

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
US DISTRICT COURT
★ DEC 31 2013
BROOKLYN OFFICE
Rec'd 12/31/13
(8)

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UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
v.)
)
NEW YORK CITY BOARD OF EDUCATION, *et al.*,)
)
 Defendants,)
)
 and)
)
JOHN BRENNAN, *et al.*,)
)
 Intervenors,)
)
 and)
)
JANET CALDERO, *et al.*,)
)
 Intervenors,)
)
 and)
)
PEDRO ARROYO, *et al.*,)
)
 Intervenors.)
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)
JOHN BRENNAN, *et al.*,)
)
 Plaintiffs,)
)
v.)
)
ERIC HOLDER, *et al.*,)
)
 Defendants.)
_____)

Case No. 96-0374
(FB) (RML)

Case No. 02-0256
(FB) (RML)

ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT

The Court hereby Orders, Finds, Adjudges, and Decrees that:

1. The Court has already certified a class pursuant to Federal Rule of Civil Procedure 23(b)(2), which consists of all custodial employees of the New York City Department of Education whose seniority for purposes of transfers, temporary care assignments, and layoff protection has been adversely affected by the grant of seniority benefits to the Offerees (the “Brennan Injunctive Relief Class”) (Case No. 96-0374, Docket Numbers 592 and 622). In addition, the Court hereby certifies, for settlement purposes only, another class pursuant to Federal Rule of Civil Procedure 23(b)(3), which consists of all non-Offeree Custodian Engineers with seniority dates (for school transfer purposes) on or after January 23, 1989, and on or before January 1, 2002 (the “Brennan Future Damages Class” and collectively with the Brennan Injunctive Relief Class, the “Brennan Classes”).

2. The Court confirms that John Brennan, James Ahearn, Scott Spring, Dennis Mortensen, John Mitchell, and Eric Schauer are representatives of the Brennan Injunctive Relief Class; and John Brennan, John Mitchell, Eric Schauer, and Scott Spring are hereby appointed as representatives of the Brennan Future Damages Class. The Court hereby appoints the Center for Individual Rights as class counsel for the Brennan Classes.

3. Preliminary approval is hereby granted to the Settlement Agreement as being fair, reasonable, and adequate.

4. The Court preliminarily approves the Brennan Classes’ dismissal, pursuant to Fed. R. Civ. P. 41(a)(2), of the United States as a party to *Brennan v. Holder*, Case No. 02-0256, upon the Effective Date of the Agreement, as that term is defined in the Agreement. Final approval of that dismissal, and the effectiveness of that dismissal, is subject to both satisfaction

of the applicable requirements set forth in Fed. R. Civ. P. 23 and 41 and entry by this Court of a Final Judgment, or other final approval order, that is substantially identical to the one attached as Attachment C to the Agreement, including the provisions in Paragraphs 2 through 4.

5. The plan for Notice, as set forth in Paragraphs 39, 41, and 42 of the Settlement Agreement, is approved as reasonable under Federal Rule of Civil Procedure 23(e)(1) and in accordance with 42 U.S.C. § 2000e-2(n). The Parties are directed to provide Notice pursuant to that plan to the Brennan Classes, Local 891 and all Offerees not Parties to the Agreement as listed in footnote 5 of the Agreement who were still working for the DOE as of the Execution Date, as well as to the estate of Joseph Lin.

6. The form of Notice appended as Attachment H of the Settlement Agreement is hereby approved.

7. The Court finds that no other forms of Notice are required in order to provide reasonable and effective Notice to all members of the Brennan Classes, Local 891, and Offerees not Parties to this Agreement.

8. A Fairness Hearing is hereby scheduled for Wednesday April 2, 2014, beginning at 11:00 AM at the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY 11201, in Courtroom 10C S, to determine whether the Settlement Agreement should be approved as fair, reasonable, and adequate, and whether an order approving the Settlement Agreement should be entered pursuant to Federal Rule of Civil Procedure 23(e), as well as to provide an opportunity to present objections in accordance with Section 703(n) of Title VII, 42 U.S.C. § 2000e-2(n).

9. Between the execution date of the Settlement Agreement and the Fairness Hearing, the Parties shall direct all inquiries from members of the Brennan Classes to Counsel

for the Brennan Classes.

10. Any person who wishes to object to the terms of the Settlement Agreement, or the entry of an Order approving the Settlement Agreement, must file written comments with Counsel for the Brennan Classes, as provided in the Notice.

11. In order to have an objection considered and heard at the Fairness Hearing, such objection must be received by Counsel for the Brennan Classes in writing in the form specified by the Notice by Friday, February 21, 2014.

12. Any person who wishes to opt-out of the Brennan Future Damages Class must file an Opt-Out Form with Counsel for the Brennan Classes, as provided in the Notice.

13. The Parties shall each be entitled to respond, in writing, to any objections by Friday, March 21, 2014.

14. The Fairness Hearing may, from time to time and without further notice to the Brennan Classes, be continued or adjourned by order of the Court.

Dated: December 30, 2013



THE HONORABLE FEDERIC BLOCK
United States District Judge