

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

GERALD K. KANDEL, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 06-872C
)	(Judge Patricia E. Campbell-Smith)
THE UNITED STATES,)	
)	
Defendant.)	

PLAINTIFFS’ UNOPPOSED MOTION TO PRELIMINARILY APPROVE THE PCC SUBCLASS SETTLEMENT AGREEMENT; TO APPROVE THE PROPOSED NOTICE OF A FAIRNESS HEARING; AND TO CONDUCT A FAIRNESS HEARING TO CONSIDER FINAL APPROVAL OF THE AGREEMENT

Plaintiffs respectfully submit this Unopposed Motion to Preliminarily Approve the “PCC Subclass Settlement Agreement.” The PCC Subclass Settlement Agreement is attached hereto as Plaintiffs’ Exhibit 1. It was entered into by the parties with respect to 492 former employees of the Panama Canal Commission who are members of the “PCC Subclass.”

Plaintiffs also move for the Court to approve a draft of the attached Notice of PCC Subclass Settlement subject to the Court’s selection of an appropriate date, attached hereto as Plaintiffs’ Exhibit 2. The Notice of PCC Subclass Settlement, if approved, will be posted promptly by the Administrator on the website dedicated to this case.

Moreover, Plaintiffs also move the Court to conduct a “Fairness Hearing” pursuant to RCFC 23(e)(2) by telephone with respect to Final Approval of the PCC Subclass Settlement

Agreement on a mutually available date. The hearing would be held subsequent to the Administrator's posting of the approved Notice of Settlement for thirty (30) days. Thereafter, plaintiffs will move for entry of a Final Order of Judgment by the United States in the amount of \$39,900 as "back lump-sum pay," pursuant to the conditions reflected in the PCC Subclass Settlement Agreement, exclusive of interest; attorney fees and expenses; fees and expenses of the Class Action Administrator.

Plaintiffs' counsel and Defendant's counsel have concluded discussions with respect to the settlement of this portion of this case which pertains to back payments for unused annual leave to all qualified members of the "PCC Subclass" covered by the settlement, who filed timely claims with the Class Action Administrator, as embodied in the terms of the Settlement Agreement.

Upon satisfaction of the terms set forth in the Settlement Agreement, paragraphs 18 and 19, Plaintiffs release, waive, and abandon all claims for interest, COLAs, locality pay, and Sunday premium pay against the United States, its political subdivisions, its officers, agents, and employees, arising out of the complaint or otherwise involved in this case, regardless of whether they were included in the complaint, excluding any of the claims for attorney fees and expenses, as well as fees and expenses of the Class Action Administrator, with respect to the entire litigation.

Plaintiffs also seek the court's approval for providing the PCC Subclass members with Notice of the Settlement Agreement in the following ways: 1) the Class Action Administrator will post the Notice prominently on the case website; 2) the Administrator also will send the Notice by email to all email addresses on file of PCC Subclass members; and 3) the Class Action Administrator also will mail the Notice by First Class Mail to all mailing addresses on file.

Plaintiffs submit that providing notice to the Subclass in this manner is sufficient to meet the parties' obligations to provide such notice in a "reasonable manner" pursuant to Rule 23(e)(1)(B) of the Rules of the United States Court of Federal Claims. The Administrator has informed plaintiffs' counsel that approximately ninety-two percent (92%) of the timely claims filed with the Administrator by the 492 members of the PCC Subclass were filed online rather than by mail.

The Settlement Agreement and the terms therein have been approved by the Attorney General of the United States on behalf of Defendant.

WHEREFORE, plaintiffs respectfully move the court to approve preliminarily the PCC Subclass Settlement Agreement; to approve the Notice which shall be posted promptly by the Administrator on the website that it established and maintains for this case, as well as sending the Notice by email and by First Class Mail; and to conduct a "Fairness Hearing" by telephone in order to consider Final Approval of the PCC Subclass Settlement Agreement and its terms.

February 19, 2021

Respectfully submitted,

s/Ira M. Lechner
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