

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

STATE EMPLOYEES BARGAINING AGENT	:	
COALITION, et al,	:	
	:	
PLAINTIFFS,	:	
	:	
V.	:	NO. 3:03 CV 221 (AVC)
	:	
JOHN G. ROWLAND, et al	:	
	:	
DEFENDANTS.	:	May 1, 2015

SETTLEMENT AGREEMENT AND RELEASE

I. INTRODUCTION

This Class Action Settlement Agreement and Release (hereinafter "Agreement") is entered into between Plaintiffs State Employees Bargaining Agent Coalition; American Federation of School Administrators, Local 61, AFL-CIO; Connecticut Association of Prosecutors; Protective Services Coalition, IAFF, AFL-CIO; Judicial Marshals, International Brotherhood of Police Officers; National Association of Government Employees, AFL-CIO; Connecticut State Police Union; Congress of Connecticut Community Colleges, SEIU, AFL-CIO; Connecticut State University, American Association of University Professors; Connecticut State Employees Association, SEIU, AFL-CIO; Connecticut Employees Union Independent, SEIU, AFL-CIO; Connecticut Federation of Educational and Professional Employees, AFT, AFL-CIO; District 1199, New England Health Care Employees Union, SEIU, AFL-CIO; Council 4, American Federation of State, county, Municipal Employees, AFL-CIO, individually and on behalf of all of their respective members , and Denise A. Bouffard; Geneva M. Hedgecock; Dennis P. Heffernan; William D. Hill; Marcelle Y. Groves; Kent Parizo; Robert Conboy; David A. Mix; Christine G. Hickey; and Vishnu R. Khade, individually and on behalf of all others similarly-situated, on the one hand and Defendants State of

Connecticut; John G. Rowland, individually and in his official capacity as Governor of the State of Connecticut; Marc S. Ryan, individually and in his official capacity as Secretary of the Office of Policy and Management of the State of Connecticut and, as to the official capacity claims, any successors in those offices, on the other hand. For purposes of this Agreement, Plaintiffs and Defendants are referred to individually as a "Party" and collectively as the "Parties."

II. DEFINITIONS

- A. **"Agreement"** means this Class Action Settlement Agreement and Release.
- B. **"Agreement Execution Date"** means the date that this Agreement has been signed by all parties and their counsel and has been approved by the Connecticut General Assembly as provided in Conn. Gen. Stat. §3-125a.
- B. **"Claims Administrator"** means a qualified settlement administrator, retained by the Parties pursuant to the Court's approval to process claims, distribute checks, and conduct any necessary reporting to the Parties and/or the Court, as set forth in this Agreement.
- C. **"Class Counsel"** means, subject to the Court's approval, the law firm of Silver Golub & Teitell, LLP.
- D. **"Class Members"** shall be comprised of the membership of the following six subclasses.
 - (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. Stat. § 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. Stat. § 5-270 et seq. whose State employment was 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. Stat. § 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. Stat. § 5-270 et seq. who elected retirement in response 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. Stat. § 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.

E. "**Class Period**" means from November 17, 2002 through the Date of Preliminary Approval of the Agreement.

F. "**Class Counsel Attorneys' Fees and Costs**" means the attorneys' fees and costs awarded by the Court to Class Counsel.

G. "**Class Representative**" means the following entities and individuals: State Employees Bargaining Agent Coalition; American Federation of School Administrators, Local 61, AFL-CIO; Connecticut Association of Prosecutors; Protective Services Coalition, IAFF, AFL-CIO; Judicial Marshals, International Brotherhood of Police Officers; National Association of Government Employees, AFL-CIO; Connecticut State Police Union; Congress of Connecticut Community Colleges, SEIU, AFL-CIO; Connecticut State University, American Association of University Professors; Connecticut State Employees Association, SEIU, AFL-CIO; Connecticut Employees Union Independent, SEIU, AFL-CIO; Connecticut Federation of Educational and Professional Employees, AFT, AFL-CIO; District 1199, New England Health Care Employees Union, SEIU, AFL-CIO; Council 4, American Federation of State, county, Municipal Employees, AFL-CIO; Denise A. Bouffard; Geneva M. Hedgecock; Dennis P. Heffernan; William

D. Hill; Marcelle Y. Groves; Kent Parizo; Robert Conboy; David A. Mix; Christine G. Hickey; and Vishnu R. Khade.

H. "**Class Representative Enhancement**" means the payment, as determined and approved by the Court, to the Class Representative from the Gross Settlement Amount that is in addition to his Net Pro Rata Distribution.

I. "**Court**" means the United States District Court for the District of Connecticut.

J. "**Date of Preliminary Approval**" means the date when the Court issues an order granting preliminary approval of the settlement reflected in this Agreement.

K. "**Effective Date**" means the date when the Court issues an order granting final approval of this Agreement and enters Judgment in accordance with this Agreement, and the Judgment becomes final by the earliest of the following occurrences:

- (a) If no timely objections to the Agreement were filed, as described in paragraph 18.A infra, the Judgment becomes final the date it is entered by the Court; or
- (b) The Judgment becomes final one court day after the date upon which any appeal from the Judgment must be filed and passes without any appeal being filed; or
- (c) If an appeal is filed, the Judgment becomes final one court day after all proceedings arising out of the appeal or appeals are concluded and the Lawsuit is remanded back to the Court PROVIDED THAT the final resolution affirms the terms of the Judgment without any material modification. For purposes of this Agreement, modifications to any Class Representative Enhancement and/or the Class Counsel Attorneys' Fees and Costs are not considered material modifications).

L. **"Final Fairness Hearing"** means the hearing at which the Court determines whether this Settlement is fair, reasonable and adequate, anticipated by the Parties to occur at a date to be designated by the Court no earlier than 90 days after the Date of Preliminary Approval.

M. **"Lawsuits"** means this action, entitled *State Employees Bargaining Agent Coalition, et al. v. Rowland, et al.*, initially filed on February 3, 2003 in the United States District Court, District of Connecticut, Case No. 3:03 cv 221 (AVC), as subsequently amended by Plaintiffs; the action entitled *Robert Conboy, et al. v. State of Connecticut*, initially filed in the Connecticut Superior Court, on December 19, 2005 and bearing Docket No. HHD-CV-05-5001734 S, as subsequently amended by Plaintiffs; and *Kent Parizo v. State of Connecticut*, initially filed in the Connecticut Superior Court on September 18, 2003, Docket No. HHD-CV-03-0828527S.

N. **"Preliminary Approval Hearing"** means the hearing at which the Court will be requested to preliminarily make the determinations set forth in Paragraph 11 below. The hearing shall take place at a date to be designated by the Court no earlier than 10 days after the Agreement Execution Date, with motion papers to be filed on or before 3 days after the Agreement Execution Date, or at such other dates as the Court may designate.

O. **"Released Claims"** means all claims, demands, rights, liabilities, and causes of action that were asserted in any Complaint or Amended Complaint in the Lawsuits on behalf of the Class Members and any additional claims that could have been brought based on the facts alleged in the Lawsuits. The released claims include all claims relating to or arising out of terminations, demotions, transfers, or other adverse employment action taken against Class Members in retaliation for their and their unions' refusal to forego statutorily protected contract rights and/or in retaliation for their and their unions' exercise of their constitutionally protected freedoms of speech and association, including claims for violations of any state or federal statutes, rules, or regulations. In addition, with respect to

each Class Representative that is a natural person, "Released Claims" includes a general release of any and all claims to the date of this Agreement arising out of or related to his/her/their employment with Defendants, seeking any such employment, or the termination thereof, including without limitation any claim for wrongful termination in violation of public policy, employment discrimination, violation of the Connecticut Fair Employment Practices Act, violation of the Americans With Disabilities Act, or any collective bargaining agreement.

P. **"Released Parties"** means Defendants and the past, present or future officers, directors, employees, agents principals, heirs, assigns executors, administrators, insurers and reinsurers of such identified Released Parties and their respective successors and predecessors in interest, in both their individual and official capacities.

III. BACKGROUND AND FACTUAL RECITALS

1. This civil action was initiated in February 2003, pursuant to the Civil Rights Act of 1871, 42 U.S.C. §1983, by a group of state employee unions (collectively known as the State Employees Bargaining Agent Coalition or "SEBAC") that represented approximately 40,000 Connecticut state employees. In addition to SEBAC, the Plaintiffs include 12 of its 13 constituent labor unions and several individual members of the union.

2. The Defendants are John G. Rowland, former Governor of the State of Connecticut, and Marc S. Ryan, former Secretary of Connecticut's Office of Policy and Management. They are sued in both their official and individual capacities.

3. On May 28, 2003, the Plaintiffs filed a ten-count Amended Complaint (doc. 29), alleging, in essence, that the Defendants intentionally violated their constitutional rights to freedom of speech, freedom of association, due process and equal protection of the law under the First, Fifth and Fourteenth Amendments to the U.S. Constitution by ordering the terminations of over 3,000 union

members in retaliation for the unions' refusal to forego certain statutorily protected contract rights. They seek declaratory and injunctive relief and money damages.

4. The Defendants moved to dismiss Plaintiffs' Amended Complaint on several grounds, including legislative immunity and Eleventh Amendment sovereign immunity. The District Court held that the Plaintiffs' claim for money damages, but not injunctive relief, were barred by sovereign immunity and that further discovery was required on the issue of whether legislative immunity would bar the claims for injunctive relief.

5. The Defendants filed an interlocutory appeal to the Second Circuit, which held that:

- (1) Legislative immunity does not apply exclusively to bar claims for damages, but may also apply to bar claims for injunctive relief brought against state officials in their official capacities.
- (2) In determining whether the instant claims for injunctive relief are barred by legislative immunity, it is necessary to determine (a) whether defendants' actions were "substantively" and "procedurally" legislative; and (b) whether the specific relief sought would enjoin defendants in their performance of legislative functions.
- (3) In the circumstances presented, discovery is necessary to assess whether defendants are entitled to legislative immunity with respect to plaintiffs' claims for reinstatement to their previous positions.
- (4) As a matter of law, defendants are not entitled to legislative immunity with respect to plaintiffs' claims to placement into other, existing positions, because granting this relief would not enjoin defendants in their performance of legislative functions.
- (5) Eleventh Amendment sovereign immunity does not bar plaintiffs' claims for injunctive relief.

Accordingly, the court dismissed the appeal for lack of jurisdiction insofar as it challenged the District Court's denial of legislative immunity with respect to Plaintiffs' claims seeking reinstatement to their previous positions; affirmed the order of the District Court insofar as it denied legislative immunity with

respect to Plaintiffs' claims seeking placement into other, existing positions; and affirmed the District Court's finding that Plaintiffs' claims for injunctive relief were not barred by the Eleventh Amendment. *State Employees Bargaining Agent Coal. v. Rowland*, 494 F.3d 71, 98-99 (2d Cir. 2007).

6. On March 9, 2010, the Court granted Plaintiffs' Motion For Class Certification (doc. 224). The class consists of "[a]ll individuals: (1) who were employees of the State of Connecticut as of November 17, 2002; (2) who were members of a bargaining unit represented by one of the plaintiff unions; and (3) whose employment was terminated or who were bumped or demoted to new positions or otherwise adversely affected by the terminations implemented by Defendants as alleged in the Amended Complaint." *Id.* However, only the Plaintiffs' official capacity claims, which seek injunctive and declaratory relief, were before the Court, and therefore class certification was found to be appropriate pursuant to Rule 23(b)(2). The Court did not reach the issue of class certification under Rule 23(b)(3).

7. In June 2010, the parties filed cross motions for summary judgment based on their joint stipulated facts. The parties requested declaratory relief only, having stipulated that the issue of remedy would be considered in subsequent proceedings, if necessary. On July 1, 2011 the Court issued its ruling, granting the Defendants' motion for summary judgment and denying Plaintiffs' motion on all claims before the Court. (Doc. 251). With respect to the Plaintiffs' First Amendment claim, the Court found that the Plaintiffs had "failed to persuade the court that their union association, in and of itself, raises a matter of public concern and is the type of 'speech' or 'assembly' that warrants constitutional protection." Doc. 251 at p. 18. As for the Plaintiffs' contract cause claim, the Court held that the Defendants' conduct [i.e., ordering the elimination of union positions and the terminations of union employees because the unions failed to agree to the concessions that the Governor demanded] "does not amount to a 'state law' and, therefore does not fall within the meaning of the Contract Clause.

Finally, the Court held that the Plaintiffs had "failed to show that the union and non-union employees were similarly situated for the purposes of prosecuting an equal protection claim." Doc. 251 at p. 23.

8. The Plaintiffs filed an appeal of the summary judgment ruling to the Second Circuit. On May 31, 2013, the Second Circuit issued its decision, concluding that the Plaintiffs had "made out a claim that Defendants violated their First Amendment rights to freedom of association by targeting union employees for firing based on their union membership." The Court therefore reversed the district court's grant of summary judgment to the Defendants and remanded to the district court with instructions to grant summary judgment to Plaintiffs on their First Amendment claim and to craft appropriate equitable relief. *SEBAC v. Rowland*, 718 F.3d 126 (2d Cir. 2012).

9. The Defendants filed a petition for a writ of certiorari to the U.S. Supreme Court but withdrew the petition, without prejudice, in December 2013 in order to pursue settlement discussions.

IV. SETTLEMENT APPROVAL PROCEDURE

10. The Parties and their respective counsel shall take all steps that may be required and/or requested by the Court relating to the approval and implementation of this Agreement and shall otherwise use their best efforts to obtain Court approval and implement this Agreement. The procedure for obtaining Court approval of and implementing this Agreement shall be as set forth below.

11. Within three (3) days after the Agreement Execution Date, Plaintiffs shall:

(a) move the Court for permission to amend the Complaint in this action to assert claims pursuant to Conn. Gen. Stat. § 31-51q on behalf of the individual members of the class;

(b) move the Court for certification of a provisional settlement class as defined herein; and

(c) move the Court for preliminary approval of this settlement and for a Court order that:

1. Grants preliminary approval to the settlement as fair, reasonable and adequate;
2. Preliminarily appoints and approves Plaintiffs as Class Representatives;
3. Preliminarily appoints and approves Class Counsel;
4. Preliminarily appoints and approves the Claims Administrator;
5. Approves the procedure for providing notice to the Class Members, as described in paragraphs 18.B and 18.C herein;
6. Approves the notices to be sent to the Class Members, including an "opt-out" form allowing Class Members to decline participation in the settlement;
7. Authorizes Notice of Settlement to class members pursuant to the Notice Procedure set forth in paragraphs 18.B and 18.C herein.

12. This Agreement will not become effective, and Defendants shall have no obligation to make any payments or take any other actions contemplated by this Agreement unless and until:

- a. The Agreement is approved by the Connecticut General Assembly pursuant to Conn. Gen. Stat. §3-125a; and
- b. The Court conducts a Fairness Hearing and enters a Final Order approving without material modification all of the terms of the Agreement.

13. Class Counsel shall be responsible for ensuring that the following documents, as well as any additional documents that the Court requests and/or requires, are filed with the Court prior to the Fairness Hearing so that the Court will have sufficient basis upon which to evaluate and approve the settlement:

a. A final report describing the completion of the approved notice process, the number of opt-outs and objections (if any), and other information relevant to the Court's assessment of the fairness of the Agreement at the Fairness Hearing.

b. A motion for final approval of the settlement and such other pleadings, evidence or other documents as may be necessary for the Court to determine that the settlement is fair, adequate and reasonable;

c. A proposed Order for the Court's signature

i. Approving the settlement as being fair, adequate and reasonable;

ii. Permanently enjoining any and all of the Class Members from pursuing or seeking to reopen any Released Claims against any Released Parties; and

iii. Ordering a Judgment of dismissal of the Lawsuit with prejudice be entered consistent with this Agreement.

14. Defendants will not oppose the Plaintiffs' motion for preliminary or final approval of the settlement so long as the motions and supporting papers are consistent with the terms of this Agreement and facts of this case. Class Counsel shall provide Defendants' counsel with a reasonable opportunity to review, provide comments to, and otherwise approve the motions for preliminary and final approval of the settlement, as well as supporting papers, before such motions and supporting papers and filed with the Court.

V. SETTLEMENT PAYMENTS

15. Economic Damages

A. Each class member who has sustained economic loss as a result of the layoffs (or layoff orders) shall be entitled to receive a sum to compensate for economic loss, calculated as follows:

Gross economic loss

less: mitigation earnings

less: 30% settlement discount

plus: prejudgment interest calculated from date of loss to date of payment @ the rate of 5% simple interest per annum.

B. Gross economic loss shall include all forms of economic loss that are ordinarily recoverable under state and federal law in similar cases (subject to the limitations set forth below), including, where applicable, lost wages, lost pension benefits, and lost health insurance and/or damages resulting from the loss of health insurance coverage.

C. For each class member who was laid off and rehired to the State's work force within one year of the date of layoff, the deduction for mitigation earnings shall, except for any class member who earned an amount equal to or greater than the pay he would have received from the State at the time of layoff, be equal to the amount the class member received or was eligible to receive in unemployment compensation benefits and which shall be deemed to have been received for up to the first 39 weeks of any such class member's layoff period. The mitigation earnings deduction for each class member who earned an amount equal to or greater than the annualized amount of his or her wages from the State at the time of layoff shall be calculated based on actual mitigation received by the class member. In the event the State shall have a good faith basis to believe that the class member may have earned an amount greater than the annualized amount of his or her wages from the State at the time of the layoff, the State shall have the right to request documentation from the class member of actual mitigation and the class member shall undertake best reasonable efforts to provide records of his or her actual mitigation.

D. For each class member who was laid off and (1) rehired to the State's work force more than one year after the date of layoff, or (2) never rehired to the State's work force, mitigation shall be calculated for the first year on the basis of the amount the class member received or was eligible to receive in unemployment compensation benefits and for each year thereafter based on actual mitigation or, in the case of any class member who asserts that he or she had no interim earnings for more than two years after layoff, the amount of interim earnings that the class member would have earned with reasonable diligence, as determined in accordance with the burdens of proof that would be

applicable in a judicial determination of mitigation. For purposes of determining mitigation for the first year, each class member will be deemed to have been received 39 weeks of unemployment compensation, unless the class member earned an amount equal to or greater than the annualized amount of his or her wages from the State at the time of layoff during the first year of layoff, in which case the mitigation earnings deduction for the first year will be based on actual mitigation. Class members who meet the criteria of this paragraph shall undertake best reasonable efforts to provide records of his or her actual earnings beginning after the first anniversary of layoff to facilitate the State's preparation of the statement required pursuant to section 17.D.2. below. In the event the State shall have a good faith basis to believe that the class member may have earned an amount greater than the annualized amount of his or her wages from the State at the time of the layoff, during the first year, the State shall have the right to request documentation from the class member of actual mitigation and the class member shall undertake best reasonable efforts to provide records of his or her actual mitigation.

E. Any payments made to class members under this Agreement as compensation for economic loss shall not be construed to pertain to the period(s) of time during which such class members have received unemployment compensation benefits for purposes of Conn. Gen. Stat. §31-257. Any unemployment compensation benefits received by the class member during such period will be deducted from damages as mitigation, as set forth herein, such that an award of economic damages will not give rise to a repayment obligation pursuant § 31-257.

F. No class member who retired from the State's work force from December 1, 2002 through June 30, 2003 shall be entitled to an award for economic damages unless at the time the class member retired, the class member had received a layoff notice and had no option for a lateral transfer or faced bumping to a lesser paying position as a result of a layoff notice to another class member.

G. No class member who has previously been made whole for his or her economic losses as a result of an arbitration, grievance or other legal or quasi-legal proceeding shall be entitled to an award for economic damages.

H. Class members shall have the right to seek an award of front pay, and the State shall have the right to oppose any award of front pay for any class member as unwarranted. No award of front pay shall, in any event, exceed 10 years.

I. A claim for the costs of increased mileage expense due to a change in work location as a result of the layoffs shall be compensable provided that the change increased the class member's commute by more than 25 miles in each direction. An award of damages based on increased mileage shall be compensated at \$0.50 cents/mile or the State employee rate of reimbursement applicable at the time of loss, whichever is lesser.

J. Awards to class members for pension losses shall be made in the form of adjustment to the class member's pension service and earnings credits.

K. Awards for damages from the loss of health insurance shall, in the case of class members who were laid off and rehired to the State's work force within one year of the date of layoff, be limited to the cost of COBRA or to the amount of any unreimbursed medical expenses that would

have been covered by the State's employee health plan. Any class member who claims medical expense damages arising from or relating to the discontinuation of state employee health plan benefits shall bear the burden of proving such damages and proving that he or she took reasonable steps to avoid or mitigate such damages, including by taking steps to obtain replacement health insurance coverage (but failure to purchase COBRA or other replacement health insurance due to lack of sufficient funds shall not constitute a failure to take reasonable steps to avoid or mitigate such damages). The State shall have the right to present evidence to contest the employee's entitlement to or the amount of such damages.

L. Form and timing of payments: Economic damage awards shall be paid for class members employed in the State's work force at the time of the award who receive vacation pay as an element of their annual compensation, at the State's sole option, in the form (in whole or in part) of an award of vacation pay or (in whole or in part) in equal yearly installments over four years with the first payment made within 30 days after either an offer or counteroffer with respect to the class member's economic damages award is accepted or a final determination is made by the Claims Administrator or Claims Panel, if applicable, and in three payments annually thereafter (or, at the State's option, on a shorter time schedule), with interest (at the rate of 5% simple interest per annum) running through the dates of each installment payment. Payments in the form of vacation time will be calculated based on the class member's rate of pay at the time of the award. Any balance not paid in vacation time shall be paid to the class member on the schedule set out above. No interest shall accrue on an award of vacation pay once the award is made. For class members no longer employed in the State's work force at the time of the award or class members employed by the State who do not receive vacation pay as an element of their annual compensation, economic damage awards shall be paid in equal yearly installments over four years, with the first payment made within 30 days after either an offer or counteroffer with respect to the class member's economic damages award is accepted or a final determination is made by the Claims Administrator or Claims Panel, if applicable, and in three payments annually thereafter (or, at the State's option, on a shorter time schedule), with interest (at the rate of 5% simple interest per annum) running through the dates of each payment. In the event of a class member's extreme financial hardship, the class member may apply to the Claims Administrator for expedited payment of the award, as the Claims Administrator determines is appropriate.

M. State's Option to Buy-out Unused Vacation Pay Awards: In the event the State has elected to pay a class member's economic damages award, in whole or in part, through an award of vacation days, the State shall have the option, at any time after the award is made, of converting all or part of the vacation day award to installment payments, with the amount of each installment payment based upon the class member's annual rate of compensation at the time each installment is paid. No interest will accrue on any such installment payments.

N. Use of Vacation Day Awards: Class members may use, in addition to any vacation time the class member is otherwise permitted to use in any year, as many vacation days received as part of an economic damages award as the class member's Department head determines will not interfere with the operations of the class member's Department. Notwithstanding any contractual or other applicable provision to the contrary capping the amount of vacation time an employee may carry over from year to year, class members will be entitled to carry the unused or

unpaid portion of any vacation time received as part of any economic damages award through the date of termination of their State employment, provided, however, remaining balance of such vacation day award shall not constitute state service for purposes of calculating such members retirement or any other benefit for which length of service is prerequisite.

O. Class members shall pursue any claims for damages within one year. In the event that a class member fails to respond to the statement prepared by the State pursuant to paragraphs 17.D.1.a or 17.D.2.a within one year after the class member or class counsel's receipt of such statement, or in the event a class member required to submit a statement pursuant to paragraph 17.D.3.a within one year following a Final Order from the Court approving this Agreement, prejudgment interest pursuant to paragraph 15.A of this Agreement will cease to accrue from such date through date of payment.

16. Emotional Distress, Other Compensatory and Punitive Damages Awards and Attorneys' Fees

A. Each class member shall be entitled to receive the following in payment of the class member's claims for compensatory and punitive damages:

1. Each class member who was laid off as a result of the layoff orders shall, if the class member is employed by the State at the time of the award, receive an award of ten vacation days and five personal leave days or, if the class member is not employed by the State or does not receive vacation pay as an element of annual compensation at the time of the award, receive an award of \$1,500.00 to be paid in two equal installments, the first within 30 days of final judicial approval of the settlement and the second one year thereafter. No interest shall be paid on any of these payments.

2. Each class member whose employment was adversely affected as a result of the layoff orders, either through change of position causing economic loss or other form of economic loss, shall, if the class member is employed by the State at the time of the award, receive an award of four vacation days and three personal days or, if the class member is not employed by the State or does not receive vacation pay as an element of annual compensation at the time of the award, receive an award of \$700.00 to be paid in two equal installments, the first within 30 days of final judicial approval of the settlement and the second one year thereafter. No interest shall be paid on any of these payments.

3. Each class member who is not entitled to an award pursuant to paragraph 16.A.1 or 16.A.2 shall, if the class member is employed by the State at the time of the award, receive an award of 1.25 personal leave days or, if the class member is not employed by the State or does not receive vacation pay as an element of annual compensation at the time of the award, receive an award of \$100.00 to be paid within 30 days of final judicial approval of the settlement. Any class member who is not entitled to recover an award of economic damages shall receive an award for compensatory and punitive damages pursuant to this paragraph 16.A.3.

B. Use of Vacation Day Awards: Class members may use, in addition to any vacation time the class member is otherwise permitted to use in any year, as many vacation days received as part of an economic damages award as the class member's Department head determines will not interfere with the operations of the class member's Department . Notwithstanding any

contractual or other applicable provision to the contrary capping the amount of vacation time an employee may carry over from year to year, class members will be entitled to carry the unused or unpaid portion of any vacation time received as part of any economic damages award through the date of termination of their State employment, provided, however, the remaining balance of such vacation day award shall not constitute state service for purposes of calculating such members' retirement or any other benefit for which length of service is prerequisite.

Any personal leave days awarded pursuant to paragraphs 16.A.1, 16.A.2 or 16.A.3 must be used in accordance with existing rules and procedures for use of personal leave days.

C. The named plaintiffs in the three actions shall receive incentive awards in the amount of \$10,000 each for their service as named plaintiffs, payable within 30 days of final judicial approval of the settlement.

D. Attorneys' Fees and Costs: The State shall pay Class Counsel attorneys' fees equal to 17.5% of each class member's economic damages award, whether the claim is resolved by agreement or determination by the Claims Administrator or Claims Panel. The fee shall be calculated based on the total value of the award to each class member at the time of award (without discount for the value of future payments, if any) and paid within 30 days after either an offer or counteroffer with respect to the class member's economic damages award is accepted or a final determination of the award is made by the Claims Administrator or Claims Panel, if applicable.

1. The State shall pay Class Counsel attorneys' fees equal to 17.5% of the amounts of each class member's compensatory and punitive damages awards. The fees shall be calculated based on the value of the award to each class member at the time of award, either based upon the gross cash value of the vacation pay and personal leave awards as of the date of award or the total amount of the cash award (without discount for the time value of future payments, if any). The State shall pay the attorneys' fees at the time of the initial award to each class member pursuant to section 16.A above.

2. The State shall pay the law firm of Livingston, Adler, Pulda, Meiklejohn, & Kelly, P.C. the sum of \$250,000.00 for legal services rendered in connection with the federal and state litigation. The State shall pay Class Counsel \$400,000.00 in litigation expenses. The amounts to be paid pursuant to this paragraph shall be payable within 30 days of final judicial approval of the settlement.

3. The payments for attorneys' fees and costs set forth in this section 16.D. shall be dispositive of any liability the State (or any other defendant) in the above-referenced actions might otherwise have to Class Counsel and to the law firm of Livingston, Adler, Pulda, Meiklejohn, & Kelly, P.C. for past and future attorneys' fees and for past and future expenses that may be incurred in conjunction with the judicial process necessary to conclude the above-referenced actions and the representation of class members in conjunction with the determination and payment of class members' awards, not including, however, any attorneys' fees or expenses that may be incurred to enforce the provisions of this Agreement in the event of any breach thereof.

VI. SETTLEMENT PROCEDURE

17. Settlement Administration

A. Claims Administrator: The parties shall, prior to the submission of this settlement for judicial approval, agree upon a Claims Administrator to determine any disputes over the amounts any class member is entitled to receive pursuant to the settlement or other matters relating, in any way, to the terms of the parties' settlement or implementation of the settlement. The State shall bear the cost of claims administration, including all fees of the Claims Administrator, but not including any attorneys' fees or costs incurred by any class member in connection with the settlement (other than fees or costs arising out of a breach of the settlement agreement). Before the Claims Administrator decides a dispute regarding damages the State shall be entitled to request and receive reasonable documents and information pertaining to the class member's claimed damages and mitigation thereof. Both the class member and the State shall be entitled to be heard thereon.

B. Simplified Claims Process: The Claims Administrator selected by the parties shall adopt a simplified claims process to enhance the efficient resolution of any disputed claims. The provisions of the Administrative Procedures Act shall not apply to proceedings before the Claims Administrator. In the event a dispute as to damages is submitted to the Claims Administrator, the parties shall bear the same burden(s) of proof as would be applicable in any legal action for such damages, but strict adherence to the rules of evidence shall not be necessary. The parties agree to cooperate in the efficient administration of the claims process, and to seek to resolve disputes in good faith and in a manner that minimizes delay and expense.

C. Claims Appeal Panel: The parties shall, prior to the submission of this settlement for judicial approval, agree upon a three-person Claims Appeal Panel to review determinations by the Claims Administrator, as permitted by paragraph 17.F.

D. Determination of Class Members' Claims for Economic Loss:

1. For each class member who was laid off or otherwise separated from the State's work force and was rehired to the State's work force in a comparable position within one year of the date of layoff:

a. The State shall provide a statement of the class member's net economic loss calculated in accordance with paragraphs 15.A, 15.B and 15.I-L above, including (1) the amount of unemployment compensation benefits the class members received or was entitled to receive during the class member's layoff; (2) the class member's annual rate of compensation at the time of the layoff and any adjustments to the compensation payable to the position held by the class member for the period subsequent to the date of layoff and continuing through the date of rehire; (3) the adjustment to the class member's pension benefit necessary to remedy any lost pension benefits resulting from the layoff or separation, representing the award the State offers to pay in economic damages to the class member pursuant to the settlement. The State's offer may include a proposed promotion, transfer of position or future salary increases in lieu of or reduction of monetary damages,

including front pay, and a proposed adjustment to the class member's pension service or salary credit to remedy any pension loss resulting from the layoff or separation. Such statements shall be provided to Class Counsel beginning no later than 30 days of the final judicial approval of this settlement and shall be completed within 60 days of the final judicial approval, except that in the event of unusual or extenuating circumstances that do not allow the State to provide such statements within these time periods, the State will promptly notify class counsel to discuss a resolution of the situation.

b. Within 90 days of receiving the State's offer statement, each class member will, in writing, either accept or reject the State's offer.

c. In the event the class member accepts the offer, the economic damages award will be made in accordance with paragraph 15.L above.

d. In the event the class member rejects the offer, the class member shall provide the State with a counter-offer (that includes the basis for the counter-offer), and the State shall within 30 days, in writing, accept or reject the counter-offer. The class member's counter-offer may include a proposed promotion, transfer of position or future salary increases in lieu or reduction of monetary damages, including front pay, and a proposed adjustment to the class member's pension service or salary credit to remedy any pension loss resulting from the layoff or separation.

e. In the event the State accepts the counter-offer, the economic damages award will be made in accordance with paragraph 15.L above.

f. In the event the State rejects the counter-offer, the class member and the State shall have the right to a determination by the Claims Administrator of the award of economic damages the class member should receive.

g. In the event that the State and a class member agree to some, but not all, aspects of an economic damages award, the disputed aspect(s) of the award may be submitted to the Claims Administrator for determination.

2. For each class member who (1) was laid off or otherwise separated from the State's work force and (a) was rehired to the State's work force more than one year after the date of layoff, or (b) was never rehired to the State's work force; or (2) suffered a loss of compensation (including lost pension or other benefits) as a result of a reduction in position as a result of the layoff orders:

a. The State shall provide a statement of (1) the amount of unemployment compensation benefits the class members received or was entitled to receive during the first year of the class member's layoff; (2) any adjustments to the compensation payable to the position held by the class member at the time of layoff for the period subsequent to the date of layoff and continuing through either the date of rehire or, in the event the class member was not rehired, through the date of the statement; and (3) the adjustment to the class member's pension benefit necessary to remedy any lost pension benefits resulting from the layoff or separation. Such statements shall be provided to Class Counsel beginning no later than 60 days of the final judicial approval of this settlement

and shall be completed within 90 days of the final judicial approval, except that in the event of unusual or extenuating circumstances that do not allow the State to provide such statements within these time periods, the State will promptly notify class counsel to discuss a resolution of the situation. The State may, at its option, include in the statement a proposed promotion, transfer of position or future salary increases in lieu or reduction of monetary damages, including front pay.

b. Within 45 days of receiving the State's statement, each class member will, in writing, provide the State with a statement setting forth information concerning any mitigation earnings the class member has received subsequent to the first year of the layoff period, and setting forth the terms of an award the class member offers to accept in settlement of the class member's economic damages claim. The class member's offer may include a proposed promotion, transfer of position or future salary increases in lieu or reduction of monetary damages, including front pay, and an adjustment to the class member's pension service or salary credit to remedy any pension loss resulting from the layoff or separation.

c. Within 30 days of receiving the class member's offer statement, the State will, in writing, either accept or reject the class member's offer.

d. In the event the State accepts the offer, the economic damages award will be made in accordance with § 15.L above.

e. In the event the State rejects the offer, the State shall provide the class member with a counter-offer (that includes the basis for the counter-offer), and the class member shall within 30 days, in writing, accept or reject the counter-offer. The State's counter-offer may include a promotion, transfer of position or future salary increases in lieu or reduction of monetary damages, including front pay, and an adjustment to the class member's pension service or salary credit to remedy any pension loss resulting from the layoff or separation.

f. In the event the class member accepts the State's counter-offer, the economic damages award will be made in accordance with § 15.L above.

g. In the event the class member rejects the State's counter-offer, the class member and the State shall have the right to a determination by the Claims Administrator of the award of economic damages the class member should receive.

h. In the event that the State and a class member agree to some, but not all, aspects of an economic damages award, the disputed aspect(s) of the award may be submitted to the Claims Administrator for determination.

3. For each class member who sustained economic loss as a consequence of the layoff orders other than lost compensation in the form of salary or other employment benefits under circumstances other than as described in paragraphs 17.D.1 or 17.D.2:

a. The class member shall provide the State with a statement setting forth the basis and amount of any claimed economic loss, representing the terms of the award the class member offers to accept in settlement of the class member's economic damages claim. Such

statements shall be provided to counsel for the State within 30 days of the final judicial approval of this settlement.

b. Within 60 days of receiving the class member's offer statement, the State will, in writing, either accept or reject the class member's offer.

c. In the event the State accepts the offer, the economic damages award will be made in accordance with paragraph 15.L above.

d. In the event the State rejects the offer, the State shall provide the class member with a counter-offer (that includes the basis for the counter-offer), and the class member shall within 30 days, in writing, accept or reject the counter-offer.

e. In the event the class member accepts the State's counter-offer, the economic damages award will be made in accordance with paragraph 15.L above.

f. In the event the class member rejects the State's counter-offer, the class member and the State shall have the right to a determination by the Claims Administrator of the award of economic damages the class member should receive.

g. In the event that the State and a class member agree to some, but not all, aspects of an economic damages award, the disputed aspect(s) of the award may be submitted to the Claims Administrator for determination.

E. The determination of the Claims Administrator of the amount of the economic damages a class member is entitled to receive shall, except as provided in paragraph 17.F, be final, binding and non-appealable by either the State or the class member.

F. With respect to any economic damages award determined by the Claims Administrator where the total award sought by the class member exceeds \$30,000.00 and where the total value of the award is 150% or more greater than the total value of the award offered by the State or 50% or more less than the total value of the award sought by the class member, the parties shall have the right to seek review of the Claims Administrator's determination by the Claims Appeal Panel. The Claims Appeal Panel shall decide any appeal based on the clearly-erroneous standard. The decision of the Claims Appeal Panel shall be binding, final and non-appealable, and there will be no right to judicial review of the decision of the Claims Appeal Panel for any reason. The provisions of the Administrative Procedures Act shall not apply to proceedings before the Claims Appeal Panel.

G. Determination of Class Members' Claims for Non-Economic Loss: Any dispute over the amount any class member is entitled to receive for non-economic loss pursuant to section 16 shall be determined by the Claims Administrator. The determination of the Claims Administrator shall be final, binding and non-appealable.

H. Dispute over Attorneys' Fees: Any dispute over the amount of any attorneys' fee award pursuant to section 16.D shall be resolved by the Claims Administrator. The determination of

the Claims Administrator as to the amount of any disputed attorneys' fee shall be final, binding and non-appealable.

I. Claim Information Assistance: The State will, within 60 days of a class member's or Class Counsel's request, provide the class member or Class Counsel with information in the State's possession concerning the class member's employment, position history and benefits entitlements, including pension information (including virtual reinstatement calculations) and salary and promotion information applicable to positions the class member contends he or she would have attained but for the layoffs.

18. Notice to the Class

A. Contents of Notice: Prior to the Agreement Execution Date, the parties shall agree on the specific terms of the Mail Notice and Publication Notice. The Mail Notice and Publication Notice shall contain the following information:

1. A statement that the purpose of the Settlement is to provide Class Members with a payment in full settlement of all claims that the Class Member may have against Defendants or, at the Class Member's election, to opt-out of the class action.
2. A statement that the Class Member may object to the proposed Settlement along with the Objection Filing Deadline, which deadline shall be no earlier than 75 days after the Preliminary Approval and no later than 15 days prior to the Final Fairness Hearing as scheduled by the Court.
3. A statement that objections can be in writing and include, in addition to the name and address of the Objector, all the following: (a) a simple statement of the reason for the objection to be made at the Final Fairness Hearing; (b) a statement whether the objector intends to appear at the Final Fairness Hearing; and (3) a list of witnesses and description of documents upon which the objector may call or rely at the hearing. No objections shall be permitted at the Final Fairness Hearing unless the Objector has filed a prior written Objection in accordance with this paragraph.
4. The cut-off date for submitting a completed and signed Opt-Out Election Form (in a form to be agreed by the parties prior to the Agreement Execution Date), which deadline shall be no earlier than 75 days after the Preliminary Approval and no later than 15 days prior to the Final Fairness Hearing, as scheduled by the Court.
5. A statement that, in the event the Class Member does not return the Opt-Out Election Form, the Class Member will be deemed to have

irrevocably chosen to accept Class Member status, to receive the benefits of the Settlement as set forth in this Agreement, and to release all claims against Defendants.

6. An explanation that the Class Member is represented by Class Counsel as their attorney in this Settlement process and may, but need not, consult with Class Counsel.
7. The address and telephone number of Class Counsel who will be available to answer questions and represent the Class Members;
8. A statement that the Class Member may but need not consult with a private attorney of their own choice and expense for advice in connection with this Settlement.

B. Mail Notice:

1. No later than thirty days after Preliminary Approval, unless such time is extended by the Court, Defendants shall cause the Notice of Class Action Settlement to be sent by first-class mail to each Settlement Class Member. ["Mail Notice"]. Last known addresses of Settlement Class Members no longer employed by the State of Connecticut shall be run through the NCOA database and updated accordingly prior to mailing.
2. Any mailings returned with a forwarding address shall be re-mailed by Defendants to the forwarding address provided. Any mailings returned without a forwarding address shall be traced utilizing the Lexis/Nexis All-Find service, Mail Net Services or another service customarily used in the settlement administration process and shall be re-mailed if an additional address is identified.
3. In addition, Defendants shall inform Class Counsel of all notices returned as undeliverable and Class Counsel may undertake additional efforts to locate putative Class Members, as long as such efforts do not extend the deadline for submission of opt-out notices or objections under the terms of this class action settlement agreement.

C. Publication Notice: Defendants shall cause the Publication Notice to be published on at least two separate occasions at least one week apart in each of the following daily newspapers in Connecticut: 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. Defendants shall further cause such Publication Notice to be published on at least two separate occasions at least one week apart in a newspaper of national circulation such as USA Today.

D. The parties agree that the Court's approval of a notice regarding preliminary and final approval of settlement by the Court precludes any subsequent argument that notice to the class was not adequate. Plaintiff's Counsel will not at any time contend that a class member who does not receive the notice approved by the Court and fails to file a timely claim is still eligible for relief of any kind.

19. Release of Claims

Plaintiffs and all Class Members who do not timely and properly exclude themselves from the terms of this Agreement stipulate and agree that upon the Effective Date, they shall be deemed to have, and shall have, expressly waived and relinquished all Released Claims and agree not to sue or otherwise make a claim against any of the Released Parties based upon the Released Claims. Further, Plaintiffs and each and every member of the Plaintiff Class, for themselves, their heirs and assigns, voluntarily and knowingly release and discharge 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 of 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, that were brought or could have been brought in this lawsuit during the class period.

VII. MISCELLANEOUS PROVISIONS

20. Construction of the Agreement

For purposes of construing this Agreement, neither party shall be considered its sole or primary author. It is a jointly-drafted document. Any rules of construction that interpret the Agreement terms

against the drafter shall not apply. This Agreement shall be construed under and governed by the laws of the State of Connecticut.

21. Severability

If any of the above provisions are found null, void or inoperative, for any reason, the remaining provisions will remain in full force and effect. Notwithstanding, the invalidation of any material term of this Agreement, including but not limited to all the terms and provisions specified in the Release of Claims, will invalidate this Agreement in its entirety unless the Parties subsequently agree in writing that the remaining provisions will remain in force and effect.

22. No Admission

Neither the acceptance nor the performance by Defendants of the terms of this Agreement nor any of the related negotiations or proceedings is or shall be claimed to be construed as, or deemed to be an admission by Defendants of the truth of any of the allegations of the lawsuits, the representative character of the lawsuits, the validity of any of the claims that were or could have been asserted by Plaintiff and/or Class members in the lawsuits , or any liability or guilt of Defendants in the lawsuits.

23. Amendment or Modification

Unless otherwise provided herein, this Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

24. Authorization to Enter Into Stipulations

Each individual signing this Agreement warrants that he/she has the authority and is expressly authorized to enter into this Agreement on behalf of the party for which that individual signs. The parties agree that because the Class Members are so numerous, it is impossible or impractical to have each of them execute this Agreement. Accordingly the Notice of Settlement will advise all of the Class Members of the binding nature of the release and that the release shall have the same force and effect

as if the Agreement were executed by each of them, whether or not the notice of Settlement is actually received by the Class Member.

25. Advice of Counsel

The Parties to this Agreement are represented by competent counsel, and they have had an opportunity to consult with counsel. The Parties to this Agreement agree that it reflects their good faith compromise of the claims raised in these lawsuits, based upon their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel.

STATE EMPLOYEES BARGAINING
AGENT COALITION



BY ITS ATTORNEYS

JUDICIAL MARSHALS, INTERNATIONAL
BROTHERHOOD OF POLICE OFFICERS



BY ITS ATTORNEYS

AMERICAN FEDERATION OF SCHOOL
ADMINISTRATORS, LOCAL 61, AFL-CIO;




BY ITS ATTORNEYS

NATIONAL ASSOCIATION OF
GOVERNMENT EMPLOYEES, AFL-CIO;



BY ITS ATTORNEYS

CONNECTICUT ASSOCIATION
OF PROSECUTORS



BY ITS ATTORNEYS

CONNECTICUT STATE POLICE UNION;



BY ITS ATTORNEYS

PROTECTIVE SERVICES
COALITION, IAFF, AFL-CIO;



BY ITS ATTORNEYS

CONGRESS OF CONNECTICUT COMMUNITY
COLLEGES, SEIU, AFL-CIO;



BY ITS ATTORNEYS

CONNECTICUT STATE UNIVERSITY, AMERICAN
ASSOCIATION OF UNIVERSITY PROFESSORS;



BY ITS ATTORNEYS

DENISE A. BOUFFARD



BY HER ATTORNEYS

CONNECTICUT STATE EMPLOYEES
ASSOCIATION, SEIU, AFL-CIO;



BY ITS ATTORNEYS

GENEVA M. HEDGECOCK



BY HER ATTORNEYS

CONNECTICUT EMPLOYEES UNION
INDEPENDENT, SEIU, AFL-CIO;



BY ITS ATTORNEYS

DENNIS P. HEFFERNAN



BY HIS ATTORNEYS

CONNECTICUT FEDERATION OF EDUCATIONAL
AND PROFESSIONAL EMPLOYEES, AFT, AFL-CIO;



BY ITS ATTORNEYS

WILLIAM D. HILL



BY HIS ATTORNEYS

DISTRICT 1199, NEW ENGLAND HEALTH CARE
EMPLOYEES UNION, SEIU, AFL-CIO;



BY ITS ATTORNEYS

MARCELLE Y. GROVES



BY HER ATTORNEYS

COUNCIL 4, AMERICAN FEDERATION OF STATE,
COUNTY, MUNICIPAL EMPLOYEES, AFL-CIO;



BY ITS ATTORNEYS

KENT PARIZO



BY HIS ATTORNEYS

ROBERT CONBOY

BY HIS ATTORNEYS

DAVID A. MIX

BY HIS ATTORNEYS

CHRISTINE G. HICKEY

BY HER ATTORNEYS

VISHNU R. KHADE

BY HIS ATTORNEYS

THE STATE OF CONNECTICUT

BY ITS ATTORNEY
GEORGE JEPSEN,
ATTORNEY GENERAL

DANNEL P. MALLOY
GOVERNOR OF THE STATE OF CONNECTICUT
IN HIS OFFICIAL CAPACITY

BY HIS ATTORNEY
GEORGE JEPSEN,
ATTORNEY GENERAL

BENJAMIN BARNES
SECRETARY OF THE OFFICE OF POLICY AND
MANAGEMENT
OF THE STATE OF CONNECTICUT
IN HIS OFFICIAL CAPACITY

BY HIS ATTORNEY
GEORGE JEPSEN,
ATTORNEY GENERAL