UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

STATE EMPLOYEES BARGAINING AGENT COALITION, et al,	:	
PLAINTIFFS,	:	
V.	:	Civil No. 3:03-CV-221-(AVC)
JOHN G. ROWLAND, et al	:	
DEFENDANTS.	:	

SETTLEMENT ORDER AND FINAL JUDGMENT APPROVING SETTLEMENT, APPROVING PROVISIONS OF SETTLEMENT AGREEMENT AS TO ATTORNEYS' FEES AND EXPENSES AND CLASS REPRESENTATIVE INCENTIVE AWARDS, AND ORDERING DISMISSAL AS TO ALL DEFENDANTS

The Court, having considered (a) the Motion for Final Approval of Class Action Settlement and the Memorandum, Declaration of Margaret Q. Chapple, Esq., and Declarations of David S. Golub, Esq. and Jonathan M. Levine submitted in support of said Motion; (b) Class Counsel's Motion for Order Approving the Provisions of the Parties' Settlement Agreement for Attorneys' Fees and Costs, and Declaration of David S. Golub, Esq. submitted in support of said Application; and (c) the Motion for Order Approving the Provisions of the Parties' Settlement Agreement for Incentive Payments to Named Plaintiffs; and the Court having held a hearing on October 1, 2015; and having considered all of the submissions and arguments with respect thereto; pursuant to Rules 23 and 54 of the Federal Rules of Civil Procedure, and in accordance with the terms of the Settlement Agreement between the parties dated June 2, 2015 (the "Settlement Agreement"), it is hereby **ORDERED, ADJUDGED and DECREED that**:

1. This Settlement Order and Final Judgment incorporates by reference the definitions in the Settlement Agreement, and all terms used herein shall have the same meanings as set forth in the Settlement Agreement.

2. The Court has subject matter jurisdiction over all matters relating to this action, and has personal jurisdiction over each of the parties and all members of the Settlement Class.

3. As set forth in the Preliminary Approval Order (Doc. No. 272) and the Class Certification Order (Doc. No. 271), dated July 2, 2015, the Court certified the Settlement Class ("Settlement Class"), consisting of six (6) subclasses, defined as follows:

a. All individuals who were employees of the State of Connecticut as of November 17, 2002 who were members of a bargaining unit designated as an exclusive bargaining representative pursuant to the State Employee Collective Bargaining Act, Conn. Gen. Stats. § 5-270 et seq. whose employment terminated as a result of the terminations alleged in the Amended Complaint, and who were never restored to the State workforce;

b. All individuals who were employees of the State of Connecticut as of November 17, 2002 who were members of a bargaining unit designated as an exclusive bargaining representative pursuant to the State Employee Collective Bargaining Act, Conn. Gen. Stats. § 5-270 et seq. whose State employment terminated as a result of the terminations alleged in the Amended Complaint, and who were subsequently restored to the State workforce;

c. All individuals who were employees of the State of Connecticut as of November 17, 2002 who were members of a bargaining unit designated as an exclusive bargaining representative pursuant to the State Employee Collective Bargaining Act, Conn. Gen. Stats. § 5-270 et seq. who were bumped or demoted to different positions as a result of the terminations alleged in the Amended Complaint;

d. All individuals who were employees of the State of Connecticut as of November 17, 2002 under a working test period or training program, including provisional employees and employees appointed to durational positions for six months or more, and who were designated for membership in a bargaining unit upon successful completion of the requirements of such working test

period, training program or provisional appointment, and whose State employment was terminated or who were demoted as a result of the terminations alleged in the Amended Complaint;

e. All individuals who were employees of the State of Connecticut as of November 17, 2002 who were members of a bargaining unit designated as an exclusive bargaining representative pursuant to the State Employee Collective Bargaining Act, Conn. Gen. Stats. § 5-270 et seq. who elected retirement in response to the terminations alleged in the Amended Complaint;

f. All individuals who were employees of the State of Connecticut as of November 17, 2002 who were members of a bargaining unit designated as an exclusive bargaining representative pursuant to the State Employee Collective Bargaining Act, Conn. Gen. Stats. § 5-270 et seq. and who, although their State employment was otherwise unchanged, were chilled in the exercise of their union rights as a result of the terminations alleged in the Amended Complaint.

4. The Court finds that the Settlement Class satisfies all of the requirements for class certification under Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, and all other applicable provisions of Fed. R. Civ. P. 23, for the reasons set forth in the Court's July 2, 2015 Order, and the Court's findings of fact and conclusions of law in the Class Certification Order are incorporated herein. In sum, the Court finds that: (a) the approximately 49,000 members of the Settlement Class are so numerous that joinder of all members would be impracticable; (b) there are questions of law and fact common to the claims of the Named Plaintiffs and all Settlement Class Members, and these common questions predominate over any questions or issues affecting only individual members of the Settlement Class; (c) the claims of the Named Plaintiffs are typical of the claims of the Settlement Class; (d) Named Plaintiffs' interests are coincident with, and not antagonistic to, the interests of other Settlement Class members, and, in prosecuting this action and negotiating and entering into the Settlement, the Named Plaintiffs and Class Counsel, who have demonstrated the requisite skill and experience in this action, have fairly and

adequately protected the interests of the Settlement Class; and (e) class treatment is the superior method for adjudicating and settling the claims raised in this action, and best serves the interests of the Settlement Class Members. The Court hereby grants final certification to the Settlement Class.

5. The Court finds that Notice of the Proposed Class Action Settlement was effectuated in accordance with the Court's Preliminary Approval Order, as follows:

a. Direct mail notice was sent to Settlement Class members who have sustained economic damages and who could be identified with reasonable efforts. The parties utilized databases of current and former State of Connecticut employees as well as databases of retired employees of the State of Connecticut maintained by the Department of Administrative Services and the Office of the Comptroller and several other State agencies to identify approximately 3,700 employees of the State of Connecticut who were identified for layoff or who otherwise may have sustained economic damages as a result of the layoffs at issue in this litigation, and that direct mail notice was timely provided to those Settlement Class members. To the extent that any mail notices were returned as undeliverable, the parties made use of advanced address searching to re-mail notice to new addresses. **As a result of these re-mailings, less than approximately one percent of mail notices remained undeliverable.**

b. On July 20, 2015 and August 7, 2015, notice of the proposed settlement was sent by electronic mail through the State of Connecticut list serve (State-of-Connecticut@List.Ct.gov) to every active employee of the State of Connecticut who receives email through the state's exchange email system. The email notice contained a link to the copy of the mail notice maintained, pursuant to the Court's Order, on Class Counsel's website.

c. The State of Connecticut Department of Administrative Services further sent an email to the Human Resources Directors in all state agencies requesting that hard copies of the Notices distributed in the State email system be distributed to all State employees who do not receive email through the state exchange email system. In addition, the Office of the State Comptroller sent a similar email to the lead payroll officers in all State agencies.

d. Notice of the settlement was distributed to union stewards of each of SEBAC's constituent unions and was posted on worksite bulletin boards. The notice posted on the union bulletin boards further included a link to the SEBAC Class Action website maintained by Class Counsel. Each SEBAC constituent union further posted news and updates about the settlement on its individual union home page, including links to both copies of the worksite notices posted on union bulletin boards as well as to the SEBAC Class Action website maintained by Class Counsel.

e. Publication notice in the form approved by the Court was published in each of the following Connecticut newspapers on two successive Thursdays, July 23 and July 30, 2015: The Hartford Courant, the New Haven Register, the Connecticut Post, the Waterbury Republican-American, the Journal Inquirer, the Stamford Advocate, the Norwich Bulletin and the New London Day. Publication notice of the Settlement also appeared on those same days in USA Today – a newspaper with national coverage.

f. Throughout the notice period (and to date) Class Counsel maintained a Settlement Website on Class Counsel's firm website. Class Counsel's website contained an update as to the status of the settlement, information concerning the date, time and logistics of the final fairness hearing, and copies of all of the significant documents pertaining both to the lawsuit and the settlement, including, in particular, copies of the Settlement Agreement, all of the

Court's Rulings with respect to preliminary approval of the Settlement and the Settlement Class, and copies of both the Mail and Publication Notice and Election to Opt-Out Form approved by the Court. The Class Action website also contained links allowing class members to contact Class Counsel and provide basic information about their employment with the State and any adverse action they suffered as a result of the conduct at issue in this lawsuit.

6. The notice detailed herein is hereby determined to be fully in compliance with, and to fully satisfy, all requirements of Fed. R. Civ. P. 23(e) and due process of law, and is found to be the best notice practicable under the circumstances and to constitute due, adequate and sufficient notice to all persons entitled to notice and to apprise them of their rights.

7. Due and adequate notice of the proceedings having been given to the Settlement Class and a full opportunity having been offered to the Settlement Class to participate in the Fairness Hearing, it is hereby determined that all Settlement Class Members are bound by this Settlement Order and Final Judgment. Those persons who excluded themselves from this action are not Settlement Class Members and are not bound by this Settlement Order and Final Judgment.

8. The Settlement of this class action was not the product of collusion between Plaintiffs and Defendants or their respective counsel, but rather was the result of bona fide and arms'-length negotiations conducted in good faith between Class Counsel and the Attorney General's Office.

9. The Court has held a hearing to consider the fairness, reasonableness and adequacy of the proposed Settlement, and has been advised that there are no pending objections from members of the Settlement Class.

10. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby approves the Settlement, and finds that the Settlement is, in all respects, fair, reasonable and adequate to Settlement Class members in light of the factors set forth in *City of Detroit v. Grinnell Corporation*, 495 F.2d 448, 463 (2d Cir. 1974), as follows:

(a) this case was highly complex, expensive and time consuming, and would have continued to be so if the case had not settled;

(b) the lack of objections to the Settlement by Settlement Class members is strong evidence of the fairness of the Settlement;

(c) because the case settled after the parties had conducted discovery, Class Counsel had a full appreciation of the strengths and weaknesses of their case before negotiating the Settlement;

(d) Class Counsel and the Settlement Class would have faced numerous and significant risks in establishing both liability and damages if they had decided to continue to litigate through trial rather than settle; and

(e) the Settlement amount is well within the range of reasonableness in light of the best possible recovery and the risks the parties would have faced if the case had continued to verdicts as to both liability and damages.

Accordingly, the Settlement shall be consummated in accordance with the terms and provisions of the Settlement Agreement.

11. All claims in this action against the individual defendants John G. Rowland and Marc S. Ryan are hereby dismissed with prejudice, and without costs.

12. In accordance with the Settlement Agreement, upon the Settlement's becoming final in accordance with its terms, all Settlement Class Members shall be deemed to have, and

shall have, expressly waived and relinquished all Released Claims (as defined in the Settlement Agreement) and agree not to sue or otherwise make a claim against any of the Released Parties (as defined in the Settlement Agreement) based upon the Released Claims. All Settlement Class Members, for themselves, their heirs and assigns, shall be deemed to have voluntarily and knowingly released and discharged the defendants, as well as any agents and employees of the defendants, any agency of the State of Connecticut, or any former, current, or future officers, servants, agents or employees of the State of Connecticut, in both their official and individual capacities, and the State of Connecticut itself from any and all claims, demands, obligations, actions, causes of action, lawsuits, administrative proceedings, rights, damages, costs, loss of services, expenses and compensation of any nature whatsoever, whether based on tort, contract or other theory of discovery, arising out of the layoffs at issue in this action that were brought or could have been brought in this lawsuit during the class period; provided, however, that Settlement Class Members are not releasing any rights or claims established pursuant to the Settlement Agreement approved by the Court and the Judgment entered herein.

13. Class Counsel have applied for an Order approving the payment of attorneys' fees and costs pursuant to the terms of the parties' Settlement Agreement. Pursuant to Rules 23(h)(3) and 54(d) of the Federal Rules of Civil Procedure, this Court makes the following findings of fact and conclusions of law:

(a) the Settlement confers a monetary benefit on the Settlement Class that is substantial, both in absolute terms and when assessed in light of the risks of establishing liability and damages in this case;

(b) there were no objections by Settlement Class members to the provision in the Settlement Agreement for a payment by the defendant State of Connecticut of an attorneys' fee

equal to 17.5 percent of the total value conferred on each class member by the Settlement – which payment is to be made directly by the defendant State of Connecticut to Class Counsel and does not reduce in any way the value conferred on each Settlement Class Member pursuant to the Settlement;

(c) Class Counsel have effectively and efficiently prosecuted this difficult and complex action on behalf of the members of the Settlement Class for more than twelve years, with no guarantee they would be compensated for their legal services or for the substantial costs expended;

(d) Class Counsel undertook numerous and significant risks of nonpayment in connection with the prosecution of this action;

(e) Class Counsel have reasonably expended thousands of hours, and have incurred, (and will in the future continue to incur, substantial out of pocket expenses in prosecuting this action);

(f) the Settlement was reached following negotiations held in good faith and in the absence of collusion, and the provisions in the Settlement Agreement for payment of attorneys' fees and costs by the defendant State of Connecticut was separately negotiated after the agreement on the provisions for recovery of class members' losses;

(g) Class Members were advised in the Notice of Proposed Class Action Settlement of Class Action, which notice was approved by this Court, that Class Counsel intended to move for an Order approving payment of attorneys' fees of 17.5 percent in accordance with the provisions of the Settlement Agreement, plus reimbursement of reasonable costs and expenses incurred in the prosecution of this action in accordance with the terms of the Settlement Agreement;

(h) the 17.5 percent attorneys' fee in this action is well within the applicable range of reasonable percentage fund awards in analogous common fund class action cases of comparable magnitude and risk. *See, e.g., In re Priceline.com Sec. Litig.*, No. 3:00-cv-1884 (AVC), 2007 WL 2115592 (D. Conn. Jul. 20, 2007); *Haddock v. Nationwide Life Insurance Co.*, No. 3:01-cv-1552 (SRU) (Doc. No. 601); *Spencer v. The Hartford Financial Services Group*, 3:05-cv-1681 (JCH) (Doc. No. 258); *In re Bisys Sec. Litig.*, No. 04 Civ. 3840 (JSR), 2007 WL 2049726 (S.D.N.Y. Jul. 16, 2007); *Kurzweil v. Phillip Morris Cos., Inc.*, No. 94 Civ. 2373 (MBM), 1999 WL 1076105 (S.D.N.Y. 1999); *In re Buspirone Antitrust Litig.*, MDLNo. 1413 (JGK) (S.D.N.Y. Apr. 17, 2003); *In re Wedtech Sec. Litig.*, MDLNo. 735 (S.D.N.Y. Jul. 30, 1992); *In re Initial Public Offering Sec. Litig.*, 671 F.Supp.2d 467 (S.D.N.Y. 2009);

(i) as detailed in Class Counsel's Declaration, although counsel were also separately entitled to recovery of prevailing party attorneys' fees in this action, pursuant to 42 U.S.C. § 1988, *see Missouri v. Jenkins*, 491 U.S. 274, 283 (1989) – and although, as of the date of the Settlement negotiations, counsel had expended over 2,500 hours of legal time, with a resulting lodestar in excess of $1.4 million – counsel agreed, as part of the negotiations in connection with the Settlement Agreement to waive any claim for reimbursement of their fees under § 1988.

In light of the factors and findings described above, the provision in the Settlement Agreement for payment by the defendant State of Connecticut of an attorneys' fee in the amount of 17.5 percent of the value of the award to each Settlement Class Member is fair and reasonable. The Court hereby approves payment to Class Counsel of attorneys' fees equal to 17.5 percent of the value of the Settlement to each class member pursuant to the provisions of the Settlement Agreement.

14. The Court approves the provision of the Settlement Agreement for payment by the defendant State of Connecticut to the law firm of Livingston, Adler, Pulda, Meiklejohn, & Kelly, P.C. in the amount of $250,000.00 for legal services rendered by that firm to the plaintiff unions in connection with this action (and the concurrent state court litigation). The Court further approves the provision of the Settlement Agreement pursuant to which the State has agreed to pay Class Counsel $400,000.00 in reimbursement of litigation expenses in this action – including both litigation expenses incurred up to the date of the Settlement Agreement as well as expenses anticipated in connection with the administration of the Settlement. The Court finds that these expenses to be paid by the State pursuant to the Settlement Agreement are fair and were or will be reasonably incurred to achieve the benefits to the Class obtained in the Settlement.

15. The Court approves the provision of the Settlement Agreement pursuant to which the State has agreed to pay to each named plaintiff union and to each of the named individual plaintiffs in this action and the concurrent state court actions the amount of $10,000, for representing the Settlement Class throughout the pendency of these actions, which amount is in addition to whatever monies these Named Plaintiffs will receive pursuant to the Settlement Payment provisions of the Settlement Agreement. The Court finds these awards to be fair and reasonable.

16. Neither this Settlement Order and Final Judgment, the Settlement Agreement, nor anything contained or contemplated in the Settlement Agreement or the proceedings undertaken in accordance with the terms of the Settlement Agreement, shall constitute, be construed as or deemed to be an admission by defendants of the truth of any of the allegations of this or the concurrent state court lawsuits, the representative character of the lawsuits, the validity of any of

the claims that were or could have been asserted by the Named Plaintiffs or class members in the lawsuits, or any liability or guilt of defendants in the lawsuits.

17. Without affecting the finality of this judgment, the Court retains exclusive jurisdiction over the Settlement, and the Settlement Agreement, including the administration and consummation of the Settlement Agreement.

18. Settlement Class Members, and any person actually acting or purporting to act on behalf of any Settlement Class Member, are barred and enjoined from filing, commencing, prosecuting, pursuing, maintaining or enforcing any Released Claim, including, without limitation, in any individual, class (or putative class), representative or other action or proceeding, directly or indirectly, in any judicial, administrative, arbitral or other forum against any of the Released Parties.

19. The Court hereby directs that this judgment be entered by the clerk forthwith pursuant to Federal Rule of Civil Procedure 54(b). The direction of the entry of final judgment pursuant to Rule 54(b) is appropriate and proper because this judgment fully and finally adjudicates the claims of the Named Plaintiffs and the Settlement Class against all defendants in this action, allows consummation of the Settlement, and will expedite the distribution of the Settlement proceeds to the Class members.

SO ORDERED this the 1st day of October, 2015.

/s/

Hon. Alfred V. Covello
U.S.D.C. for the District of Connecticut