

Morgan v Related Events LLC
2020 NY Slip Op 33791(U)
November 16, 2020
Supreme Court, New York County
Docket Number: 152519/2017
Judge: Barbara Jaffe
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

<p>PRESENT: <u>HON. BARBARA JAFFE</u></p> <p style="text-align: right;"><i>Justice</i></p> <p>-----X</p> <p>ANDI MORGAN, DANNY BEIRUTI,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">- v -</p>	<p>PART <u>IAS MOTION 12</u></p> <p>INDEX NO. <u>152519/2017</u></p> <p>MOTION DATE _____</p> <p>MOTION SEQ. NO. <u>005</u></p>
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RELATED EVENTS LLC, ALLAN WARTSKI,
TODD NAKASATO, EDISON BALLROOM, LLC,
SEAN CAMPBELL,

**DECISION + ORDER ON
MOTION**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 005) 53-71 were read on this motion to maintain class action.

Plaintiff moves pursuant to CPLR article nine for an order granting final approval of the class action settlement and awarding plaintiff's counsel attorney fees and costs. Defendants do not oppose.

By decision and order dated July 30, 2020, class counsel was directed to mail a supplemental notice to class members advising that the settlement agreement will be evaluated based on the parties' written submissions, and that any class member may request to appear at a virtual fairness hearing if they submit a reason for appearing, and that absent any requests or reasons given for a hearing, the hearing will be deemed waived. Class counsel was also directed to submit contemporaneous billings records to support its application for attorney fees and costs. (NYSCEF 63).

By affirmation dated September 15, 2020, class counsel stated that the requested fee of one-third of the million-dollar settlement fund is appropriate, and that the hours expended and

hourly rates sought are reasonable. In support, he submitted contemporaneous billing records. (NYSCEF 65, 66).

By affirmation dated October 5, 2020, class counsel stated that a supplemental notice of the virtual fairness hearing was sent to all class members on August 27, 2020. The notice, a copy of which is attached to his affirmation, reflects that class members may request to appear at the hearing if they submit a reason and that absent any requests or reasons given for holding the hearing, it will be deemed waived and the fairness of the settlement will be based on the papers already submitted. (NYSCEF 68).

According to counsel, his firm received 13 responses to the notice, including, as pertinent here, a request from one class member to appear at the fairness hearing because he “would simply like [his] voice to be heard.”

Five class members who did not timely submit a claim form by the bar date sought to participate in the settlement, but when they were advised to contact the claims administrator to address their late claims, only one did so. That class member claimed that he did not receive the initial notice packet. To avoid delaying final approval of the settlement, class counsel represented willingness to reduce the amount of requested attorney fees by the amount of the class members’ claim, which was estimated by the claims administrator to be \$1,687.45.

Two other class member who did not timely submit claims sought to participate in the settlement and referenced the virtual fairness hearing; neither of them provided a specific reason for appearing at the hearing, and one indicated that he did not receive the original notice packet and moved away from New York in 2018. Both class members were advised to contact the claims administrator to address their late claims, but neither has done so. Based on the information provided by them, the claims administrator estimated their claims to be \$88.81 and

\$35.53. To avoid delaying final approval of the settlement, class counsel represented that he is willing to reduce the amount of requested attorney fees by those amounts as well.

Counsel contended that a virtual fairness hearing is unnecessary as none of the class members who responded to the notice provided a specific reason or appearing at the hearing. (NYSCEF 67).

By supplemental decision and order dated October 15, 2020, counsel's proposal to pay late claims from attorney fees was rejected as not consonant with the settlement agreement. Counsel was directed to submit amended filings reflecting that all payments to class members will be made in accordance with the settlement agreement. (NYSCEF 69).

By affirmation dated October 20, 2020, counsel withdraws its proposal and states that payments to class members would be made only in accordance with the terms of the settlement agreement. (NYSCEF 70).

Accordingly, it is hereby

ORDERED, that the class, as defined in the settlement agreement and as modified by the parties' stipulation dated January 8, 2020, meets the requirements of CPLR §§ 901 and 902 and is thus certified only for the purposes of the settlement; it is further

ORDERED, that as no class member has submitted a sufficient reason for appearing at a fairness hearing, such hearing is waived; it is further

ORDERED, that the settlement and all terms set forth therein is approved, as the settlement is, in all respects, fair, reasonable, adequate, and in the best interest of the class members, and the parties to the agreement are directed to consummate and perform its terms; it is further

ORDERED, that all payments to class members be made in accordance with the terms of

the settlement agreement; it is further

ORDERED, that class counsel's request for attorney fees and litigation costs and expenses in this action is approved, and class counsel are hereby awarded \$333,333.33 for attorney fees and \$6,069.36 for reimbursement of litigation costs and expenses as reasonably incurred in the prosecution of this action; it is further

ORDERED, that the entire litigation is dismissed with prejudice, and without costs to any party; and it is further

ORDERED, that the parties having so agreed, good cause appearing, and there being no just reason for delay, it is expressly directed that this final judgment and order approving class action settlement and dismissal with prejudice be, and hereby is, entered as a final order.

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11/16/2020
DATE

BARBARA JAFFE, J.S.C.

CHECK ONE:

- CASE DISPOSED
- GRANTED DENIED

NON-FINAL DISPOSITION

APPLICATION:

SETTLE ORDER

GRANTED IN PART

OTHER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

SUBMIT ORDER

FIDUCIARY APPOINTMENT

REFERENCE