

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STINSON, *et al.*,

v.

THE CITY OF NEW YORK, *et al.*

Class Action

Civil Action No. 10 Civ. 4228 (RWS)

**NOTICE OF PENDENCY OF CLASS ACTION
PROPOSED SETTLEMENT AND SETTLEMENT HEARING**

TO: All individuals who have been issued a Criminal Court Summons (“C Summons”) by a member of the New York City Police Department (“NYPD”) that was dismissed as facially or legally insufficient from MAY 25, 2007 through JANUARY 25, 2017 (“The Settlement Class”).

This Notice is being sent to you, by order of the United States District Court for the Southern District of New York (the “Court”). It describes a proposed settlement (the “Settlement”) of a Fourth Amendment class action against The City of New York (the “Civil Action”) and your right to receive money from this Settlement.

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS WILL BE AFFECTED BY THE LEGAL PROCEEDINGS IN THIS LITIGATION.

YOU MAY BE ENTITLED TO MONEY FROM THIS SETTLEMENT.

Summary of Settlement:

On May 25, 2010, the Class Representatives filed this lawsuit, on behalf of themselves and a class of individuals who had received C Summonses from members of the NYPD, claiming that the City of New York (“City”), through the NYPD had illegally stopped, seized, arrested, and issued summonses to these individuals in the absence of probable cause in response to a summons quota within the NYPD. A final settlement agreement was reached in August 2016.

The Settlement includes benefits of up to \$75,000,000 (\$75 million dollars), comprised of a cash payment of up to \$56,500,000.00 (\$56.5 million dollars) to the class (the “Class Fund”) and the payment of \$18,500,000.00 in legal fees and costs, and certain changes to the NYPD’s practices, as described in this Notice. If you are an individual who was issued a C Summons that was later dismissed for facial or legal insufficiency that was issued without probable cause, you may be eligible to participate in the settlement benefits.

Specifically, this Notice is being sent to all individuals who were issued C Summons(es) by the NYPD and whose summons(es) were later dismissed by the court for facial or legal insufficiency prior to trial (together the “Proposed Settlement Class Members” or “Settlement Class Members” and each a “Proposed Settlement Class Member” or “Settlement Class Member”).

The Court in charge of this case is the United States District Court for the Southern District of New York, and the case is known as *Stinson, et al. v. The City of New York, et al.* This case is assigned to United States District Judge Robert W. Sweet. The Court has preliminarily approved the Settlement and wishes to inform you of the general terms of the Settlement and what actions you need to take to participate in the benefits provided by the Settlement.

The Court will hold a hearing to consider whether the Settlement is fair, reasonable, and adequate, and to decide whether to give final approval to this Settlement. The Final Fairness Hearing will be held on May 24, 2017 at 12:00 p.m., before the Honorable Robert W. Sweet, United States District Judge, Southern District of New York, 500 Pearl Street, Courtroom 18C, New York, New York 10007. If the Court approves the Settlement, the Court’s judgment will be final and binding, and payments will be made after the completion of all claims processing.

You may attend this hearing if you wish, but you are not required to appear at the hearing. If you are a Class Member, you will be represented by Class Counsel at no cost to you.

If you wish to make a claim for monetary relief, this Notice will describe the procedures to do so.

Or, if you wish to opt out from the settlement or object to it, this Notice will describe those procedures.

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I. PURPOSE OF THIS NOTICE

This Notice explains the Civil Action, the Settlement, the certification by the Court of the Settlement Class, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The interests of the Settlement Class have been represented in the Civil Action by Cohen & Fitch LLP, The Law Office of Jon L. Norinsberg PLLC and Quinn Emanuel Urquhart & Sullivan, LLP (collectively “Class Counsel”). Class Counsel represents the interests of all Proposed Settlement Class Members. If you have questions regarding this Notice or your rights in this Settlement, you may contact settlement administrator at 1-877-552-1290 or visit www.nypdsummons.com.

If you want to be represented by your own lawyer (other than Class Counsel), you may hire one at your own expense.

II. LITIGATION BACKGROUND

On August 31, 2010, the Class Representatives filed an Amended Class Action Complaint against the City of New York and Raymond Kelly in the United States District Court for the Southern District of New York, on behalf of themselves and a class of individuals who claimed to have received unconstitutional C Summonses from the NYPD under 42 U.S.C. § 1983.¹

On February 4, 2011, the Class Representatives filed their Motion to Certify a Class. Defendant submitted a brief in opposition to class certification on September 9, 2011. On April 23, 2012 the Court certified a class action pursuant to Rule 23(b)(2) and 23(b)(3). On May 7, 2012, defendant moved the Court for reconsideration of that decision. The Class Representatives submitted a brief in opposition to defendant’s Motion for Reconsideration. On July 19, 2012, the Court denied defendant’s motion. On August 2, 2012, defendant petitioned the Second Circuit pursuant to Fed. R. Civ. P. 23(f) for leave to appeal the Court’s Order granting certification. The Class Representatives submitted a brief in opposition on August 30, 2012. On December 12, 2012, the Second Circuit denied defendants’ petition. Finally on April 4, 2014, Defendants filed a Motion to Decertify the Class. The Class Representatives submitted a brief in opposition on May 29, 2014. On September 23, 2014 the Court denied Defendants’ Motion. Discovery has been ongoing in this case for five years.

In order to secure certain, prompt and extensive relief for the Proposed Settlement Class and to avoid the risk of future litigation, trial and appeals, the Parties engaged in settlement negotiations. In August 2016, the Parties reached an agreement providing for the settlement of the class action and executed a Settlement Agreement (the “Agreement” or “Settlement Agreement”). The Parties agree that the Settlement is fair, reasonable and adequate and that it serves the best interest of the Proposed Settlement Class based on all the facts and circumstances.

III. CLASS DEFINITION

You are a member of the Settlement Class if you fit within this definition:

Individuals who received a Criminal Court Summons (“C Summons”) by an NYPD officer, and whose summons was dismissed by the court for facial or legal insufficiency and lacked probable cause (“Eligible Summons”) from the start of the class period, May 25, 2007, through January 25, 2017. You are excluded if, between the date you received the Eligible Summons and January 25, 2017, you entered into an individual release as part of a settlement agreement with the City that did not carve out an exception for this Civil Action. You are also excluded if you previously sued

¹ The initial Class Action Complaint was filed on May 25, 2010.

the City of New York and/or individual NYPD officers and recovered for your claims following motion practice or trial or if your claim was dismissed by the Court.

You have received this Notice because the New York State Office of Court Administration's ("OCA") records reflect that you were issued a C Summons by the NYPD which was dismissed for facial or legal insufficiency prior to trial, between May 25, 2007 and January 25, 2017, and therefore, you may be a Settlement Class Member.

Your rights may be affected by the legal proceedings in this action.

IV. DISCUSSION OF SETTLEMENT TERMS

Under the terms of the Settlement, the City has agreed to pay a total amount of up to \$75,000,000 (\$75 million dollars), comprised of an estimated cash payment of up to \$56,500,000.00 (\$56.5 million dollars) to the class (the "Class Fund") and the payment of \$18,500,000.00 in legal fees and costs, and has agreed to certain changes to the NYPD's practices, as described in this Notice.

All parties agree that the Settlement—under all the facts and circumstances—constitutes fair, adequate, and reasonable consideration for the settlement of all constitutional claims that were raised or could have been raised by the Class Representatives or any member of the Proposed Settlement Class in the Civil Action, whether individually or as a class.

TO BE ELIGIBLE FOR A SETTLEMENT PAYMENT, YOU MUST SUBMIT A CLAIM FORM—PAYMENT UNDER THIS SETTLEMENT IS NOT AUTOMATIC.

EACH SETTLEMENT CLASS MEMBER WHO SEEKS TO RECEIVE A SETTLEMENT PAYMENT MUST COMPLETE A CLAIM FORM, WHICH IS ATTACHED HERETO AS EXHIBIT B, AND SUBMIT IT BY SEPTEMBER 6, 2017.

A. How Will My Settlement Award Be Calculated?

Settlement Class Members will be eligible to receive a payment for each Eligible Summons from May 25, 2007 up to January 25, 2017, in settlement of their claims. Settlement payments will be fixed on a per summons basis and will be calculated by dividing the Maximum Class Payment (currently estimated at approximately \$56,350,000.00 less Settlement Administration Expenses and Costs) by the total number of Eligible Summonses submitted by Eligible Claimants during the Settlement Class Period. **No Eligible Claimant may receive a settlement payment in an amount that exceeds one hundred and fifty dollars (\$150.00) per Eligible Summons. However, any amount(s) owed for Child Support and/or Medicaid liens will be deducted from your settlement payment.**

B. Recovery for Multiple Eligible Summonses

If a Class Member received more than one Eligible Summons at the same date and time, that Class Member may only recover for a single Eligible Summons for that date and time, and may not recover for each Eligible Summons issued at the same date and time.

However, a Class Member who received more than one Eligible Summons in separate incidents, at different dates and/or times may recover once for each Eligible Summons incident.

C. Will the Individuals Who Litigated This Case Receive a Service Payment?

Class Counsel will apply for service payments of \$15,000.00 each for the Class Representatives to compensate them for the time and effort they devoted to representing the Class in this case.

D. What the City Has Agreed to Do Under the Settlement

(1) The City will make reasonable efforts to ensure that, within six months of the Court's final approval of the Settlement Agreement and Release, the NYPD will send a Department-wide email and a FINEST message (i) instructing all Members of Service that quotas and/or numeric performance goals that otherwise fall within the plain meaning of New York State Labor Law Section 215-a for enforcement activity are against Department policy and may not be implemented; (ii) advising supervisory personnel that they may be subject to disciplinary action if they implement such quotas and/or numeric performance goals for enforcement activity; (iii) instructing Members of Service that they should notify IAB if they believe that they have been threatened or retaliated against in relation to any such quota and/or numeric performance goal, including without limitation the failure to comply with or satisfy any quota and/or

numeric performance goal. The Department will effectively revoke any existing bulletin, operations order or policy that is contrary to the above, and will ensure that any such revocation will be communicated via email to all members of service. The City will make reasonable efforts to ensure that, within eighteen months of the court's final approval of the Settlement Agreement and Release, the foregoing content from the Department-wide email shall be a subject included in Recruit Training, that it will be the subject of a Department-wide in-service training for calendar year 2017, and will be incorporated into all promotional training for Sergeants, Lieutenants and Captains.

- (2) As of 2016, allegations made by any Member of Service against executives in the rank of Captain or above regarding the existence of quotas and/or numeric performance goals will be investigated by the Internal Affairs Bureau as "M" or Misconduct cases and assigned to IAB Group 1 on a pilot basis, subject to a continuing assessment of the allocation of IAB resources and the discretion of the Police Commissioner pursuant to the City Charter.
- (3) Within six months of the Court's final approval of the Settlement Agreement and Release allegations made by any Member of Service against a Sergeant or Lieutenant regarding the existence of quotas and/or numeric performance goals will be investigated by the designated parent command Investigations Unit, as opposed to the command that is the subject of the quota allegation.
- (4) The City will make reasonable efforts to ensure that, within twelve months of the Court's final approval of the Settlement Agreement and Release, the NYPD will conduct a targeted internal review of all relevant training materials for recruits, and all relevant promotional and all in-service training, to ensure compliance in both form and substance with the Quota Bill.
- (5) The City will make reasonable efforts to ensure that within three months of the Court's final approval of the Settlement Agreement and Release, the NYPD will make changes to its Patrol Guide and conduct training relative to the distribution of "Contact Cards" bearing the officer's name, shield and command, to be provided on demand. Where no card is available, the officer must provide his or her name, rank and command to any person upon request, including the recipient of a C-summons.

V. RELEASE OF CLAIMS

If the Court grants final approval of the Settlement, then all Settlement Class Members who do not opt out will fully, finally, and forever release all claims covered by the Settlement Agreement against the City of New York, its agents and employees, up to the Preliminary Approval Date. When claims are "released" it means that a person granting the release cannot sue the City for the same claims that are covered by the lawsuit as set forth below and in the Settlement Agreement.

What this means for you is that you will not be able to bring a lawsuit in any form for anything related to any C Summons that you believe was illegally issued to you before January 25, 2017. More specifically, you will be releasing any and all claims including, but not limited to, claims of false arrest, malicious prosecution, illegal search under New York State Law, 42 U.S.C. § 1983 ("Section 1983"), and any other applicable federal, state, or local statutes, common law, or regulation. But if someone claims that they were subjected to excessive force during the course of the issuance of a summons, they will not be releasing that claim by opting into this settlement. This is true whether or not you are aware of those claims now.

This Release does not affect your rights, if any, to recovery in existing certified class actions in which you are currently a class member regarding non-C Summons related matters. It also does not affect your rights to any claims that might arise occurring after the Preliminary Approval Date.

The terms of the Release are set forth in Paragraph 2.21 and Section V of the Settlement Agreement. You may obtain a copy of the Settlement Agreement by contacting Class Counsel, as listed below, or you can view the Settlement Agreement in hard copy in the Office of the Clerk of the United States District Court, Southern District of New York, 500 Pearl Street, New York, NY 10007.

VI. THE SETTLEMENT PROCESS, FINAL FAIRNESS HEARING AND YOUR RIGHTS

In order to decide whether to approve the proposed settlement, Judge Sweet will consider related papers and comments submitted by the Parties or others and will hold a hearing in open court. **This Final Fairness Hearing will be held at 12:00 p.m., on May 24, 2017, at the Southern District of New York, 500 Pearl Street, Courtroom 18C, New York, New York 10007.**

You do not need to appear at the hearing. However, you may attend and you may also enter an appearance in the case through your own attorney, if you so desire. This appearance must be filed with the Clerk's Office and served on the Claims Administrator and Class Counsel no later than forty-five (45) days after this Notice is postmarked.

If you submit a Claim Form, the Claims Administrator shall be entitled to deny the claim if there is a basis to determine that you are not the individual who received the Eligible Summons or you are otherwise ineligible for the reasons stated in Section III.

You also may decide to “opt out” or ask to be excluded from the Settlement. If you exclude yourself from the Class, you will not be legally bound by the Court’s judgments in this Civil Action but you also will not receive any money from this Class Action lawsuit—even if the proposed Settlement is approved. Of course, even if you exclude yourself from this lawsuit and you have future interactions with the NYPD, any changes made to the City’s policies mentioned above may still apply to you. To ask to be excluded:

- (1) You must send a request for exclusion that contains your name, address and telephone number and must be personally signed by you.
- (2) The request for exclusion must contain the following language: “I understand that I am requesting to be excluded from the class monetary settlement and that I will receive no money from the Cass Fund created under the Settlement Agreement entered into by the City. I understand that if I am excluded from the class monetary settlement, I may bring a separate legal action seeking damages, but may receive nothing or less than what I would have received if I had filed a claim under the class monetary settlement procedure in this case. I also understand that I may not seek exclusion from the Class for non-monetary relief and that I am bound by the non-monetary relief provisions of the Settlement Agreement entered into by the City.”
- (3) You must mail your request for exclusion postmarked by April 24, 2017, to:

Stinson v City of New York
c/o Rust Consulting, Inc - 5489
PO Box 2574
Faribault, MN 55021-9574

If you do not provide written notice of your intention to opt-out of the class, and also do not return a Claim Form, you will not receive payment pursuant to the Settlement Agreement, and you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit involving any C summonses issued to you and dismissed as facially insufficient between May 25, 2007 through January 25, 2017.

You also may submit any objections to this proposed settlement in writing. For any such written objections to be considered, you must follow the steps detailed below:

- (1) You must file your written objection with the Clerk of the Court, United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York 10007. Please do not send any comments directly to, or attempt to reach, Judge Sweet in person. **Your objection must be postmarked [within forty five (45) days] after the postmark date of this Notice.**
- (2) Copies of all such papers must be mailed and postmarked by the same date to the Claims Administrator at:

Stinson v City of New York
c/o Rust Consulting, Inc - 5489
PO Box 2574
Faribault, MN 55021-9574

Any objection must detail the specific reason for the objection.

VII. THE LAWYERS REPRESENTING THE CLASS

As a Settlement Class Member, you are represented in this litigation by Class Counsel, as follows:

Gerald M. Cohen
Joshua P. Fitch
Cohen & Fitch, LLP
233 Broadway, Ste 1800
New York, NY 10279
(212) 374-9115
www.cohenfitch.com

Jon L. Norinsberg
Offices of Jon L. Norinsberg PLLC
225 Broadway, Ste 2700
New York, NY 10007
212-791-5396
www.norinsberglaw.com

Stephen Neuwirth
Elinor C. Sutton
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
(212)-849-7325
www.quinnemanuel.com

Unless you elect to exclude yourself from the Settlement, you will continue to be represented by Class Counsel in connection with implementation and monitoring of the Settlement throughout the remainder of the Settlement at no cost to you.

A. How Will The Lawyers Be Paid?

In connection with the Settlement, Class Counsel will submit a request for \$18,500,000.00 for attorneys' fees and costs to the Court. The City has agreed to pay Class Counsel this figure subject to Court approval.

If you are a Settlement Class Member and receive payment from the Class Fund, you will not owe any fees or expenses to the lawyers who have represented you as a part of the Settlement Class. Whatever the Court awards to Class Counsel in fees and expenses will be paid only if and after the Settlement has been finally approved by the Court.

As is routine in class actions, Class Counsel will file a motion seeking court approval for an award of attorneys' fees and expenses already incurred, as well as the fees and expenses that will be incurred during the administrative portion of the Settlement. For more than six years, Class Counsel has litigated this case which involved extensive discovery including, hundreds of thousands of documents, thousands of hours of audio visual materials, approximately 44 depositions and voluminous motion practice and appeals.

Class Counsel has litigated this case on behalf the Settlement Class without receiving any compensation for their services or reimbursement of their out-of-pocket litigation expenses and has undertaken significant risks in pursuing this matter. Accordingly, Class Counsel will request that the Court award them approximately \$18,500,000.00 in costs, disbursements and expenses that they have incurred, plus attorneys' fees for the work performed and results achieved to date. In addition to compensation and reimbursement for the work already performed thus far, all fees and expenses will include all future work Class Counsel will do associated with the finalization of the Settlement Agreement and overseeing the administration process.

VIII. GETTING MORE INFORMATION

If you have further questions or are still not sure whether you are included, you can get free help by contacting the Claims Administrator at the contact information listed above.

This Notice contains only an overview of the Settlement and related matters. For a more detailed statement of the matters involved in the proposed Settlement of this Action, you may examine the pleadings, the Agreement relating to the Settlement of the Action, and all other papers and documents filed with the Court in the Action, which may be inspected during normal business hours at the United States District Court for the Southern District of New York, 500 Pearl Street, New York, NY 10007.

SHOULD YOU HAVE ANY QUESTIONS CONCERNING THIS NOTICE, THIS ACTION, THE PROPOSED SETTLEMENT OR THE FINAL FAIRNESS HEARING THEREON, YOU SHOULD DIRECT THEM TO CLASS THE CLAIMS ADMINISTRATOR IN THIS ACTION, AT THE NUMBER SET FORTH ABOVE. PLEASE DO NOT CONTACT THE CLERK OF THE COURT.

Dated: March 10, 2017

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK