

1 UNITED STATES DISTRICT COURT  
2 OF THE DISTRICT OF COLUMBIA

3 MARCUS BYNUM, et al., )  
4 Plaintiffs, )  
5 v. )  
6 GOVERNMENT OF THE DISTRICT )  
7 OF COLUMBIA, )  
8 Defendants. )

Civil Action No. 02-956 (RCL)

**DECLARATION OF DANIEL ROSENTHAL  
RE: NOTICE PROCEDURES, ADMINISTRATION  
COSTS TO DATE AND ESTIMATED COSTS TO  
COMPLETION**

9 I, DANIEL ROSENTHAL, declare:

10 1. I am the owner of Rosenthal & Company LLC ("Rosenthal"), located at 300 Bel Marin  
11 Keys Boulevard, Suite 200, Novato, California. I am over 21 years of age and am not a party to this  
12 action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and  
13 would testify competently thereto.

14 2. Rosenthal was retained to, among other things, mail the Notice of Class Action, Proposed  
15 Class Settlement and Hearing (the "Notice") and Class Action Settlement Claim Form (the "Claim  
16 Form"), and to publish a shortened form of the Notice in the Washington Post, Washington Times and  
17 the City Paper and regional newspapers. Copies of the Notice and Claim Form are attached hereto as  
18 Exhibits A and B, respectively.

19 3. On or before September 26, 2005 Rosenthal received from the Defendant a computerized  
20 list of 26,034 names and addresses, characterized as the Class Member List, i.e., All persons who,  
21 between the dates of May 16, 1999 and August 31, 2005, were in any District of Columbia Department  
22 of Corrections facility, and either 1) were not released by midnight of the day they became entitled to  
23 release by court order or expiration of sentence, or 2) they appeared in court and the judge ordered them  
24 released, and there was no other reason for the District of Columbia to detain them, but they were strip  
25 searched before their release.

26 4. On or before September 26, 2005, Rosenthal caused the addresses in the Class Member  
27 List to be updated using the National Change of Address system, which updates addresses for all people  
28 who had moved during the previous four years and who filed a change of address with the U.S. Postal

1 Service. New addresses were found for 1,340 class members. The Class Member List was updated with  
2 these new addresses.

3 5. On or before October 20, 2005, Rosenthal caused 632 records to be removed from the  
4 Class Member list after being identified as duplicative records or due to insufficient mailing information,  
5 resulting in 25,402 names and addresses remaining on the Class Member List. In addition, the database  
6 had a second address for 431 Class Members resulting in 25,833 address records for the 25,402 Class  
7 Members.

8 6. On or before October 20, 2005, Rosenthal established the website at which information  
9 about the settlement is available, including the Notice and Claim Form which can be viewed and down-  
10 loaded. The pages of the website, including the responses to several Frequently Asked Questions, are  
11 attached as Exhibit C to this declaration.

12 7. On or before October 20, 2005, Rosenthal established a toll-free automated phone system  
13 through which persons may request the Notice and Claim Form and obtain information about the  
14 Settlement. The script of this system is attached hereto as Exhibit D.

15 8. On or before October 20, 2005, I caused the Notice to be printed, and each of the names  
16 and addresses of the class members to be printed on Claim Forms. I then caused a Notice and Claim  
17 Form to be inserted into a window envelope along with a return envelope for each Class Member (the  
18 "Notice Packets").

19 9. On October 20, 2005, I caused the 25,833 Notice Packets to be mailed by First Class  
20 postage at the U.S. Post Office in Petaluma, California.

21 10. During the period October 20, 2005 through January 6, 2006, 88 Notice Packets were  
22 returned to Rosenthal by the U.S. Postal Service with forwarding addresses. I caused the Class Member  
23 List to be updated with the new addresses and Notice Packets to be re-mailed to the class members at  
24 each of these new addresses.

25 11. During the period October 20, 2005 through January 6, 2006, 11,993 Notice Packets were  
26 returned to Rosenthal by the U.S. Postal Service without forwarding addresses. Rosenthal researched a  
27 credit database to locate new addresses for these class members, and 6,260 new addresses were found.  
28 The Class Member List was updated with these new addresses and Notice Packets were re-mailed to

1 these 6,260 class members using the new addresses.

2 12. Of the 6,260 class members with newly found addresses, 3,299 were returned by the U.S.  
3 Postal Service once more without a forwarding address. These were not searched a second time.

4 13. Class member William Cole requested two Claim Forms via the automated phone  
5 system, one in October and one in November. Rosenthal mailed out two Claim Forms to William Cole  
6 at the address he requested, 4204 Byers Street, Capitol Heights, MD, 20743. Both Claim Forms were  
7 received back as RUM (returned undeliverable mail). The information on these two Claim Forms is as  
8 follows: Claim # 700087001 – Mail Date: 11/14/2005 – RUM Date: 12/02/2005; Claim # 700013301 –  
9 Mail Date: 10/26/2005 – RUM Date: 12/02/2005. On 1/11/2006 Rosenthal mailed a third Claim Form  
10 to Mr. Cole at: 406 Aqua Lynn Dr., Fort Washington, MD 20744.

11 14. Altogether, there are 8,180 class members with known bad addresses (3,299 searched, re-  
12 mailed and returned once more by the U.S. Postal Service and 4,881 searched without a new address  
13 being found).

14 15. As of the date of this declaration, there have been 1,596 calls to the automated phone  
15 system. Of these calls, 273 requested a Notice Packet. Of the Notice Packet requests, 227 were not in  
16 the original Class List. These 227 were added to the Class Member List with an indicator that they were  
17 added. All Notice Packet requests have been fulfilled.

18 16. Effective January 13, 2006, Rosenthal caused certain changes to the information  
19 contained on the website to be implemented, so that effective January 13, 2006 the website states that  
20 the Final Fairness Hearing is set for January 20, 2006 at 10:00 am. Before the change, the website had  
21 shown the Final Fairness Hearing date as February 7, 2006. The same change was made to the  
22 automated phone system and that change should be effective on or about January 17, 2006. On January  
23 16, 2006 we also mailed via Federal Express overnight for next day delivery and by First Class Mail the  
24 letter attached as Exhibit E to those people that we were advised by plaintiffs' counsel had sent to them  
25 or the court communications that either were, or arguably were intended to be, objections advising them  
26 that the hearing date was not February 7 but was in fact January 20. This letter was sent to the following  
27 individuals: Cedric Tonkins, Wesley Baker, George Keitt, James Fishkin counsel for Gregory Bess,  
28 Richard Jones, Kevin Quick and Jerome Hill Jr.

1           17.     As of the date of this declaration, Rosenthal has received three Requests for Exclusion.  
2 A list of the individuals requesting exclusion and copies of the exclusion requests are attached hereto as  
3 Exhibit F.

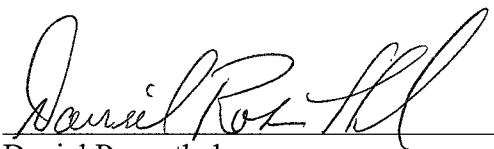
4           18.     As of the date of this declaration, Rosenthal has received one Objection to the Settlement  
5 (although I am informed that a handful have been filed with the court or counsel). A copy of the  
6 objection is attached hereto as Exhibit G.

7           19.     As of the date of this declaration, 3,674 timely Claim Forms have been filed by Class  
8 Members. An additional 89 Claim Forms with a postmark date after the filing deadline of December 23,  
9 2005 have been filed for a total of 3,763 Claim Forms received.

10          20.     As of the date of this declaration there was a total of 67 Claim Forms out of the 3016  
11 Claim Forms reviewed to date that disputed in some form the accuracy of the information provided on  
12 the Claim Form (not including the individuals listed in paragraph 15. above). There remain about six  
13 hundred more Claim Forms to review for this issue. Based on the 2.22% disputes from the 3016  
14 reviewed, we estimate that approximately 13 or 14 additional disputes are likely to exist in those. Based  
15 on our current understanding of the court's order, and unless we are directed to do otherwise, we will  
16 treat all such claims the same as those that contained no disputed information, i.e., process the claim and  
17 calculate the claimant's points ultimately approved by the court.

18          21.     As of the date of this declaration the total costs of Noticing and Administration is  
19 \$201,224.46. The estimated additional cost to completion is \$163,662.37 for a total Administration cost  
20 of \$364,886.83. A spreadsheet with the breakdown of the costs to date and the Estimated Costs to  
21 completion is attached hereto as Exhibit H.

22           I declare under penalty of perjury pursuant to the laws of the State of California that the  
23 foregoing is true and correct to the best of my knowledge and that this declaration was executed this  
24 16th day of January 2006 at Novato, California.

25  
26   
27 Daniel Rosenthal