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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
Sacramento Division**

KELSEY BRUST, et al.,

Plaintiffs,

vs.

**REGENTS OF THE UNIVERSITY OF
CALIFORNIA,**

Defendant.

CASE NO. 2:07-CV-01488-FCD-EFB

CLASS ACTION

**ORDER GRANTING JOINT MOTION FOR
FINAL APPROVAL OF SETTLEMENT,
ENTRY OF STIPULATED JUDGMENT, AND
AWARD OF ATTORNEYS' FEES AND
COSTS**

This matter came before the Court at the Hearing on October 16, 2009. The Court has considered the Stipulated Judgment and Order (“Stipulated Judgment”), along with a Motion for Preliminary Approval and proposed notice to the class regarding settlement, both of which were preliminarily approved by this Court on August 11, 2009, the absence of any objections received regarding the Stipulated Judgment, the record in the Action, the evidence presented and the arguments and authorities presented by counsel, and for good cause appearing, the Court now GRANTS final approval of the Settlement and Award of Attorneys’ Fees and Costs and enters the Stipulated Judgment.

1 **THE COURT FINDS AND ORDERS AS FOLLOWS:**

2 1. All terms and phrases used hereafter in this Final Approval Order shall have the same
3 meanings ascribed to them in the Stipulated Judgment, a copy of which is submitted herewith.

4 2. This Court has jurisdiction over the subject matter of the litigation and over all parties to
5 this litigation.

6 **A. Final Approval of Settlement and Entry of Stipulated Judgment.**

7 1. The Court has reviewed and considered the Stipulated Judgment attached hereto, together
8 with all the exhibits thereto. The Court has also read and considered the Declarations of Monique
9 Olivier, Noreen Farrell, David Burkett, Dina Lassow, and Mark Chavez in support of final approval and
10 the Declarations of Monique Olivier, Nancy Sheehan, Noreen Farrell, and Dina Lassow in support of
11 preliminary approval. The Court finds that the Stipulated Judgment is the result of substantial arm's-
12 length negotiations between the parties. The significant and comprehensive relief obtained, the
13 thorough mediation process, and the involvement of mediator Michael Dickstein in the settlement
14 process, confirm that the negotiations were not collusive. The Stipulated Judgment provides a
15 substantial increase in the opportunities available for women athletes, maximizes the chances of adding
16 women's teams, provides funds to support the development of UCD female students' athletic abilities
17 and establishes monitoring of the process for the addition of teams and varsity squad sizes. For all these
18 reasons, the Court finds that the settlement is fair, reasonable and adequate. *See Officers for Justice v.*
19 *Civil Serv. Comm'n of San Francisco*, 688 F.2d 615, 625 (9th Cir.1982). (*See also* Preliminary
20 Approval Order [Dkt. #106], entered Aug. 11, 2009.)

21 2. The Court finds that the monetary relief of \$8,000 to each of the representative Plaintiffs
22 is fair, reasonable, and adequate and hereby orders it be paid pursuant to the provisions of the Settlement
23 Agreement.

24 3. Notice for a Rule 23(b)(2) class is discretionary. *Molski v. Gleich*, 318 F.3d 937, 947-48
25 (9th Cir. 2003). In its discretion, this Court ordered that notice be given to the class of the terms of the
26 proposed settlement. The Court finds that the Notice of Settlement of Class Action clearly and
27 concisely informed class members of all the relevant aspects of the litigation, including the binding
28 effect of this Court's decision to approve the settlement after the fairness hearing, the provision

1 regarding payment of attorneys' fees and costs, and the right to and procedure for objecting to the
2 Stipulated Judgment. Notice of this nature is sufficient to meet the requirements of due process and
3 Rule 23. *Molski v. Gleich*, 318 F.3d 937, 947-48 (9th Cir. 2003). The notice to class members, as well
4 as the means and methods by which the parties provided that notice to class members, was proper and
5 adequate, and is hereby finally approved.

6 4. Defendant shall provide relief to the Class in the form and manner specified in the
7 Settlement Agreement.

8 5. The provisions of this Final Order are applicable to and binding upon and inure to the
9 benefit of each party to the Action (including each Plaintiffs, class members, and Defendant).

10 **B. Award of Attorneys' Fees and Costs**

11 The Court has the discretion to award reasonable fees and costs based on the lodestar method as
12 requested by Class Counsel. *Rodriguez v. West Publishing Corp.*, 563 F.3d 948, 967 (9th Cir. 2009);
13 *Ferland v. Conrad Credit Corp.*, 244 F.3d 1145, 1149 n.4 (9th Cir. 2001). Class counsel has submitted
14 documentation supporting an award of fees of \$421,812, plus \$38,188 in costs. The attorneys' fees and
15 cost award requested, \$460,000, reflects a significant discount from the actual fees expended by counsel
16 for Plaintiffs, which is over \$1,016,000. The attorneys' fees and costs award is reasonable and
17 appropriate in light of the substantial benefit provided to the class, the fact that the amount of fees and
18 costs sought is significantly below Class Counsel's lodestar, the fact that Defendant does not contest the
19 amount sought, and the fact that the parties negotiated all of the settlement terms pertaining to class
20 relief prior to discussions concerning the payment of attorneys' fees and costs. The Court authorizes
21 and approves the award of attorneys' fees and costs in the total amount of \$460,000 and that sum is
22 ordered to be paid pursuant to the provisions of the Stipulated Judgment.

23 **C. Stipulated Judgment**

24 The Court hereby concurrently enters the Stipulated Judgment.

25 **IT IS SO ORDERED.**

26
27 DATED: October 19, 2009
28 FRANK
UNITED



C. DAMRELL, JR.
STATES DISTRICT JUDGE