

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

**USDC SDNY
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BROOKLYN CENTER FOR
INDEPENDENCE OF THE DISABLED, a
nonprofit organization, CENTER FOR
INDEPENDENCE OF THE DISABLED NEW
YORK, a nonprofit organization, GREGORY
D. BELL, and TANIA MORALES,

Plaintiffs,

-against-

BILL DE BLASIO, in his official capacity as
Mayor of the City of New York, and the CITY
OF NEW YORK,

Defendants.

No. 11 Civ. 6690 (JMF)(FM)

~~PROPOSED~~ **ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: February 13, 2015 and March 6, 2015
Time: 10:00 a.m.
Courtroom: 1105

Judge: Honorable Jesse M. Furman

PLAINTIFFS HAVE MADE AN APPLICATION to the Court for an order finally approving the settlement in this action with Defendants the City of New York (“City”) and Bill de Blasio, in his official capacity as the Mayor of the City of New York (collectively, “Defendants”), in accord with the Stipulation of Settlement (“Settlement”), which sets forth the terms and conditions of a proposed settlement and dismissal of the action upon the terms and conditions set forth therein. Defendants do not oppose this motion. On October 15, 2014, the Court so ordered the Settlement, subject to the modification or rejection following notice to class members and the Fairness Hearing (Dkt. No. 202). On that same day, the Court issued an Order Regarding Interim Relief, Notice to the Class, and Fairness Hearing (Dkt. No. 203) (“Order”). A Fairness Hearing was held on February 13, 2015 to address all matters concerning the Settlement. Having read the papers submitted and carefully considered the arguments and relevant legal authority, and good cause appearing, and for the reasons stated on the record at the hearing held on March 6, 2015, the Court GRANTS Plaintiffs’ Motion for Final Approval of Class Action Settlement.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The Court hereby grants final approval of the Settlement. The Court finds that the Settlement is fair, adequate, and reasonable to all known and potential class members.

2. It further appears that extensive evaluation of the merits of this case has been conducted because liability has already been determined pursuant to a six-day bench trial, so that the attorneys for all parties were able to reasonably evaluate their respective positions. It also appears that settlement will, at this time, avoid substantial additional costs to all parties, as well as avoid the delay and the risks inherent in further litigation with respect to remedy. The Court has reviewed the relief granted by the Settlement and recognizes the significant value to the Plaintiff class of the injunctive relief set forth therein.

3. Given the complex nature of the subject matter of this case, neither side was certain of the outcome that would have resulted had the case continued to a remedy trial.

4. Counsel on both sides have fully and aggressively litigated the matter on the merits through a six-day bench trial. The negotiations relating to remedy included multiple in-person and telephonic settlement and mediation sessions, conducted over nine months. The remedy negotiations became so contested that the Court set a date for a remedy trial at Plaintiffs' request. Thus, it appears that the Settlement has been reached as the result of intensive, prolonged, serious, and non-collusive arms-length negotiations and the Settlement resolves the matter in a just and fair way for all parties. The Settlement was informed by extensive discovery, a six-day bench trial on the merits, and was the result of the work of experienced and competent counsel.

5. The Court finds that the distribution of notice by all parties was done in a manner and form consistent with the Court's October 15, 2014 Order, with deviations as explained below, and meets the requirements of both due process and Rules 23(c)(2) and 23(e) of the Federal Rules of Civil Procedure. Such notice was made available by the following means:

- a. The parties complied with the notification requirements of the Class Action Fairness Act by October 27.

- b. Notice was posted by October 27 on the websites of Class Counsel Disability Rights Advocates, named organizational Plaintiffs Brooklyn Center for the Independence of the Disabled (BCID) and Center for Independence of the Disabled, New York (CIDNY), the Mayor's Office for People with Disabilities, and New York City's Office of Emergency Management.
- c. Notice was sent out by October 27 via email, listserv, and/or posted to the website for all constituents of the National Council on Independent Living, Disabled in Action, New York Association on Independent Living, Bronx Independent Living Services, and Independent Living Network of New York.
- d. Notice was sent out by email, listserv, and/or posted to the website for all constituents of United Spinal Association on October 28 and Staten Island Center for Independent Living on November 14.
- e. The Court is informed by Class Counsel that Harlem Independent Living Center does not have a working webpage and the majority of its consumers do not have internet access, therefore in lieu of electronic distribution, Harlem Independent Living Center provided notice of the Settlement through other means of distribution.

6. Despite two organizations providing notice after the October 27 deadline and one organization distributing the notice through alternative means, the notice provided was the best practicable under the circumstances and the Court is informed that the listservs and email groups of the eight disability organizations serve overlapping constituents and there is cross-distribution to the same members of the disability community. The notice provided shall constitute due and sufficient notice to all persons entitled thereto.

7. The deadline for submission of objections was December 29, 2014. There were no objections received during the objection period.

8. The Court retains continuing jurisdiction over this matter for a period of time as set forth in the Settlement, in order to supervise the implementation, enforcement, construction,

and interpretation of the Settlement and this Order, and to be able to determine the amount of an award of attorneys' fees and costs, if any, to which Class Counsel is entitled. The continuing jurisdiction of the Court shall terminate on December 14, 2017 (three years and 60 days following the Effective Date of the Settlement) with respect to Sheltering, Canvassing, Accessible Transportation, Emergency Communications, and Power Outages. The continuing jurisdiction of the Court shall terminate on December 14, 2018 (four years and 60 days following the Effective Date of the Settlement) with respect to High Rise Evacuation and Coordinator/Panel.

Dated: March 6, 2015
New York, NY



JESSE M. FURMAN
United States District Judge

The Clerk of Court is directed to close this case.