
	)	
<i>Defendants.</i>	)	

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**ORDER GRANTING CERTIFICATION OF THE PROPOSED SETTLEMENT  
CLASSES AND PRELIMINARY APPROVAL OF THE SETTLEMENT**

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Plaintiffs, individually and on behalf of a class of all others similarly situated, have entered into a Joint Stipulation And Class Action Settlement Agreement (“Settlement Agreement”) with Defendants City of Chicago (“City”), former Chicago Police Superintendent Garry McCarthy, and the individual officers named in this case. On July 13, 2023, this Court held a hearing on Plaintiffs’ Unopposed Motion for Preliminary Approval and for Certification of the Proposed Settlement Classes (“Motion”). The Court, having reviewed the Motion, the Settlement Agreement, and the relevant file materials, hereby **ORDERS AND ADJUDGES** as follows:

**Certification of the Settlement Classes**

1. On August 31, 2021, District Court Judge Andrea R. Wood entered an order granting in part Plaintiffs’ Motion for Class Certification under Rule 23(b)(2). (Dkt. No. 525.) Judge Wood certified the following two classes:

Fourth Amendment Class: All persons who, since April 20, 2013, have been, or in the future will be, subjected to an investigatory stop by the Chicago Police Department which resulted in the creation of a Contact Information Card or Investigatory Stop Report.

Fourth Amendment Loitering Subclass: All persons who, since April 20, 2013, have been, or in the future will be, encountered by the Chicago Police Department resulting in the creation of a Contact Information Card or Investigatory Stop Report and where the listed contact type was “GANGLTR,” defined by the CPD as “Gang and Narcotics-Related Loitering.”

2. As part of the present motion, the Plaintiffs, without objection or opposition from Defendants, have requested this Court to certify these same two classes as Settlement Classes. The Court has independently reviewed these two classes under Federal Rule of Civil Procedure 23. The Court finds that the proposed settlement classes meet the requirements of Rule 23(a) as well as the requirements of Rule 23(b)(2). The Court therefore grants the request to certify the Settlement Classes as defined above.

#### **Preliminary Approval of the Settlement**

3. Upon review of the record, the Court finds the proposed Settlement Agreement was arrived at by arm’s length negotiations between highly experienced counsel. The Court further finds that the terms of the settlement fall within the range of possible approval and therefore the Court preliminarily approves of the settlement subject to further consideration at the Court’s Final Approval Hearing. The Court finds that the Settlement Agreement is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the certified classes, raises no obvious reasons to doubt its fairness, and raises a reasonable basis for presuming that the Settlement and its terms satisfy the requirements of Federal rules of Civil Procedure 23(c)(2) and 23(e).

#### **Approval of the Notice Plan**

4. The Court hereby directs notice to be distributed pursuant to Federal Rule of Civil Procedure 23(c)(2). The Court has reviewed the Notice of Class Action Settlement and the Summary

Class Notice. The Court finds that they will adequately provide Class Members with notice of the Settlement and their right to object.

5. Pursuant to the Settlement Agreement, the Parties will create and maintain a website that will include, at a minimum, copies of the Settlement Agreement, the Parties' Joint Statement concerning the Settlement, the Class Notice, and this Order. Additionally, the City will create and maintain a link on the Chicago Police Department's website that will include, at a minimum, copies of the Settlement Agreement, the Parties' Joint Statement concerning the Settlement, the Class Notice, and this Order. Further, the City will publish the Summary Class Notice in the legal notice section of *The Chicago Tribune* in three (3) consecutive weeks during the notice period.

6. The Court finds that notice plan described above constitutes the best and most practicable notice to Class Members under the circumstances and constitutes due and sufficient notice of the Final Approval Hearing and proposed Settlement Agreement and satisfies the requirements of Rule 23(c)(2) and due process.

#### **Preliminary Approval of Awards**

7. Pursuant to the Settlement Agreement, the City has agreed to pay \$12,500 to each of the following Individual Plaintiffs in connection with their claimed damages resulting from being the subject of one or more allegedly unconstitutional detentions: Darnell Smith, Araceli Fontanez, as Parent and Next Friend of Hector Fontanez, Jr., Marcell Davis, Rashawn Lindsey, and Edgar Marshall, Jr. The Court preliminarily finds that the settlement amounts are within the range of possible approval and therefore preliminarily approves the same.

8. Pursuant to the Settlement Agreement, the City has agreed to pay \$12,500 to each of the following Settlement Class Representatives for their participation and service in this case: Darnell Smith, Araceli Fontanez, as Parent and Next Friend of Hector Fontanez, Jr., Marcell Davis, and

Rashawn Lindsey. The Court preliminarily finds that the settlement amounts are within the range of possible approval and therefore preliminarily approves the same.

9. Pursuant to the Settlement Agreement, The City has agreed to pay Plaintiffs’ Counsel a Negotiated Fee Award of \$4,875,000 for their extensive work on the case over more than eight (8) years as summarized in the Motion. The Court preliminary finds that the Negotiated Fee Award is within the range of possible approval and therefore preliminarily approves the same.

**Objections and Schedule for Class Notice and the Final Approval Hearing**

10. The Court hereby sets the below schedule for: (i) the dissemination of notice to the Class Members; (ii) Class Members to object to the Settlement; and (iii) the Court’s Final Approval Hearing, at which time the Court will determine whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate.

<b>Date</b>	<b>Event</b>
Within 14 days of entry of this order	The Class Notice shall be posted on the websites
30 days after posting of the Class Notice	Last day to object to the Settlement
14 days before Final Hearing	Parties to file their Motion for Final Approval of the Settlement and all supporting papers
September 20, 2023 at 11:00 a.m. via telephonic hearing: Tel. 888-684-8852 Access Code 8623687#	Final Approval Hearing

**IT IS SO ORDERED.**

DATED: July 14, 2023



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HON. HEATHER K. McSHAIN