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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

MARGARET BENAY CURTIS-BAUER,
on behalf of herself and all others similarly
situated,

Plaintiff,

v.

MORGAN STANLEY & CO.
INCORPORATED, f/k/a MORGAN
STANLEY DW, INC.,

Defendant.

Case No. C 06-3903 TEH

CLASS ACTION

~~[PROPOSED]~~ **ORDER GRANTING
APPLICATION OF PLAINTIFF FOR
ATTORNEYS FEES AND REIMBURSEMENT
OF COSTS AND EXPENSES**

Date: June 16, 2008
Time: 10:00 a.m.
Place: Courtroom 12
Judge: Thelton E. Henderson

1 The parties to this class action lawsuit alleging race discrimination against Defendant
2 Morgan Stanley & Co., Incorporated (“Morgan Stanley”) settled the action and entered into a
3 proposed Settlement Agreement that provides for comprehensive injunctive and monetary relief
4 for the class. The proposed Settlement also provides, *inter alia*, for an award of \$800,000 in
5 attorneys’ fees and costs to Class Counsel, plus \$150,000 per year during the five-year term of the
6 Settlement to cover future fees and expenses related to monitoring and enforcing the Settlement,
7 plus interest accruing on all fees and expenses from the date on which the Settlement is funded
8 until such fees and expenses are disbursed to Class Counsel. (*See* Settlement Agreement, Docket
9 No. 159, § XII.)

10 Plaintiff applied to this Court for preliminary approval of the Settlement Agreement and
11 the terms thereof. On February 7, 2008, this Court granted preliminary approval to the Settlement
12 Agreement attached as Exhibit 1 to this Court’s February 7, 2008 Preliminary Approval Order.
13 (Docket No. 158).

14 The Preliminary Approval Order directed that notice of the Settlement Agreement, its
15 terms, and the applicable procedures and schedules be provided to the proposed class (including
16 specific notice about the amount of attorneys fees and costs requested) and set a final Fairness
17 Hearing for June 16, 2008, to determine whether the Settlement Agreement should be granted
18 final approval, pursuant to Federal Rule of Civil Procedure 23(e), as “fair, adequate and
19 reasonable.” Proposed Class members were given an opportunity to comment on the settlement,
20 including the provision for an award of attorneys’ fees and costs to Class Counsel. No Class
21 member objected to the amount of attorneys’ fees and costs requested.

22 Class Counsel filed an Application of Plaintiff for Attorneys’ Fees and for Reimbursement
23 of Costs and Expenses (“Plaintiff’s Application”), requesting that the Court find the requested
24 amount of \$800,000 in attorneys’ fees and costs to Class Counsel, plus \$150,000 per year during
25 the five-year term of the settlement to cover future fees and expenses related to monitoring and
26 enforcing the settlement, plus interest accruing on all fees and expenses from the date on which
27 the settlement is funded until such fees and expenses are disbursed to Class Counsel to be fair,
28 reasonable, and adequate.

1 NOW, THEREFORE, IT IS HEREBY ORDERED, upon consideration of the Settlement
2 Agreement; Plaintiff's Application and supporting declarations, and the proceedings in this action
3 to date, that the Application of Plaintiff for Attorneys' Fees and for Reimbursement of Costs and
4 Expenses in the amount of \$800,000 in attorneys' fees and costs to Class Counsel, plus \$150,000
5 per year during the five-year term of the settlement to cover future fees and expenses related to
6 monitoring and enforcing the settlement, plus interest accruing on all fees and expenses from the
7 date on which the settlement is funded until such fees and expenses are disbursed to Class
8 Counsel is GRANTED.

9 Pursuant to Plaintiff's Application and the terms of the Settlement Agreement, the Court
10 awards \$800,000 in attorneys' fees and costs to Class Counsel, plus \$150,000 per year during the
11 five-year term of the settlement to cover future fees and expenses related to monitoring and
12 enforcing the settlement, plus interest accruing on all fees and expenses from the date on which
13 the settlement is funded until such fees and expenses are disbursed to Class Counsel. These
14 amounts were negotiated by the parties under the terms of the Settlement Agreement. The Court
15 finds that the amount requested in attorneys' fees, costs, and expenses, which Morgan Stanley has
16 agreed to pay as part of the settlement of this matter, is fair and reasonable under both the
17 "lodestar" and the "common fund" methods. Specifically, the Court finds that Class Counsel's
18 reasonable lodestar exceeds the amount Plaintiff requests in attorneys' fees and costs. Analyzed
19 under the percentage method, the Court finds that the attorneys' fees sought by Plaintiff are only
20 5% of the monetary relief set forth in the Settlement. That percentage is well under the Ninth
21 Circuit's 25% benchmark, and is fair and reasonable in this case. Further, the Court finds that the
22 number of hours expended by Class Counsel in this matter is reasonable, as are the hourly rates of
23 Counsel.

24 Accordingly, this Court hereby awards \$800,000 in attorneys' fees and costs to Class
25 Counsel, plus \$150,000 per year during the five-year term of the settlement to cover future fees
26 and expenses related to monitoring and enforcing the settlement, plus interest accruing on all fees
27 and expenses from the date on which the settlement is funded until such fees and expenses are
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1 disbursed to Class Counsel, and finds that those amounts are fair, reasonable, and adequate.

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3 IT IS SO ORDERED.

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5 Dated: 10/21/08

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Thelton E. Henderson
United States District Judge

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