

United States District Court,
S.D. New York.
Stella MITCHELL, Hwa-Mei C. Gee, Durpatty Persaud, and
Janet Ramsey, on behalf of themselves and all others
similarly situated, and Barbara LaChance, individually,
Plaintiffs,
v.
METROPOLITAN LIFE INSURANCE COMPANY, INC.,
dba MetLife, Defendant.
No. 01-CIV-2112 WHP.

Nov. 6, 2003.

ORDER GRANTING PLAINTIFFS' APPLICATION FOR
AWARD OF ATTORNEYS' FEES AND COSTS

PAULEY, J.

*1 This matter is before the Court upon Plaintiffs' Application for Award of Attorneys' Fees and Costs. Plaintiffs' request that this Court approve an award to Class Counsel-Goldstein Demchak, Baller, Borgen & Dardarian and Ouiten & Golden-of \$3.4 million in attorneys' fees and costs pursuant to agreement of the parties, which is set forth in the Consent Decree. The \$3.4 million will be allocated as follows: \$3.25 million will compensate Class Counsel for all fees and costs incurred through the final approval hearing and distribution of the class settlement fund \$150,000 will compensate Class Counsel for future monitoring of MetLife's compliance with the terms of the Consent Decree, which will be paid at the rate of \$50,000 per year over the three year term of the Decree. Plaintiffs' Consent Decree, including payment by MetLife of attorneys' fees and costs not to exceed \$3.4 million, was preliminarily approved by this Court on August 18, 2003. This Court granted final approval of the Consent Decree on *November 6, 2003*.

Having considered the Consent Decree; the Memorandum of Law Supporting Plaintiffs' Application for Award of Attorneys' Fees and Costs; the evidence filed in support thereof, including the Declarations of David Borgen, Adam T. Klein, Daniel Rosenthal, Kelly M. Dermody, Joseph M. Sellers, and Laura B. Hoguet; and the evidence and argument received by the Court at the hearing held November 6, 2003; the Court will enter an order approving plaintiffs, request for award of attorneys' fees and costs in the amount of \$3.4 million to Class Counsel.

FINDINGS AND CONCLUSIONS REGARDING

REASONABLENESS OF ATTORNEYS' FEES AND COSTS

A. Plaintiff Are the Prevailing Parties.

The Court finds that plaintiffs are the prevailing parties in this litigation entitled to recover their reasonable attorneys' fees and costs, pursuant to 42 U.S.C. §§ 1988 and 2000e-5(k). Plaintiffs are the prevailing parties because they successfully secured a Consent Decree, which has been approved by the Court, providing for a \$10 million settlement, exclusive of costs and attorneys fees, that includes substantial injunctive relief for the class and \$5 million in cash payments to plaintiffs and class. The relief provided by the Consent Decree is extensive and multi-faceted, and offers the potential to increase significantly the employment opportunities of currently employed class members and other present and future female employees at MetLife. MetLife does not contest that plaintiffs are the prevailing parties entitled to recovery of their attorneys fees and costs.

B. Plaintiffs Request for an Award of Attorneys' Fees Is Justified under the Lodestar Approach.

The Court finds that the use of a lodestar approach, which is calculated by multiplying counsel's hours reasonably incurred by reasonable hourly billing rates, to determine reasonable attorneys fees is appropriate in this case. The Court further finds that plaintiffs' request for attorneys' fees is reasonable because their hours were incurred properly, efficiently and necessarily to prosecute this large and complex class action, and because their requested hourly rates with the market for legal services of this type, as found below. The reasonableness of the amount specified in the settlement for attorneys' fees is confirmed by the fact that after reimbursement for out of pocket costs incurred, Class Counsel will recover fees equal to approximately 20% less than Class Counsel's lodestar for time incurred through December 30, 2003, which does not include any time spent on final approval of the Consent Decree of distribution of the settlement fund. MetLife has agreed to pay \$3.4 million in attorneys' fees and costs. No class member has objected to the payment of attorneys' fees and costs to Counsel in this amount.

C. Class Counsel's Requested Hourly Rates Are Reasonable.

*2 The Court finds that Class Counsel's hourly rates for the attorneys and paralegals in their firms, as identified on the attached Exhibit A, are reasonable because they are consistent with the market rates of lawyers with comparable skills,

experience and reputations in this community, the Southern District of New York, and nationally among lawyers who litigate complex class action employment cases throughout the country. The Court further finds that the use of 2003 hourly billing rates for all hours expended during this litigation, rather than historic rates, is appropriate. In making these findings, the Court has considered and relies upon the declarations of Laura Hoguet and Joseph M. Sellers, which Class Counsel have submitted in support of their requested award, and the declaration of Kelly M. Dermody, formerly one of the attorneys for plaintiffs and the class, which has also been submitted, as well as its own review of the Application and its knowledge of this case and practices in this legal community.

D. The Hours Expended by Class Counsel to Prosecute this Case Were Reasonable.

The Court finds that Class Counsel maintained contemporaneous time records throughout the litigation of this case, which are reliable and have been submitted to the Court for review. The Court further finds that the number of hours expended to prosecute this case were reasonable and not excessive or redundant, given the magnitude and complexity of the litigation and its inherent risks. Additionally, the quality of the representation by Class Counsel was excellent, which is reflected in the substantial monetary and injunctive relief obtained for the plaintiffs and the class by the Consent Decree. In making these findings, the Court has considered and relies upon the declaration of lead Class Counsel David Borgen and Adam Klein, as well as the declaration of Ms. Dermody, and the supporting declaration of Joseph M. Sellers, an attorney who specializes in litigation of employment discrimination class actions like this case.

E. The Costs Incurred by Class Counsel Were Necessary.

The Court finds that Class Counsel's litigation expenses for court reporting, travel, long distance telephone, facsimile, postage, expedited mail service and document reproduction, which are fully documented in counsel's business records and have been summarized and made available to the Court, are customary and were necessarily incurred in this litigation. The Court further finds that Class Counsel's expenditures for consulting and testifying expert fees also were necessarily incurred to prosecute this complex class action employment discrimination case. In making these findings, the Court relies on the declarations of Mr. Borgen, Mr. Klein, Ms. Dermody, and Mr. Sellers, as well as its own knowledge of the record in this case and practices in this legal community.

F. The Request for Attorneys' Fees and Costs for Future Monitoring Are Reasonable.

The Court finds that plaintiffs' request to include \$150,000 in attorneys' fees and costs for Class Counsel's future monitoring of MetLife's compliance with the provisions of the Consent Decree over its three-year term, as part of the \$3.4 million award, is reasonable and will be necessarily incurred to perform the compliance monitoring services required by the terms of the Decree.

CONCLUSION

*3 Based on the foregoing findings and conclusions, the Court finds that the plaintiffs' request for attorneys' fees and cost in the amount of \$3.4 million is reasonable. Plaintiffs' application for attorneys' fees and costs is therefore granted, and the provisions of the Consent Decree in this regard will be approved.

IT IS SO ORDERED.

EXHIBIT A

The hourly rates for the attorneys and other personnel at Class Counsel's firms who worked 50 hours or more on the *MetLife* case are identified below:

<i>Gaidstein Demchak</i>	<i>Title</i>	<i>Law School Grad Yr.</i>	<i>Hourly Rate</i>
Teresa K. Demchak	Partner	1976	475.00
Morris J. Baller	Partner	1970	500.00
David A. Borgen	Partner	1981	425.00
Roberis L. Steels	Attorney	1993	315.00
Darel B. Burrell	Attorney	1995	295.00
Joshua G. Konecky	Attorney	1995	295.00
Holly K. Herndon	Attorney	1998	260.00
Lisa M. Dungan	Sr. Paralegal		160.00
May G. Rafman	Paralegal		140.00
Wendy E. Whilt	Paralegal		120.00
Janet Zahtpleri	Paralegal		120.00
Natasha Gurtner	Paralegal		120.00
<i>Galton & Golden</i>			
Adam Klein	Partner	1990	425.00
Sean Farhang	Attorney	1993	320.00
Scott Moss	Attorney	1998	270.00
Nantiya Ruan	Attorney	1999	225.00
Linda Neilan	Attorney	2001	180.00
Lana Wortman	Paralegal		135.00
Samantha Abeysekana	Law Student		135.00