

1994 WL 665414

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United States District Court, N.D. California.

Kristina RIDGEWAY, Individually and on Behalf of all Persons Similarly Situated, Plaintiffs,

v.

FLAGSTAR CORPORATION and Denny's, Inc., Defendants.
UNITED STATES of America, Plaintiff,

v.

FLAGSTAR CORPORATION and Denny's, Inc., Defendants.

Nos. C 93-20202 JW, C 93-20208 JW. | Nov. 8, 1994.

Attorneys and Law Firms

Thomas L. Pfister, Latham & Watkins, Los Angeles, CA.

Brian F. Heffernan, U.S. Dept. of Justice, Housing and Civ. Enforcement Div., Washington, DC.

Mary Beth Utti, Asst. U.S. Atty., San Francisco, CA.

Antonio Lawson, Saperstein, Mayeda & Goldstein, Oakland, CA.

Amanda K. Wilson, Public Interest Law Firm, San Jose, CA.

L.W. Holt, Berkeley, CA.

Opinion

ORDER DENYING MOTION TO ALTER OR AMEND JUDGMENT

WARE, District Judge.

*1 The motion of non-parties Gerald Salaam and Paul Jackson to alter or amend the judgment of September 30, 1994, was submitted on the papers without oral argument. Good cause appearing therefor, the Court DENIES the motion, as discussed below.

This is a class action suit brought under federal and state civil rights statutes challenging racially discriminatory customer policies and practices at Denny's Restaurants in California. On May 24, 1994, the parties filed, and the Court preliminarily approved, an Amended Consent Decree settling all monetary and injunctive issues. The Amended Consent Decree was given final approval by the Court on July 29, 1994. The Amended Consent Decree includes provisions for the establishment of a claims procedure under which members of the class who file valid and timely claims are entitled to a pro rata share of a settlement fund of approximately \$27 million.

Under the Amended Consent Decree, the claims procedure is to be administered by an experienced claims administrator jointly selected by the parties. The parties selected the Rust Consulting Group, Inc. of Minneapolis, Minnesota as Claims Administrator. A toll-free 800 telephone number was established to provide potential claimants with access to the Claims Administrator to request claim forms and to seek assistance in completing and filing claims. Additionally, under the Amended Consent Decree, the law firm of Saperstein, Mayeda & Goldstein is designated as Class Counsel.

Following preliminary approval of the Amended Consent Decree and announcement of the settlement in May 1994, the parties received reports that a number of individuals and organizations in California were charging fees to individuals for services related to the preparation and/or filing of claims in this case. The parties investigated these activities and submitted two reports on their investigation to the Court.

Ridgeway v. Flagstar Corp., Not Reported in F.Supp. (1994)

On June 16, 1994, the Court approved a Stipulation and Order that (1) amended the claim form in this action to include express language advising that “giving false information or assisting others in providing false information on this claim form is a crime” and that anyone “provid[ing] false information on this claim form or assist[ing] others in providing false information ... could be subject to investigation ... and ... criminal prosecution;” and (2) directing that a Special Notice be mailed, along with the claim form, to all potential claimants. The Special Notice expressly cautions claimants that the Claims Administrator and Class Counsel are available to provide, free of charge, assistance in filing claims.

While conducting their investigation, the parties received reports that individuals connected with an organization called Accident Claims Experts or Accident Case Experts (“ACE”) were engaged in activities to solicit potential claimants and, for a contingency fee, file claims on their behalf. Paul Jackson and Gerald Salaam appeared to be persons associated with ACE who were engaged in such activity.

*2 Accordingly, Jackson and Salaam were subpoenaed for deposition. Although both individuals appeared for their depositions, they refused to answer questions on the basis of the Fifth Amendment. A motion to compel was then filed and heard by the Court on September 30, 1994. At that hearing, Class Counsel offered to withdraw the motions to compel if Jackson and Salaam would agree to produce the names, addresses and telephone numbers of the persons who had contacted them regarding filing claims. Jackson and Salaam agreed and the matter was resolved. Jackson and Salaam requested that the Court award them their fees and costs incurred in defending against the motion to compel. The Court denied the request.

Jackson and Salaam again request, by this motion, that the Court award them their fees and costs in defending against the motion to compel. The Court DENIES the motion. As the Court noted at the hearing on September 30, 1994, Class Counsel’s conduct in filing the motions to compel was entirely appropriate. The fact that the motions were withdrawn by agreement of counsel does not mean that Jackson and Salaam “successfully defended” the motions to compel. Nor does the fact that Class Counsel is compensated for their time in this action require that Jackson and Salaam also be compensated for their time in defending themselves against the motions to compel. For the foregoing reasons, the Court DENIES Jackson’s and Salaam’s motion to alter or amend the judgment.

IT IS SO ORDERED.