

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/26/2018

DAVID FLOYD, et. al.,

08 CV 1034 (AT)

Plaintiffs,

-against-

THE CITY OF NEW YORK, et. al.,

Defendants.

STIPULATION OF
SETTLEMENT OF COUNSEL
FEES, COSTS, AND EXPENSES
TO CLASS COUNSEL FOR
TIME AND EXPENSES
INCURRED IN THIS MATTER
FROM NOVEMBER 1, 2014
UNTIL FEBRUARY 23, 2017,
AND ORDER

WHEREAS, on January 31, 2008, Plaintiffs in the above-captioned action filed a Complaint pursuant to 42 U.S.C. § 1983; the Fourth and Fourteenth Amendments to the United States Constitution; the Constitution and laws of the State of New York; and

WHEREAS, on August 12, 2013 the Court imposed a final order of permanent injunction and ordered several forms of permanent relief; and

WHEREAS, on October 31, 2014 the United States Court of Appeals for the Second Circuit affirmed the District Court's Opinion of July 30, 2014 denying the police unions motion to intervene, granted the City of New York's motion to withdraw the appeal of this matter with prejudice, and remanded this case back to the District Court for further proceedings as may be appropriate in the circumstances; and

WHEREAS, the Parties sought to resolve the issue of counsel fees, costs and expenses, without further litigation, on terms just and fair to all Parties and entered into the Stipulation of Settlement of Counsel Fees, Costs and Expenses and Order, which was extensively and vigorously negotiated in good faith, over a period of several months, and so ordered by the Court on January 24, 2017. ("Main Fee Stipulation"); and

WHEREAS, the Defendants and the Plaintiffs agree that, having obtained the above-described relief, pursuant to Section D of the Main Fee Stipulation, Plaintiffs are entitled to an award of reasonable attorneys' fees, costs and expenses to Class Counsel for time and expenses incurred in this matter, from November 1, 2014 until February 23, 2017, and

WHEREAS, the negotiations have resulted in this fee stipulation ("First Interim Fee Stipulation"), which is subject to Court Approval, settles the counsel fees, costs and expenses in this action, in the manner and upon the terms set forth below, for time and expenses incurred in this matter, from November 1, 2014 until February 23, 2017,

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

A. DEFINITIONS

1. "Main Fee Stipulation" shall mean the Stipulation of Settlement of Counsel Fees, Costs and Expenses and Order, executed by the Parties in the above-captioned action, which was so ordered by the Court on January 24, 2017.
2. "First Interim Fee Stipulation" shall mean this Stipulation of Settlement of Counsel Fees, Costs and Expenses to Class Counsel for Time and Expenses Incurred in This Matter from November 1, 2014 until February 23, 2017, and Order, executed by the Parties in the above-captioned action in accordance with Section D of the Main Fee Stipulation.
3. "Effective Date" shall mean (30) thirty days following the "Final Approval Date" defined below and shall also be the date upon which this Fee Stipulation enters into effect.
4. "Final Approval Date" shall mean the date on which this Court endorses this Fee Stipulation and following any court proceedings and/or rulings, if applicable, in connection with the approval of this Fee Stipulation.
5. "Plaintiffs" shall mean the Class Representatives and Class Members.

6. "Parties" shall mean Plaintiffs and Defendants.
7. "Class Representatives" shall mean the Named Plaintiffs in the above captioned action.
8. "Settlement Class" shall mean the class of Plaintiffs agreed upon by the Parties.
9. "Class Members" shall mean all members of the Settlement Class.
10. "Class Counsel" shall mean Plaintiffs' attorneys of record in the above-captioned action.
11. "Defendants" shall mean the City of New York, the New York City Police Department, and their predecessors, successors, or assignees together with past, present and future officials, employees, representatives, and agents.
12. "City" shall mean the City of New York.

B. INTRODUCTION

1. The Parties enter into this First Interim Fee Stipulation after arm's length good faith negotiations for the purpose of avoiding the burdens of further litigation over the payment of counsel fees, costs and expenses to Class Counsel for time and expenses incurred in this action, from November 1, 2014 until February 23, 2017.

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343. Venue is proper in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1391.

C. COUNSEL FEES, COSTS AND EXPENSES FROM NOVEMBER 1, 2014 UNTIL FEBRUARY 23, 2017

1. The City agrees to pay attorneys' fees, totaling two-million, six-hundred ten thousand, fifty-one dollars and twenty-two cents (\$2,610,051.22), and costs and expenses, totaling four-thousand six-hundred forty-nine dollars and forty-nine cents (\$4,649.49), to Class Counsel for time and expenses incurred in this matter, from November 1, 2014 until February 23,

2017. Plaintiffs hereby agree that payment shall be made by check as follows: \$1,019,398.50 to Beldock Levine & Hoffman, LLP, \$254,849.62 to Jonathan C. Moore, Esq, on behalf of Moore & Goodman, LLP, \$1,045,891.90 to the Center for Constitutional Rights, \$230,713.50 to Demos, \$38,086.87 to The Bronx Defenders, and, \$25,760.32 to Covington & Burling, LLP, and accept said payment in full satisfaction of all claims for attorneys' fees, costs and expenses, in, arising from, or in connection with this action, during that time period. These (6) six payments shall be made within (60) sixty days from the Effective Date of this Stipulation and Order. No interest shall accrue if payment is issued within 60 days from the Effective Date of this Stipulation and Order. Any payment received beyond the 60 day period shall accrue interest as provided by the Federal Rules of Civil Procedure.

D. RELEASE

1. This First Interim Fee Stipulation resolves all claims for attorneys' fees, costs, and expenses to Class Counsel incurred for time and expenses in this matter from November 1, 2014 until February 23, 2017, in accordance with the provisions of the Main Fee Stipulation, as set forth in Section D of the Main Fee Stipulation.

2. Plaintiffs hereby agree and represent that no other claims for attorneys' fees, expenses, or costs arising out of this action, for time and expenses incurred by Class Counsel in this matter, from November 1, 2014 until February 23, 2017, shall be made by or on behalf of Class Counsel in any application for attorneys' fees, expenses, or costs at any time.

3. This First Interim Fee Stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations outside of the above-captioned action, except to enforce the terms of this agreement.


4. This First Interim Fee Stipulation contains all the terms and conditions agreed upon by counsel for the Defendants and the Plaintiffs hereto, and no oral agreement entered into

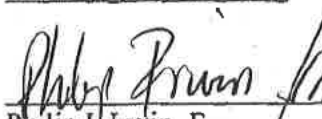
at any time nor any written agreement entered into prior to the execution of this First Interim Fee Stipulation regarding the subject matter of attorneys' fees, expenses, or costs to Class Counsel for time and expenses incurred in this matter, from November 1, 2017 until February 23, 2017, shall be deemed to exist, or to bind the Parties hereto, or to vary the terms and conditions contained herein, except that this First Interim Fee Stipulation shall be interpreted in a manner consistent with the previously-executed Main Fee Stipulation.

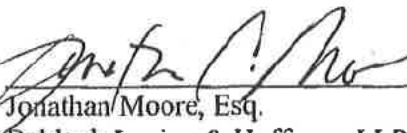
E. NULLIFICATION

1. In the event the Court does not approve this First Interim Fee Stipulation, the Parties shall meet and confer in good faith to determine whether to agree upon a modified First Interim Fee Stipulation. If they are unable to do so, this First Interim Fee Stipulation shall become null and void.

AGREED TO BY:


~~Brian Charney, Esq.~~ *Brian Charney, Esq.*
 Center for Constitutional Rights
 666 Broadway, 7th Floor
 New York, NY 10012
 Tel. (212) 614-6439
charney@ccrjustice.org


 Philip I. Irwin, Esq.
 Covington & Burling LLP
 620 Eighth Avenue
 New York, NY 10018
 Tel. (212) 841-1000
pirwin@cov.com


 Jonathan Moore, Esq.
 Beldock Levine & Hoffman, LLP
 99 Park Avenue,

Suite 1600
New York, NY 10016
Tel. (212) 490-0900
jmoore@BLHNY.com



Jenn Rolnick Borchetta, Esq.
The Bronx Defenders
360 E. 161st St.
Bronx, NY 10451
Tel. (718) 838-7878
jennb@bronxdefenders.org

DocuSigned by:

Joseph DiNoria

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Joseph DiNoria, Vice President, Administration & CFO
Demos
80 Broad Street, 4th Floor
New York, NY 10004
Tel. (212) 633-1405
jdinoria@demos.org
2/14/2018



David A. Cooper, Esq.
New York City Law Department
Office of the Corporation Counsel
100 Church Street
New York, NY 10007
Tel. (212) 356-2579
dcooper@law.nyc.gov

Dated: New York, New York
February 23, 2018

SO ORDERED.

Dated: February 26, 2018
New York, New York



ANALISA TORRES
United States District Judge

em