

1999 WL 342043

Only the Westlaw citation is currently available.
United States District Court, D. Massachusetts.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff,

v.

ASTRA USA, INC., Defendant.

No. CIV.A. 98-40014-NMG. | May 20, 1999.

Opinion

MEMORANDUM & ORDER

GORTON, J.

*1 On February 5, 1998, the Equal Employment Opportunity Commission (“EEOC”) brought this action against Astra USA, Inc. (“Astra”) alleging, *inter alia*, claims of hostile work environment and retaliation under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991. With the complaint, the EEOC simultaneously filed a Consent Decree negotiated with Astra resolving the claims in the complaint. That Consent Decree was signed by this Court following a hearing on February 20, 1998.

The Consent Decree provided, *inter alia*, for the establishment of a Claim Fund to be distributed by a Special Master in conformance with paragraphs 13–18 of the Consent Decree. This Court, pursuant to Fed.R.Civ.P. 53 and under paragraph 12 of the Consent Decree, appointed Margaret L. Shaw (“Ms.Shaw”) as Special Master (“the Special Master”) to exercise the powers and fulfill those duties set forth in the Consent Decree.

Upon review of the claims filed, Ms. Shaw issued her Report (“the Report of the Special Master”), which was submitted to this Court on February 9, 1999, setting forth her recommended awards from the Claim Fund. Pending before this Court is EEOC’s Motion to Adopt the Report of the Special Master (Docket No. 21).

I. Procedural Background

Paragraph 12 of the Consent Decree provides for the establishment of a Claim Fund in the amount of \$9,850,000 to be distributed by a Special Master in conformance with paragraphs 13–18 of the Consent Decree. The Claim Fund was established for the purpose of compensating victims of the discriminatory practices alleged in the complaint. By Order of Reference pursuant to Fed.R.Civ.P. 53, Margaret L. Shaw was appointed as the Special Master responsible for allocating the Claim Fund in accordance with the Consent Decree.

In accordance with prescribed procedures, claimants were notified of the settlement and the procedure for filing a claim. All claims were to be mailed to the Special Master by April 17, 1998, eight weeks after the entry of the Consent Decree. Ms. Shaw received 181 claims as of that date.¹

Upon careful review of the claim forms and upon consideration of the parties’ views as to the claims received, Ms. Shaw found that 120 claimants had submitted valid claims under the procedures described in the Consent Decree. These 120 individuals were placed in 11 categories for purposes of allocating the funds. Persons with similar claims were placed in the same category. Each category prescribed a specific dollar award.

Following a meeting with the parties, claimants were notified of the awards by letters dated August 13, 1998. The Special Master awarded money to 120 individuals and denied 61 other claims. She has allocated \$8,977,800 among those 120 claimants with awards ranging from a low of \$12,000 to a high of \$300,000.²

Pursuant to paragraph 15 of the Consent Decree, claimants had 21 days to file challenges to the awards as allocated by the Special Master. Such challenges received were submitted to this Court for its review. On February 16, 1999, the EEOC filed its motion, now pending before this Court, to adopt the Report of the Special Master. Twelve responses to the motion, including one response on behalf of twelve individuals, were filed challenging the Report of the Special Master. On April 12, 1999, this Court conducted a Fairness Hearing pursuant to the Consent Decree.

II. Analysis

A. Standard of Review

*2 Paragraph 15 of the Consent Decree contemplates that, in the event of challenges to the awards of the Special Master, this Court “shall conduct a hearing to determine if the amount is fair.” Courts generally evaluate EEOC settlements under a standard of fairness, adequacy and reasonableness. *See Binker v. Commonwealth of Pennsylvania*, 977 F.2d 738 (3d Cir.1992); *Wilkinson v. Martin Marietta Corp.*, 171 F.R.D. 273, 282 (D.Col.1997); *EEOC v. McDonnell Douglas Corp.*, 894 F.Supp. 1329 (E.D.Mo.1995).

The Court must inquire into the overall fairness of the settlement and, in doing so, should consider factors “beyond maximizing the potential benefit to an individual claimant.” *Binker*, 977 F.2d at 746. As the court in *McDonnell Douglas* observed:

In assessing the fairness of a settlement, the Court’s role is not to make a *de novo* evaluation of whether the measures applied to all claimants provide each individual with a satisfactory recovery. Rather, the criteria or methodology employed by the litigants is sufficient if its terms, when applied to the entire group of individuals represented, appear reasonable.

McDonnell Douglas, 894 F.Supp. at 1335.

Furthermore, consistent with the standard set forth in Fed.R.Civ.P. 53, this Court reviews the Special Master’s findings of fact under a clearly erroneous standard and any conclusions of law under a *de novo* standard. *See Stauble v. Warrob*, 977 F.2d 690 (1st Cir.1992). The Supreme Court has defined the former standard as follows:

A finding is “clearly erroneous” when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.

United States v. United States Gypsum Co., 333 U.S. 364, 395 (1948).

B. Discussion

In light of the process detailed in the Report of the Special Master, the EEOC and Astra, urging this Court to adopt the findings in the Report of the Special Master and to allow distribution of the Claim Fund to proceed, contend that Ms. Shaw has allocated the Claim Fund in a fair, adequate and reasonable manner.

As noted above, claimants opposing the allocated awards submitted challenges to the Report of the Special Master and subsequently to the instant pending motion by EEOC to adopt the Report of the Special Master. With one minor exception, the challenges submitted do not persuade this Court to disturb the claim allocations, nor the findings underlying them, in the Report of the Special Master, as addressed below.

1. Untimely Claims

One set of challenges was filed by claimants whose claims were denied by the Special Master as untimely. In accordance with the language of the Consent Decree, the Special Master denied claims mailed after April 17, 1998. To insure fairness, however, Ms. Shaw discussed the lateness of many untimely claims with each individual to satisfy herself that there was not a reason that would justify accepting a late claim. Determining insufficient justification for lateness to exist, she denied those claims. Recognizing the need for finality in the claim review process, this Court finds that Ms. Shaw’s findings with respect to those claims are not clearly erroneous.

2. Claims by Males of Same-Sex Sexual Harassment and Hostile Work Environment

*3 Some male claimants filed challenges protesting the Special Master's denial of their claims of hostile work environment and same-sex sexual harassment by men. The challenges are without merit.

The first paragraph of the complaint provides:

This is an action under Title VII ... and Title I ... to correct unlawful employment practices on the basis of sex, female, and retaliation and to make whole Lelia Henry, Yvonne Stokes, Tracy Knitter and other similarly situated female sales representatives ...

Complaint at 1 (emphasis added). The complaint did not include claims on behalf of men who believed they had been subjected to a hostile work environment or same-sex sexual harassment. Such claims are clearly distinguishable from the retaliation claims which were not limited to female sales representatives. Where the EEOC had evidence that male managers who had objected to the hostile work environment or had attempted to protect female sales representatives were subjected to retaliation, those claims were granted. In sum, the complaint did not allege same-sex sexual harassment on behalf of males and the settlement did not address those claims. Therefore, the Special Master correctly denied those claims because they fell outside the scope of the complaint.

For purposes of clarification, this Court notes that, at the Fairness Hearing, counsel for Astra indicated that Astra and the EEOC do not interpret paragraph 19 of the Consent Decree as barring the claim of a person who filed a claim form and then was excluded from relief on the grounds that the claim was not within the ambit of the complaint. This Court agrees and, consistent with the parties' interpretation, those male claimants whose claims for hostile work environment and/or same-sex sexual harassment were denied by the Special Master as being beyond the scope of the complaint shall not be precluded by paragraph 19 of the Consent Decree from seeking other remedies for those claims.

3. Retaliation Claims

Several claimants filed challenges protesting the denial of their retaliation claims. According to Ms. Shaw, the facts provided in the challengers' claim forms failed to sustain claims for retaliation. Upon consideration of those challenges, this Court is not persuaded that the findings underlying the Special Master's denial of such claims are clearly erroneous and therefore will affirm them.

4. Challengers Dissatisfied with the Amount of their Awards

Several challengers were dissatisfied with the amounts of their awards from the Claim Fund. This Court recognizes that, as clearly acknowledged by the Special Master, the Consent Decree was not designed to fully compensate each claimant, but rather to distribute the Claim Fund equitably among all eligible claimants.

The individuals' claims were evaluated and categorized based upon a variety of factors. According to Ms. Shaw, the money awarded to those individuals is comparable to others with similar experience and damages. As the Report of the Special Master demonstrates, the process used fairly compensated those individuals based upon their particular experiences described in the claims. The challenges to the specific awards were properly dismissed by the Special Master.

5. Claims Denied Pursuant to Stipulation

*4 Paragraph 14 of the Consent Decree provides that parties may agree by stipulation to exclude certain individuals from any award from the Claim Fund. The same paragraph also provides that:

Any such stipulation shall be filed under seal, impounded by the Court, and held in strict confidence by the parties. The Special Master shall be bound by the terms of any such Stipulation.

Pursuant to those provisions, the EEOC and Astra stipulated non-coverage with regard to claims filed by a number of

E.E.O.C. v. Astra USA, Inc., Not Reported in F.Supp.2d (1999)

individuals who had litigation pending against Astra. The stipulation was filed under seal with this Court. The Special Master denied the claims of those named in the stipulation. Seven of those individuals, David Barouch, Kimberly Cote, William Dorn, Mark Ludwig, Jennifer Shore, Michael Tasos and Stephen Walton (collectively referred to as “the Stipulated Claimants”), have challenged the Special Master’s decision to deny their claims.

This Court recognizes that the Consent Decree, finalized after lengthy negotiations between the parties, clearly authorizes such stipulations and reflects the product of compromise. According to the parties, the Consent Decree could not have been accomplished without the stipulation.

While the stipulation itself does not detract from the fairness or reasonableness of the overall settlement, this Court is troubled by the fact that the Stipulated Claimants were, in essence, invited to participate in the claim process even though it was a foregone conclusion that their claims would be denied. Notwithstanding the stipulation barring their recovery under the Consent Decree, those claimants were sent claim forms which included detailed filing instructions. It seems, however, the antithesis of fairness to invite the Stipulated Claimants to invest time and money in a claim process in which they were doomed to fail.

The EEOC argues that, despite the misleading notification, the Stipulated Claimants should have known their claims were barred by the doctrines of release and *res judicata*. While that may be true, this Court will not ignore the likelihood that such notice created real but false hopes of recovery. Furthermore, this Court credits the Stipulated Claimants’ argument that the EEOC’s invitation to submit claims misled them into believing that, however remote the possibility of recovery may have been, their claims would receive good faith consideration on the merits, rather than a summary denial dictated by a stipulated agreement of which they were unaware.

Recovery of attorneys’ fees and costs may be granted in certain instances to redress an abuse of judicial process. *See Crooker v. United States Dep’t of Justice*, 632 F.2d 916, 920 (1st Cir.1980). Here, the Stipulated Claimants were improperly invited into an award process in which they were predestined to fail. Therefore, this Court orders that each Stipulated Claimant receive an award equivalent to the amount of attorneys’ fees incurred in connection with the preparation of that Stipulated Claimant’s claim. Upon review of time sheets and supporting documentation, this Court determines the amount of each Stipulated Claimant’s award to be as follows:

Stipulated Claimant	Award
Barouch	\$2,094
Cote	\$2,169
Dorn	\$2,094
Ludwig	\$2,094
Shore	\$2,290
Tasos	\$2,402
Walton	\$2,224

6. Other Challenges

*5 This Court finds that the remaining challenges, not specifically addressed in this opinion, are without merit because they fail to persuade this Court that either 1) the process used by the Special Master was not fair and reasonable or 2) the underlying factual bases for her allocations were clearly erroneous.

In sum, for the reasons stated above, this Court determines that the claim process adopted and utilized by the Special Master, Ms. Shaw, was fair and reasonable.

ORDER

Upon careful review by this Court of the record, the Report of the Special Master, and the claimants' challenges thereto:

- 1) the EEOC's motion to adopt the Report of the Special Master (Docket No. 21) is ALLOWED;
- 2) the Report of the Special Master is ACCEPTED and ADOPTED, provided, however, that each Stipulated Claimant shall receive an award equivalent to the amount of attorneys' fees incurred in connection with that Stipulated Claimant's claim (as specified in the Memorandum above) to be paid from the interest accruing in the Claim Fund; and
- 3) the Claim Fund shall be distributed in accordance with the Consent Decree and the Report of the Special Master, as modified by this Order.

So ordered.

Footnotes

¹ Ms. Shaw received additional claims following April 17, 1998. *See infra* II.B.

² Under the Consent Decree, Astra agreed to pay an aggregate of \$9,850,000. That amount was placed in an interest bearing account following entry of the Consent Decree. Pursuant to paragraph 14 of the Consent Decree, the parties stipulated to the payment of \$1,125,000 to be divided among four individuals. The amount of \$8,977,800, otherwise allocated by Ms. Shaw, reflects the net remainder of the Fund plus interest estimated by the parties as of October 1, 1998. As of February 8, 1999, the balance in the Claim Fund totaled \$9,112,227.08.