

Colaj v Roberts

2020 NY Slip Op 33974(U)

December 2, 2020

Supreme Court, New York County

Docket Number: 452243/2017

Judge: Paul A. Goetz

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. PAUL A. GOETZ PART IAS MOTION 47EFM

Justice

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INDEX NO. 452243/2017

LINDITA COLAJ, GOMAA OSMAN,
Petitioners - Plaintiffs,

MOTION DATE _____

MOTION SEQ. NO. 008

- v -

SAMUEL ROBERTS, STEVEN BANKS, NANCY WILLIAMS,
Respondents - Defendants.

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 008) 267, 268, 269, 270, 271

were read on this motion to/for _____.

**CONDITIONAL CLASS CERTIFICATION, PRELIMINARY APPROVAL, AND
APPROVAL OF CLASS NOTICE**

Before the Court is Plaintiffs’ unopposed Motion for Certification of the Class, Preliminary Approval of Settlement, and Approval of the Proposed Class Notice.

After review of the Plaintiffs’ Memorandum of Law in Support of Plaintiffs’ Motion for Class Certification, Preliminary Approval, and Approval of Class Notice, the Affirmation of Abby Biberman, and all other papers submitted in connection with Plaintiffs’ Motion, that the Court: (1) preliminarily certifies the class for purpose of settlement, (2) grants preliminary approval of the settlement, and (3) approves distribution of the proposed notice; the Motion is granted.

Preliminary Certification of a Settlement Class

The Court preliminarily certifies a class for settlement purposes consisting of: All past, current, and future applicants for Public Assistance (“PA”) in New York State (“NYS”) who filed or submitted, or will file or submit, applications to their Social Services Districts on or after August 7, 2014, and were or are Asylum Applicants with Employment Authorization at the time of the PA application, and were or will be denied Safety Net Assistance (“SNA”) solely because they held or hold that non-citizen status.

The Court preliminarily determines that the class as defined above meets the requirements of CPLR § 901.

The Court preliminarily approves the appointment of Named Plaintiffs Lindita Colaj and Gomaa Osman as representatives of the Plaintiff Class.

The Court preliminarily approves the appointment of the New York Legal Assistance Group (“NYLAG”) as Settlement Class Counsel (“Class Counsel”).

Preliminary Approval of Settlement

The Court grants preliminary approval of the settlement memorialized in the Stipulation and Order of Settlement (“Stipulation”) attached to the Affirmation of Abby Biberman in support of Plaintiffs’ Motion (NYSCEF Doc No 270).

On the record before the Court at this time, it appears to the Court that the Stipulation is the result of extensive, arm’s length negotiations and is fair, reasonable, and in the best interest of class members.

Class Notice

The Court approves the Proposed Notice of Settlement of Class Action Lawsuit and Fairness Hearing (“Notice”), which is attached to the Stipulation as Exhibit B, and directs its distribution as described in the Stipulation § III.b.

The Notice comports with the requirements of CPLR § 908.

The Notice adequately puts class members on notice of the proposed settlement.

Objections

Any class member shall have the right to appear and be heard at the telephonic fairness hearing and/or to submit a written objection. Class members may register written objections to the proposed settlement in the following way:

- Class members who have a lawyer should make written objections to the settlement through both the NYS Courts Electronic Filing program and by email to the court attorney, Vera Zolotaryova, at: vzolotar@nycourts.gov.
- Class members who do not have a lawyer and want to object should call or email NYLAG at: (929) 356-9584 or colajclass@nylag.org. NYLAG will provide any objections to the Court.

All objections submitted before or during the fairness hearing shall be considered by the Court.

As necessary, beginning on the date that the Notice as described in the Stipulation § III.b is distributed the following steps shall be taken to verify whether an individual seeking to object is a member of the class:

- a. For individuals who claim to have been Asylum Applicants with Employment Authorization, as those terms are defined in Paragraphs I.b and I.k. of the Stipulation, (hereinafter “Asylum Applicants with Employment Authorization”) and applied for PA between August 7, 2014 and November 21, 2017, and who were denied due to their failure to provide proof of citizenship or eligible alien status, Class Counsel shall endeavor to provide the individual’s identifying information, including, but not limited to, name, date of birth, county of residence, and client identification number (“Identifying Information”) to the Office of Temporary and Disability Assistance (“OTDA”). Upon receipt of the Identifying Information, OTDA will confirm whether or not the individual is included on the list of individuals comprising Standardized Restored Benefits Group One, as defined in Paragraph I.aa. of the Stipulation (hereinafter “Standardized Restored Benefits Group One”), within ten business days of

receiving such identifying information.

- b. For individuals who claim to have been denied SNA after August 7, 2014 due to their non-citizen status as Asylum Applicants with Employment Authorization, but who do not appear on the list of individuals comprising Standardized Restored Benefits Group One, no further verification shall be required by the parties.
- c. With regard to paragraphs 11.a. and 11.b., any determination that an individual meets the class criteria, shall only be relevant to the Court's assessment of objections to the Stipulation. In no event will such determination be controlling for purposes of determining if an individual is eligible to be included in Standardized Restored Benefits Group One, Standardized Restored Benefits Group Two, as defined in Paragraph I.bb. of the Stipulation (hereinafter "Standardized Restored Benefits Group Two"), the Restored Benefits Group, as defined in Paragraph I.z. of the Stipulation (hereinafter "Restored Benefits Group"), or is otherwise eligible for relief pursuant to the terms of the Stipulation.
- d. For objectors who provide Identifying Information that is received by OTDA during the time period between the date that the Notice is distributed as described in the Stipulation § III.b through the date ten (10) business days prior to the fairness hearing, the parties shall provide the Court with information regarding which individuals they believe meet the class criteria one (1) day prior to the date of the scheduled fairness hearing. For objectors who provide Identifying Information that is received by OTDA during the time period commencing on the ninth (9th) business day prior to the fairness hearing, through the date of the fairness hearing, the parties shall provide the Court with information regarding

which individuals appear on the list of individuals comprising Standardized Restored Benefits Group One no later than thirty (30) days after the fairness hearing.

If Defendants are not able to determine if an individual meets the class criteria in the timeframe permitted by this order for reasons related to COVID-19, volume of requests, or any other unforeseen circumstances, Defendants may request additional time.

“Confidential Information” means the name or other personally identifying information of an applicant for or recipient of cash assistance received through either the Family Assistance (“FA”) Program or the SNA Program (collectively, “PA”) by PA recipients residing in New York State including but not limited to: address, social security number, and date of birth, and other information protected by Social Services Law § 136 and other federal and state laws.

Any Confidential Information provided to Class Counsel by any Defendants shall be deemed received subject to the following protective order:

“Class Counsel agree to maintain for all time the confidentiality of all Confidential Information obtained by Class Counsel during the course of this litigation and process of verification of individuals alleging to meet the class criteria as provided herein. Class Counsel shall not disclose Confidential Information to any individual, other than Defendants, Defendants’ employees, any experts retained by Class Counsel, and any individual whose information is involved, except to the extent necessary to enforce any right under this Order, or as directed by subsequent Court Order. All Confidential Information supplied by any Defendant to Class Counsel shall remain confidential and may not be supplied to anyone other than Class Counsel, any experts retained by Class Counsel, and the Court under seal.”

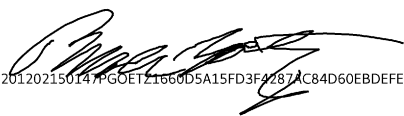
Nothing in Paragraph fourteen (14) shall interfere with or diminish the rights of Plaintiffs to enforce this Order.

Fairness Hearing

The Court will hold a telephonic fairness hearing via Microsoft Teams on March 24, 2021 at 10:00 a.m. Class members who do not have a lawyer, want to object and did not call or email NYLAG with their objections may be heard during the fairness hearing by calling + 347-378-4143 using phone conference ID 174 648 932#.

Accordingly, it is

ORDERED that plaintiffs’ motion for preliminary class certification, preliminary approval of class settlement and approval of class notice is GRANTED in its entirety.


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<u>12/2/2020</u> DATE					<u>PAUL A. GOETZ, J.S.C.</u>
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE