

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MARCUS CREIGHTON, *et al.*, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.

1:15-cv-08321-WHP

Judge William H. Pauley III

PRELIMINARY APPROVAL ORDER

Upon consideration of Plaintiffs' Unopposed Motion for Provisional Class Certification, Preliminary Approval of Class Action Settlement, and Approval and Distribution of Notice of Settlement (the "Motion"), and the supporting materials filed by the parties, including the Settlement Agreement and the exhibits attached thereto, under Rule 23 of the Federal Rules of Civil Procedure, it is ordered that the Motion is GRANTED.

Having reviewed the parties' submissions, the Court further makes the following findings and rulings:

I. DEFINITIONS

This Order incorporates by reference the definitions in the Settlement Agreement, and all capitalized terms used herein shall have the same meanings as set forth in the Settlement Agreement.

II. JURISDICTION

This Court has jurisdiction over the subject matter of the litigation and over all parties to this litigation, including all members of the Settlement Class, as defined below.

III. NO DETERMINATION

Neither the Settlement Agreement, nor this preliminary approval order, nor the fact of a settlement, are an admission or concession by Metropolitan Life Insurance Company (“MetLife”) of any liability or wrongdoing or damages.

IV. CERTIFICATION OF SETTLEMENT CLASS

For purposes of settlement only, the Court finds that the proposed Settlement Class meets the requirements of Federal Rule of Civil Procedure 23(a), and 23(b)(3). Accordingly, for purposes of settlement only and pursuant to Federal Rule of Civil Procedure 23(e), the Court conditionally certifies a Settlement Class composed of:

All African-American and/or Black Financial Services Representatives (“FSRs”) who were (1) employed by and/or affiliated with Metropolitan Life Insurance Company or (2) affiliated with New England Life Insurance Company, in the United States at any time from May 15, 2011 through July 1, 2016.

The Settlement Class alleges claims for race, color, national origin and ethnicity discrimination, harassment and retaliation brought under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-1, *et seq.*, and 42 U.S.C. § 1981.

V. APPOINTMENT OF CLASS REPRESENTATIVES AND CLASS COUNSEL

For purposes of settlement only, the Court finds that Plaintiffs and their counsel are adequate representatives of the Class. The Court appoints Marcus Creighton, Constance Green, Don Roman, Danielle Sydnor, Darryl Fyall, Charles Swindell, and Vernon Hobbs as Class Representatives, and the law firm Stowell & Friedman, Ltd. and Linda D. Friedman, Suzanne E. Bish, and George S. Robot as Class Counsel.

VI. EFFECT OF TERMINATION OF SETTLEMENT AGREEMENT OR NON-OCCURRENCE OF THE EFFECTIVE DATE

The conditional certification of the Class and appointment of the Class Representatives and Class Counsel are solely for the purposes of effectuating the Settlement. If the Settlement

Agreement is terminated or is not consummated for any reason, or if the Effective Date does not occur for any reason, the foregoing conditional certification of the Settlement Class and appointment of Class Representatives and Class Counsel shall be void and this Order shall be vacated, and the parties to the Settlement shall be returned to the status each occupied before entry of this Order without prejudice to any legal argument, position, or privilege that any of the parties to the Settlement Agreement might have asserted but for the Settlement Agreement, including but not limited to filing motions for class certification and Defendant's right to oppose such motions.

VII. PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT

A. The Court has reviewed the terms of the proposed Settlement Agreement along with its exhibits, including specifically the plan of allocation for the Settlement Fund, and the Plaintiffs' motion in support of preliminary approval. Based on a review of those papers and supporting materials, the Court concludes that the Settlement Agreement is fair, reasonable, adequate, and the result of extensive, arm's length negotiations between experienced counsel and parties. The assistance of an experienced mediator in the settlement process also confirms that the Settlement is not collusive. Based on the Court's review, the Court concludes that the proposed Settlement Agreement is fair, reasonable, adequate, and within the range of preliminary settlement approval such that notice to the Settlement Class is appropriate.

B. The Settlement Agreement is therefore PRELIMINARILY APPROVED. Final approval and entry of the Settlement Agreement is subject to the hearing of any objections of Settlement Class Members to the proposed Settlement Agreement.

VIII. APPOINTMENT OF CLAIMS ADMINISTRATOR, SPECIAL MASTER AND NEUTRALS

A. The Court appoints KCC Class Action Services, LLC (or an alternate company mutually agreeable to the parties) to serve as the Claims Administrator, whose duties are set forth in the Settlement Agreement.

B. The Court appoints Lynn Cohn as Special Master to perform the duties set forth in the Settlement Agreement and pursuant to Federal Rule of Civil Procedure 53. The Neutrals selected by the Special Master and Class Counsel to evaluate the claims of Settlement Class Members shall similarly serve as appointments made pursuant to the Court's authority under Rule 53 of the Federal Rules of Civil Procedure. The Special Master shall not seek any information or documents from MetLife or otherwise make any requests of or impositions on MetLife.

C. The Court approves the Court Registry Investment System as the depository entity for the Settlement Fund.

IX. APPROVAL OF THE FORM AND MANNER OF DISTRIBUTING CLASS NOTICE AND CLAIM FORMS

A. The Court approves the substance and form of the Notices of Class Action, Proposed Settlement Agreement, and Settlement Fairness Hearing ("Notices") attached to the Motion as reasonable, and adopts and incorporates them herein. The Court also approves the proposed plan for distributing the Notices, which the Court finds is a reasonable method calculated to reach all Settlement Class Members.

B. The Notices fairly, plainly, accurately, and reasonably inform Settlement Class Members and potential Settlement Class Members of appropriate information about: (1) the nature of this litigation, the Settlement Class, the identity of Class Counsel, and the essential terms of the Settlement Agreement, including the plan for allocating the Settlement Fund;

(2) Class Counsel's forthcoming application for attorneys' fees, the proposed Service Awards to the Class Representatives and other payments that will be deducted from the Settlement Fund; (3) how to participate in the Settlement; (4) this Court's procedures for final approval of the Settlement Agreement and Settlement, and Class Members' right to appear through counsel if they desire; and (5) how to challenge or opt out of the Settlement, if they wish to do so. In addition, the Notice to potential Settlement Class Members fairly, plainly, accurately, and reasonably informs potential Settlement Class Members of the steps they must take in order to be included in the Settlement Class.

C. Similarly, the proposed claims process allows Settlement Class Members a full and fair opportunity to submit a claim for proceeds in connection with the Settlement. Moreover, the Notices fairly, accurately, and reasonably inform Settlement Class Members that failure to complete and submit a Claim Form, in the manner and time specified, shall constitute a waiver of any right to obtain monetary relief through this Settlement.

D. The Court finds and concludes that the proposed plan for distributing the Notices will provide the best notice practicable, satisfies the notice requirements of Rule 23(e), and satisfies all other legal and due process requirements.

E. Accordingly, the Court hereby ORDERS as follows:

1. The form of the Notices is approved;
2. The manner of distributing the Notices is approved;
3. Promptly following the entry of this Order, the Claims Administrator shall prepare final versions of the Notices, incorporating into them the relevant dates and deadlines set forth in this Order;

4. No later than five (5) business days after the date of this Order, MetLife shall provide the Claims Administrator, in electronic format, the names and last known addresses of all Class Members and potential Settlement Class Members;
5. Before mailing the Notices, the Claims Administrator will update any new address information for potential Settlement Class Members as may be available through “change of address” information submitted to the United States Post Office;
6. No later than fifteen (15) days after the date of this Order, the Claims Administrator shall issue the appropriate Notice to the last known address of each Settlement Class Member and potential Settlement Class Member by first-class mail, postage prepaid; and
7. The Claims Administrator shall take all other actions in furtherance of claims administration as specified in the Settlement Agreement.

X. REQUESTS FOR EXCLUSION

The Notices set forth the procedures Settlement Class Members must follow to exclude themselves, or opt out, from the monetary benefits of the Settlement. Any request for exclusion must follow the procedures in the Settlement Agreement and Notices and must be postmarked no later than forty-five (45) days after Notice is mailed to Settlement Class Members.

XI. OBJECTIONS TO THE PROPOSED SETTLEMENT

The Notices set forth the procedures Settlement Class Members must follow to comment on or object to the terms of the Settlement Agreement by filing the comment or objection with the Court and serving copies on Class Counsel and Defendant’s Counsel. Any comment or

objection must follow the procedures in the Settlement Agreement and Notices and must be filed and served no later than forty-five (45) days after Notice is mailed to Settlement Class Members.

XII. CLAIM FORMS/PARTICIPATION IN THE PROPOSED SETTLEMENT

The Notices set forth the procedures Settlement Class Members must follow to participate in the monetary portion of the proposed Settlement Agreement. Claim Forms must adhere to the procedures set forth in the Settlement Agreement and Notice and must be signed, completed, and received by the Claims Administrator or submitted electronically by a date to be set by the Court after and in the event of final approval.

XIII. PROCEDURES FOR FINAL APPROVAL OF THE SETTLEMENT

A. Motion for Final Approval. The deadline for Class Counsel to file a motion for final approval of the proposed class action settlement and to address any objections to the Settlement Agreement, including Class Counsel's motion for an award of Service Awards to Class Representatives and attorneys' fees and costs, is **June 7, 2017**. When making the application for final approval and attorneys' fees, Class Counsel is directed to include detailed, contemporaneous time records and affidavits.

B. Fairness Hearing. A hearing shall be held in Courtroom 20B, Daniel Patrick Moynihan United States Courthouse, 500 Pearl St. New York, NY 10007 at 2:30 p.m. on June 21, 2017, to consider motions for final approval of the proposed Settlement Agreement and Class Counsel's motion for an award of attorneys' fees and costs, and any motion for Service Awards to the Class Representatives. The procedures for Settlement Class Members to comment on and/or object to the Settlement Agreement and to appear at the Settlement Hearing are set forth in the Settlement Agreement and the Notices.

XIV. CONFIDENTIALITY

The Court enjoins disclosure to third parties of the documents and information discussed or exchanged during the parties' confidential settlement negotiations and mediation.

XV. OTHER CASES ENJOINED

A. Pending Final Approval, the Court preliminarily enjoins each Settlement Class Member, including the Named Plaintiffs, from commencing, prosecuting, or maintaining in any court or forum other than this Court any claim, action, or other proceeding that challenges or seeks review of or relief from any order, judgment, act, decision, or ruling of the Court in connection with the Settlement Agreement or otherwise in connection with this Action.

B. The Court enjoins each Settlement Class Member from commencing, prosecuting, or maintaining, directly, representatively, or in any other capacity, any Released Claim against any of the Released Parties, unless and until such time as the Settlement Class Member makes an irrevocable election to opt out of the monetary relief provisions of the Settlement.

Dated: March 30, 2017
New York, New York

SO ORDERED:


WILLIAM H. PAULEY III
U.S.D.J.