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23 **Attorneys for County of Santa Clara**
24 **UNITED STATES DISTRICT COURT**
25 **NORTHERN DISTRICT OF CALIFORNIA**
OAKLAND DIVISION

ROSA MARTINEZ, JIMMY HOWARD,
ROBERTA DOBBS, BRENT A.
RODERICK, SHARON D. ROZIER, and
JOSEPH SUTRYNOWICZ, on behalf of
themselves and all others similarly
situated, Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security, in his official capacity,

Defendant.

No. 08-CV-4735 CW

**PARTIAL SATISFACTION OF THE
COUNTY'S OBJECTIONS TO THE
SETTLEMENT**

Date: October 15, 2009
Time: 2:00 p.m.
Dept: Courtroom 2, 4th Floor

The Hon. Claudia Wilken

1 The Social Security Administration's ("SSA") representation to the court in its brief of
2 September 21, 2009, regarding standard agency procedures it acknowledges are implicit in the
3 terms in the Settlement, satisfies the County of Santa Clara's ("County") concerns regarding the
4 notice procedures to be provided to the Post-2006 Class members. *See* Stipulation of Settlement
5 ("Settlement"), Dkt. No. 141; Defendant's Opposition to the County of Santa Clara's Objections
6 ("Br." or "brief"), Dkt. No. 174, at 11-12. As detailed below, SSA stated that the Settlement
7 contemplates the use of all standard SSA notice procedures for the Post-2006 Class members,
8 including class members who were denied benefits and therefore have no pending application.
9 The County believes that its intervention in this matter resulted in this clarification by the SSA
10 of its plans for these class members.

11 The County continues to be concerned by the SSA's failure to commit to use those same
12 standard procedures for the Pre-2007 Class members. The SSA is not planning to use its standard
13 procedures for the Pre-2007 Class except to the extent that Title II addresses are updated
14 regularly through the National Change of Address ("NCOA") system and to the extent that the
15 agency will conduct "follow up procedures" for returned overpayment letters. Because the SSA
16 has standard procedures, the agency should be able to use them for all class members without
17 undue disruption. Omitting any effort to locate Pre-2007 Class members (other than those who
18 had been assessed overpayments) seems not only unfair but also counter-intuitive in light of the
19 longer time since their original applications were denied or suspended.

20 For the *Post-2006 Class members*, the SSA's brief states that "[i]ndividual notices
21 affording relief to post-2006 class members will be subject to the Agency's normal procedures
22 for addressing notices. Insofar as Santa Clara County challenges the routine address follow-up
23 for the post-2006 class members, these matters are governed by standard agency procedures that
24 also are not at issue in this case." Br. at 11. In particular, "[a]lthough the Settlement, as agreed
25 to by the parties, is silent on address follow-up for notifying the post-2006 Class Members, any
26 individual notices affording relief to the post-2006 Class Members that are returned to SSA will
27 be subject to normal agency procedures." *Id.* The SSA regular procedures to be followed
28 themselves distinguish between Title II and SSI (Title XVI) recipients.

1 I. Title II

2 The Post-2006 *Title II Class members* will receive the initial mailing with a designated
3 P.O. Box as the return address. Br. at 11. Further, returned mail will be “treated according to
4 regular provisions of agency policy.” *Id.* This means that the SSA will be following the
5 provisions of its internal guidelines, POMS, GN 02605.055, “Title II Undeliverable Mail—
6 Change of Address (COA),” Section B (“B. Procedure for undeliverable mail that requires
7 development”), <https://secure.ssa.gov/apps10/poms.nsf/lnx/0202605055>. Finally, the SSA plans
8 to use the National Change of Address (NCOA) database for this population, which means that
9 the SSA plans to conduct its twice a year updating for all names and addresses that have a
10 perfect match with information in USPS records. Br. at 11. *See* POMS, GN
11 02605.046, “National Change of Address (NCOA) Processing,”
12 <https://secure.ssa.gov/apps10/poms.nsf/lnx/0202605046>.

13 II. SSI/Title XVI

14 The Post-2006 *SSI Class members* (Title XVI) will receive “redetermination ‘come-in’
15 letters.” Br. at 11. Any such letters returned as undeliverable “will be handled according to the
16 agency’s policies and procedures for following-up for individuals whose whereabouts are
17 unknown.” *See* POMS, SI 02301.240 “Whereabouts Unknown
18 (S06),” <https://secure.ssa.gov/apps10/poms.nsf/lnx/0502301240#d>. The *mandatory* procedures
19 listed in that guidance include 1) trying to contact the person by telephone, 2) trying to contact
20 any interested persons or sources that the SSA believes may have contact with the recipient
21 (including employers, benefit sources, medical treatment sources, service agencies, community
22 organizations, shelter, soup kitchens and others who may be able to help), with the general
23 direction to “pursue any available leads”); 3) sending the address information request to the PO
24 for a current address (unless the mail was returned as “Undeliverable” or “Moved/Left No
25 Forwarding Address”). Further, the guidance discusses *optional* efforts. These optional efforts
26 include checking through the SSA’s access to state records online (“SASRO”) (which would
27 cover, for example, the case where someone changes an address with a food stamp agency—this
28 procedure seems particularly important for the class members in this settlement); checking city

