

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

OSHONYA SPENCER, CHARLES
STRICKLAND, and DOUGLAS McDUFFIE
on behalf of themselves and all others
similarly situated,

Plaintiffs,

V.

THE HARTFORD FINANCIAL SERVICES
GROUP, INC., et al

Defendants.

NO. 3:05cv1681 (JCH)

SEPTEMBER 14, 2010

**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
NAMED PLAINTIFFS' MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT, CLASS COUNSEL'S
APPLICATION FOR AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES, AND
MOTION FOR ORDER AUTHORIZING AWARD OF
INCENTIVE PAYMENTS TO REPRESENTATIVE PLAINTIFFS**

Named Plaintiffs, through Class Counsel, submit this Supplemental Memorandum to address the objections to the proposed class action settlement (the "Settlement") filed in this action and to update Class Counsel's prior report to the Court regarding the response of the Class as a whole to the Settlement.

Only 2 of the approximately 21,697 Class members – Winthrop B. Collins, Jr. and Ashley De La Cruz – filed objections with the Clerk.¹ Neither objection took issue with the terms or the substance of the Settlement. Rather, the objections pertained either to concerns with The Hartford's compliance with the terms of the underlying settlement or to the perceived sufficiency of the underlying settlement.

¹ Copies of Mr. Collins' and Ms. De La Cruz's September 1, 2010 letters to the Court are attached to the Supplemental Declaration of David S. Golub dated September 14, 2010 ("Golub Supp. Dec.") as Exhibits A and B.

As discussed below and in the accompanying Supplemental Declaration of David S. Golub, Class Counsel have contacted both Mr. Collins and Ms. De La Cruz to explain the nature of this action and the Settlement more fully to them. Upon understanding the nature of this case and the effect of the Settlement, both Mr. Collins and Ms. De La Cruz have advised Class Counsel that they have no objection to the Settlement and do not seek to pursue their objections. There is, thus, no pending objection to the Settlement from any Class member.

In sum, no Class member has taken issue with the adequacy, reasonableness or fairness of the Settlement or the proposed Plan of Allocation. Further, no Class member has taken issue with, or objected to, Class Counsel's Application for Award of Attorneys' Fees and Reimbursement of Litigation Expenses or the Motion for Order Authorizing Incentive Award to Representative Plaintiffs.

I. Resolution of Mr. Collins' Objection

Class Counsel spoke with Mr. Collins on September 13, 2010 to clarify the basis for his objection to the Settlement, which was not clear from his September 1, 2010 letter. (Golub Supp. Dec., ¶ 6). Mr. Collins advised Class Counsel that his concerns relate to issues involving defendants' compliance with the terms of his underlying structured settlement agreement (which are not affected by the Settlement) and that he does not object to any aspect of the Settlement of this action. Mr. Collins authorized Class Counsel to advise the Court that he does not object to any aspect of the Settlement, and confirmed his position (and authorization) in an email exchange yesterday with Class Counsel. (*Id.* & Exhibit C).

II. Resolution of Ms. De La Cruz's Objection

Class Counsel spoke with Ms. De La Cruz today to clarify the basis for her objection to the Settlement. Ms. De La Cruz advised Class Counsel that her concerns relate to the amount of her underlying settlement, which was entered into by her mother on her behalf while she was still a minor. Class Counsel explained to Ms. De La Cruz that the Settlement relates to the pricing of the annuity used to fund her structured settlement, not to the fairness of the settlement of her underlying claim against The Hartford's insured. Ms. De La Cruz advised Class Counsel, once she understood the nature of the Settlement, that she does not object to the Settlement of this action. She authorized Class Counsel to advise the Court that she does not seek to pursue her objection. (*Id.* at ¶ 7).²

III. The Remainder of the Class

The Motion for Final Approval of Class Action Settlement and supporting Memorandum and Declaration filed on September 1, 2010 were posted to the website established to provide Class members information about the Settlement. Class Counsel have previously reported that there were, as of September 1, 2010, approximately 2,600 calls to the toll-free helpline and over 15,200 visits to the website. (*See* Declaration of David S. Golub dated September 1, 2010 at ¶ 8 & Exhibit B [Declaration of Jose C. Fraga dated September 1, 2010 at ¶¶ 7-8]).

Class Counsel have been advised by the Claims Administrator that, since September 1, 2010, there have been approximately 3,300 additional visits to the website (for a total of over 18,500 visits to date) and approximately 200 additional calls to the toll-free helpline (for a total of over 2,800 calls to date). (Golub Supp. Dec. at ¶ 9).

² Ms. De La Cruz does not have immediate access to email and so was unable to confirm the above authorization to Class Counsel in writing, but understood that Class Counsel would be reporting to the Court that she does not seek to pursue her objection. (*Id.*)

No Class member has filed an objection to any aspect of the Settlement since the September 1, 2010 filings were posted to the website; and no Class member has, at any time, expressed any objection to the Plan of Allocation, to Class Counsel's Application for Award of Attorneys' Fees and Reimbursement of Litigation Expenses, or to the Motion for Order Authorizing Incentive Award to Representative Plaintiffs. In sum, no Class member has objected to the terms of the Settlement.

As set forth in Named Plaintiffs' Memorandum in Support of Final Approval of Class Action Settlement (Dkt. 251), the overwhelmingly positive reaction of the Settlement Class provides strong evidence of fairness and supports judicial approval. *Id.* at 26 (citing *City of Detroit v. Grinnell Corporation*, 495 F.2d 448, 462 (2d Cir. 1974), and *Wal-Mart Stores, Inc. v. VISA U.S.A. Inc.*, 396 F.3d 96, 119 (2d Cir. 2005)). Here, there has been no objection by any Class member to the terms of the settlement. And, of the fifty-one Class members who had opted out in response to the initial notice of class certification, fourteen opted back in when they learned the terms of the settlement. *See id.* at 8.

Conclusion

For the reasons stated in the August 16, 2010 and September 1, 2010 filings, and in light of the overwhelming support of the Class for all aspects of the Settlement, Class Counsel respectfully submit that Named Plaintiffs' Motion for Final Approval of Class Action Settlement; the Plan of Allocation; Class Counsel's Application for Award of Attorneys' Fees and Reimbursement of Litigation Expenses; and the Motion for Order Authorizing Incentive Award to Representative Plaintiffs should all be approved at the Fairness Hearing on September 21, 2010.

Dated: September 14, 2010

Respectfully submitted,

/s/

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CERTIFICATION

I hereby certify that on September 14, 2010, the foregoing Supplemental Memorandum in Support of Named Plaintiffs' Motion for Final Approval of Class Action Settlement, Class Counsel's Application for Award of Attorneys' Fees and Reimbursement of Litigation Expenses, and Motion for Order Authorizing Incentive Award to Representative Plaintiffs was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/

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