

## Legal Notice

United States District Court for the Southern District of Ohio

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

**IF YOU ARE A WOMAN WHO WAS ADMITTED INTO THE CUSTODY OF THE FRANKLIN COUNTY SHERIFF'S OFFICE, AND HAD PHOTOGRAPHS TAKEN OF TATTOOS ON YOUR PRIVATE PARTS BETWEEN MAY 23, 2011 AND APRIL 30, 2014, YOU ARE ENTITLED TO RECEIVE MONEY FROM A CLASS ACTION SETTLEMENT**

### **Read This Notice Carefully**

*A Federal Court Authorized This Notice. It Is Not From A Lawyer. You Are Not Being Sued.*

- This is a proposed settlement of a class action alleging female pre-arraignment detainees at Jackson Pike between May 23, 2011, and April 30, 2014, had photographs taken of their tattoos in compromising positions in violation of their constitutional rights.
- The primary benefit of the settlement to class members is a payment. Each Class Member is entitled to receive a *pro rata* share of the Settlement Fund, which we estimate will be in excess of \$2,000.00. In addition, the Defendant has agreed to enact a policy forbidding photographing the tattoos of misdemeanor detainees as asserted in this lawsuit absent extraordinary circumstances, and will train its employees about the new policy in due course. The Defendant has also agreed that all photographs of the tattoos of class members will be sealed by Court Order and destroyed within five years.
- You are eligible to receive this payment without taking any additional action, as you, as the person to whom this notice is addressed, has been verified as a member of the class. It is imperative that you contact class counsel immediately with your address so that you can be mailed a check for your share of the settlement.
- The settlement requires the defendant to establish a Settlement Fund in the amount of \$2,500,000 to pay all costs, expenses, attorney fees, and payments to class members. This is the complete and total settlement amount that defendant will pay and includes, in addition to payments to class members: (1) payment, on behalf of the class, of plaintiffs' attorneys' fees and litigation costs in an amount to be determined by the Court; (2) payment of an incentive award to the class representative; and (3) payment of the costs of notifying the class about, and administering all aspects of, this settlement, including distributing payment to members of the class.
- Visit the Class Action Settlement Website at [www.jacksonpikeselement.com](http://www.jacksonpikeselement.com) for additional

details about the lawsuit. You may also get additional information by calling 1-866-742-4955, or by writing to [info@rg2claims.com](mailto:info@rg2claims.com) or :

McDonald v. Franklin County Settlement Administrator  
C/o RG/2 Claims Administration  
P.O. Box 59479  
Philadelphia, PA 19102-9479

*Your legal rights are affected whether you act or you don't act. Read this notice carefully.*

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>Exclude Yourself</b>	If you exclude yourself from the Settlement, you will not be bound by the Settlement or judgment and will not be entitled to a cash payment. You will be free to pursue your claims, if any, against the Defendant. This is the only option that allows you to bring or be part of any other lawsuit against the Defendant in this case about the same legal claims that are advanced in this case. <b>You must exclude yourself from the Settlement by May 9, 2022.</b>
<b>Object</b>	If you do not exclude yourself, you may write to the Court about why you do not like the Settlement or the request for legal fees and costs. <b>You must send a written objection to the Court postmarked no later than May 9, 2022.</b>
<b>Go to a Hearing</b>	You may ask to speak in Court about the fairness of the Settlement or the request for fees and costs.
<b>Do Nothing</b>	You will receive your <i>pro rata</i> share of the payment. You give up your right to sue Defendant on these claims later.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.
- The Court in charge of this case still must decide whether to give final approval to the Settlement. Likewise, payments to class members will be distributed only if the Court grants final approval of the Settlement and after any appeals are resolved.

## **BASIC INFORMATION**

### **I. WHY DID I GET THIS NOTICE?**

You, or a female residing at your address, was in the custody of the Franklin County Sheriff's Office on misdemeanor or other minor charges between May 23, 2011 and April 30, 2014, and had photos taken of tattoos located on their private parts upon admission to the Jackson Pike Facility in Columbus. These private parts including the breast, genitals, buttocks and the area under the belly button.

The Court sent you this notice because you have a right to know about a proposed settlement of a class action, and about your options, before the Court decides whether to approve the settlement. If the Court approves it and after objections and appeals are resolved, an administrator appointed by the Court will make the payments that the settlement allows. You will be informed of the progress of the settlement.

*If the class member that is entitled to receive this settlement notice is deceased, the settlement payment check will be made out in the name of the estate of the deceased class member. If you are the next of kin of a deceased class member, please contact Class Counsel listed below.*

The Court in charge of this case is the United States District Court for the Southern District of Ohio. United States District Judge Michael H. Watson is presiding over this case. The Case is known as *McDonald v. Franklin County, Ohio*, Case Number 2:13-CV-503. The people who sued are called Plaintiffs, and the municipality they sued, Franklin County, is called the Defendant. The lawyers that represent the Plaintiff and the Class are called Class Counsel.

### **II. WHAT IS THIS LAWSUIT ABOUT?**

The lawsuit claims that Franklin County illegally photographed tattoos on the private parts of female detainees who were admitted into the custody of the Jackson Pike facility in Columbus after being charged with misdemeanors or other minor crimes, in violation of the unreasonable search and seizure provisions contained in the Fourth Amendment of the United States Constitution. Defendant Franklin County admits to photographing all tattoos on detainees during the class period, but maintains it did so legally. The Defendant further claims that the Class Members are not entitled to any damages as a result of having their tattoos photographed.

### **III. WHY IS THIS A CLASS ACTION?**

In a class action, one or more people, called Class Representatives (in this case Kristen McDonald), sue on behalf of all people who have similar claims. All these people are a Class or Class Members. One Court resolves the issues for all Class Members, except for those who exclude themselves from the Class. United States District Judge Michael H. Watson is in charge of this class action.

### **IV. WHY IS THERE A SETTLEMENT?**

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a Settlement. That way, they avoid the costs and risks of a trial, and the people affected will get compensation. The Class Representative and her attorneys think the Settlement is best for everyone who was subject to Jackson Pike's practices during the class period.

### **V. HOW DO I KNOW IF I AM A MEMBER OF THE CLASS?**

District Judge Watson has decided that everyone who fits this description is a Class Member:

All female detainees who have been placed into the custody of the Franklin County Correctional Center Two ("Jackson Pike"), after being charged with misdemeanors, minor misdemeanors, violations of probation, traffic infractions, civil commitments, city code violations or other minor crimes, including failure to pay fines, and had photographs taken of their breasts, hypogastric region, genitals, and/or buttocks upon their entry into the Jackson Pike facility prior to being arraigned before a judicial officer, pursuant to the policy, custom and practice of the County of Franklin. Detainees who are members of the class had photographs taken of their genitals, their hypogastric region, the lobes of their buttocks and/or the lobes of their breasts at the Jackson Pike facility. The class period commences on May 23, 2011, and extends until April 30, 2014.

Specifically excluded from the class are the Defendant and any and all of its respective affiliates, legal representatives, heirs, successors, employees or assignees.

Counsel for all parties agree that Franklin County ceased photographing tattoos on the private parts of detainees charged with misdemeanors or other minor crimes on April 30, 2014, the date on which they changed their policy and trained their employees to cease taking such photographs. Consequently, the Class Period runs from May 23, 2011 until April 30, 2014. If you are a female, were admitted into the custody of Jackson Pike during this time, and had photographs taken of tattoos on your private parts, you are a member of the class.

This lawsuit does not cover men, individuals charged with felony offenses, or individuals who had tattoos photographed that were not on their private parts at the time of their entry into the Jackson Pike facility. Also excluded are employees and representatives of the Defendant.

## **VI. HOW DO I KNOW IF I QUALIFY TO BE IN THE CLASS?**

Class Counsel understands the sensitivity that many class members have about their time in the Franklin County Jail. Any contact between class members and Class Counsel is confidential. If you are delivered this notice, Class Counsel has reviewed your records and determined you are a member of the Class. You need to cooperate with class counsel in order for class counsel to locate you, and for them to make sure that you receive your settlement payment. You need to do nothing to receive this payment other than work with class counsel to provide your address.

If you did not receive this notice in the mail, however, you may still be a class member. You may contact Class Counsel or the Settlement Administrator to confirm your membership in the class. For more information, you can also visit the website, [www.jacksonpikesettlement.com](http://www.jacksonpikesettlement.com).

## **VII. WHAT AM I GIVING UP TO STAY IN THE CLASS?**

Unless you exclude yourself, you are staying in the Class and will be represented by Class Counsel. That means you will be part of this lawsuit, and cannot sue, continue to sue, or be part of any other lawsuit against Franklin County, its employees, or its elected officials about the legal issues in *this* case. It also means that all of the Court's orders will apply to you and legally bind you.

You will receive a cash payment if you stay in the class. The attorneys for the class, and all litigation and administrative expenses, are being paid from the settlement fund.

## **THE SETTLEMENT BENEFITS – WHAT YOU GET**

### **VIII. WHAT DOES THE SETTLEMENT PROVIDE?**

Defendant has agreed to provide a total settlement fund amount of \$2,500,000 to compensate Class Members whose tattoos were photographed while at the Jackson Pike facility during the class period. This settlement fund amount will cover all costs, administration and notification expenses, payments to class members, attorney fees, class notice, and all aspects of the administration of settlement, including but not limited to, attorneys' fees up to a maximum of \$833,333.33, class counsel's litigation expenses and a service award to the class representative of \$50,000 for stepping forward and representing the Class.

A complete description of the settlement is provided in the Settlement Agreement and Release. You can get a copy of the Settlement Agreement and Release by visiting [www.jacksonpikesettlement.com](http://www.jacksonpikesettlement.com).

### **IX. WHAT CAN I GET FROM THE SETTLEMENT?**

The Settlement Fund will be distributed to Class Members on a pro rata basis. Each Class Member is entitled to receive a pro rata share of the Settlement Fund. We estimate that each class member will receive an amount in excess of \$ 2,000.00.

If you received this notice on behalf next of kin who was a member of the class and who has passed away, please contact the Administrator for instructions on having the settlement payment paid to the Estate of the class member.

## **EXCLUDING YOURSELF FROM THE CLASS**

If you want to keep the right to sue, if any, or continue to sue Franklin County, if any, on your own, for monetary damages, then you must take steps to get out of the case. This is called excluding yourself – or is sometimes referred to as “opting out” of the class action lawsuit.

### **X. HOW DO I GET OUT OF THE CLASS ACTION LAWSUIT?**

To exclude yourself from the settlement, you must send a letter by mail saying that you want to be excluded from McDonald v. Franklin County, Ohio, Case Number 2:13-CV-503. Be sure to include your name, address, telephone number, email address, and your signature. You must mail your exclusion request postmarked no later than May 9, 2022 to:

Franklin County Jail Exclusions  
Elmer Robert Keach, III, Esquire  
Law Offices of Elmer Robert Keach, III, PC  
One Pine West Plaza, Suite 109  
Albany, NY 12205

Class Counsel will take the responsibility of forwarding your Exclusion Request to the Court. You cannot exclude yourself on the phone or by e-mail. If you ask to be excluded, you will not receive monetary recovery from this lawsuit, you cannot participate in the lawsuit, and you will not be legally bound by anything that happens in the lawsuit. You may be able to sue (or continue to sue) Franklin County in the future.

### **XI. IF I DO NOT EXCLUDE MYSELF, CAN I SUE FRANKLIN COUNTY FOR THE SAME THING LATER?**

No. Unless you exclude yourself, you give up the right to sue Franklin County for the claims that this case involves. Instead, you will receive a check for your share of the Settlement Fund. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately. You must exclude yourself from *this* Class to continue on with your own lawsuit. Remember, the exclusion deadline is May 9, 2022.

### **XII. IF I EXCLUDE MYSELF, CAN I GET MONEY FROM THIS CASE?**

No. If you exclude yourself, you will not be eligible to receive any money from this lawsuit.

## **THE LAWYERS REPRESENTING YOU**

### **XIII. WHO ARE THE LAWYERS IN THIS CASE?**

The Court approved Andrew Baker of the Baker Law Group, Columbus, Ohio, Elmer Robert Keach, III, Esquire, Law Offices of Elmer Robert Keach, III, PC, Albany, New York; Nicholas A. Migliaccio and Jason Rathod of Migliaccio & Rathod LLP, Washington, District of Columbia, and Aaron Rihn and Sara Watkins of Robert Pierce & Associates, P.C., Pittsburgh, Pennsylvania, to represent you and other Class Members. Together, the lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **XIV. HOW WILL THE LAWYERS AND CLASS REPRESENTATIVES BE PAID?**

Class Counsel will ask the Court for attorneys' fees and expenses as a percentage of the settlement, and a payment of \$50,000 for Class Representative Kristen McDonald. The Settlement Agreement provides that one third (1/3) of the Settlement Fund (\$833,333.33) will be paid to Class Counsel as an award of attorneys' fees, together with an award for the reimbursement of litigation expenses.. These amounts will be deducted from the Settlement Fund before payments are made to Class Members. The costs of administering the Settlement and locating class members, which are estimated at \$40,000, will also be deducted from the Settlement Fund.

## **OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the Settlement or some part of it.

### **XV. HOW DO I TELL THE COURT IF I DO NOT LIKE THE SETTLEMENT?**

If you are a Class Member, you can object to the Settlement if you don't like any part of it. You can give objections why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to McDonald v. Franklin County, Ohio, Case Number 2:13-CV-0503. Be sure to include your name, address, telephone number, your signature, and the reasons why you object to this Settlement and the case number (2:13-CV-0503). Mail the objection to these three different places postmarked no later than May 9, 2022.

### **COURT**

Clerk of the Court  
United States District Court For the Southern District of Ohio  
Joseph P. Kinneary U.S. Courthouse, Room 169  
85 Marconi Boulevard  
Columbus, OH 43215

## **CLASS COUNSEL**

Elmer Robert Keach, III, Esquire  
Law Offices of Elmer Robert Keach, III, PC  
One Pine West Plaza, Suite 109  
Albany, NY 12205

## **DEFENSE COUNSEL**

Amy L. Hiers, Esquire  
Jeanine Hummer, Esquire  
Jesse W. Armstrong, Esquire  
John A. Zervas, Esquire,  
Franklin County Prosecutor's Office  
373 South High Street 13th Floor  
Columbus, OH 43215

### **XVI. WHAT IS THE DIFFERENCE BETWEEN OBJECTING AND EXCLUDING MYSELF?**

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be a part of the Class. If you exclude yourself, you have no basis to object because the case no longer legally affects you.

## **IF YOU DO NOTHING**

### **XVII. WHAT HAPPENS IF I DO NOTHING AT ALL?**

If you do nothing, you will receive money from the Settlement. Unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Franklin County about the legal issues in this case, ever again.

## **THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you do not have to do so.

### **XVIII. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?**



On May 12, 2022, the U.S. District Court for the Southern District of Ohio will hold a fairness hearing in the Joseph P. Kinneary U.S. Courthouse located at 85 Marconi Boulevard, Columbus, OH to determine whether the Class was properly certified and whether the proposed Settlement is fair, adequate, and reasonable. The Court will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. This hearing may be continued or rescheduled by the Court without further notice. We do not know how long it will take the Court to give its decision.

#### **XIX. DO I HAVE TO COME TO THE HEARING?**

No. Class Counsel will answer questions Judge Watson may have. But you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not required.

#### **XX. MAY I SPEAK AT THE HEARING?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your “Notice of Intention to Appear in McDonald v. Franklin County, Ohio, Case Number 2:13-CV-0503.” Be sure to include your name, address, telephone number and your signature and the case number (2:13-CV-0503). Your Notice of Intention to Appear must be postmarked no later than May 9, 2022 and be sent to the Clerk of the Court, Class Counsel, and Defense Counsel, at the three addresses in question. It is possible that the Court will have you speak at the Fairness Hearing by telephone. You cannot speak at this hearing if you excluded yourself from the class.

### **GETTING MORE INFORMATION**

#### **XXI. HOW DO I GET MORE INFORMATION?**

If you need additional help in determining whether you are a class member, or if you have other questions, you can contact a representative of Class Counsel at [\(518\) 434-1718](tel:5184341718) who may be able to help you directly or have class counsel call you to answer your questions. You can also visit the Settlement website, [www.jacksonpikessettlement.com](http://www.jacksonpikessettlement.com).

*Si desea una copia del aviso en español, comuníquese con nosotros al 1-866-742-4955.*