

FOR IMMEDIATE RELEASE

June 1, 2022

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BOSTON, MA – Today, the parties in *Foster et al. v. Commonwealth of Massachusetts*, Dkt. No. 1984CV03373C (Mass. Sup. Ct.), filed a joint motion seeking the Court’s preliminary approval of a settlement of the class action lawsuit filed on behalf of over 30,000 individuals who were wrongfully convicted of drug offenses in Massachusetts due to the misconduct of former state chemists Annie Dookhan and Sonja Farak. The certified class is represented by Daniel Marx and William Fick of Fick & Marx LLP and Luke Ryan of Sasson Turnbull Ryan & Hoose.

Starting in 2017, the Massachusetts Supreme Judicial Court vacated the convictions of so-called “Dookhan Defendants” and “Farak Defendants” and dismissed the charges against them with prejudice, meaning prosecutors could not try these cases again. “Vacating these wrongful convictions was a major victory and a significant first step in doing justice for the victims of the scandals at the Hinton and Amherst drug labs,” said William Fick, of Fick & Marx LLP, “but much more work was needed to address a major collateral consequence of this unprecedented government misconduct.”

In *Nelson v. Colorado*, the U.S. Supreme Court ruled that due process requires states to return all money taken from defendants as a result of criminal convictions, if those convictions are later invalidated without the prospect of re-prosecution. Class Representatives Stacy Foster, Jamie Kimball, Jonathan Riley, and Nicole Westcott subsequently filed this lawsuit to recoup the millions of dollars of mandatory payments made by exonerated Dookhan and Farak Defendants to satisfy the following Legal Financial Obligations (LFOs): (1) probation fees; (2) victim-witness assessments or surcharges; (3) court costs; (4) fines and surfines; (5) drug analysis criminal assessment fees; (6) GPS monitoring costs; (7) restitution; (8) DNA collection fees; (9) parole supervision fees; and (10) driver’s license reinstatement fees.

If approved, the Commonwealth will pay each Class Member the sum of the following three categories of data:

- A. the Class Member’s Recorded Payments of the aforementioned ten LFOs;

- B. a reduction of 50% of the Class Member's Recorded Payments to the Trial Court (but not to the Massachusetts State Police, Parole Board, or Registry of Motor Vehicles), if the Class Member has a Surviving Conviction; and
- C. an addition of \$150, which is an amount intended by the Parties to ensure that Class Members' Presumptive Refund Amounts are not undercalculated as a result of payments that may not have been identified in the Recorded Payments.¹

“Shifting costs to ‘users’ of the criminal legal system creates extraordinary hardships for defendants and their families,” said Luke Ryan, of Sasson, Turnbull, Ryan & Hoose. “In addition to erecting sometimes insurmountable barriers to re-entry, legal financial obligations require probation and parole officers to allocate substantial time to acting as collection agents that could otherwise be devoted to rehabilitation and public safety. We are hopeful that in addition to returning money to class members, this case will cause elected officials to see the wisdom of recent proposals to end the practice of treating the most financially insecure among us as a source of revenue.”

Fick & Marx LLP is a boutique law firm in Boston specializing in criminal defense, civil litigation, and appellate work. Sasson Turnbull Ryan & Hoose is a Northampton law firm that concentrates in criminal defense and civil rights litigation. For the past several years, attorneys at both firms have worked closely with the ACLU of Massachusetts and the Committee for Public Counsel Services in litigation to vindicate the rights of tens of thousands of individuals who were wrongfully convicted as a result of the drug lab scandals in Massachusetts.

For further inquiries, contact Daniel Marx or William Fick at Fick & Marx LLP (857-321-8360) or Luke Ryan at Sasson Turnbull Ryan & Hoose (413-586-4800).

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¹ Definitions of the capitalized terms in paragraphs A, B, and C can be found in the attached copy of the Settlement Agreement.