

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DAVIS, *et al.*, individually and on behalf of all
others similarly situated,
Plaintiffs,

- vs -

EASTMAN KODAK COMPANY,
Defendant.

Civil Action No. 6:04-CV-06098-CJS(F)

**ORDER AND JUDGMENT
CLARIFYING FINAL APPROVAL OF
SETTLEMENT**

ALSTON, *et al.*, individually and on behalf of
all others similarly situated,
Plaintiffs,

- vs -

EASTMAN KODAK COMPANY,
Defendant.

Civil Action No. 07-CV-6512

**ORDER AND JUDGMENT
CLARIFYING FINAL APPROVAL OF
SETTLEMENT**

AND NOW, this 1st day of October, 2010, following a conference with counsel for the parties concerning the finality of the Court's September 3, 2010 Decision and Order approving the settlement in the above-captioned matters and the effective date for implementing the settlement, IT IS HEREBY ORDERED AS FOLLOWS:

1. The Court's Decision and Order dated September 3, 2010 was intended to be a final judgment and final decision on the merits of the settlement in these matters and addressed all issues relating to the approval of the settlement. The only issue not yet ruled upon by the Court is Plaintiffs' Counsel's Motion for Approval of Award of Attorneys' Fees and Costs, filed on August 19, 2009 (the "Motion for Attorneys' Fees and Costs").

2. The Court's resolution of the Motion for Attorneys' Fees and Costs is a collateral matter to the Court's assessment of the merits of the settlement and the finality of the Court's

determination about the settlement, in part because any decision concerning the amount of attorneys' fees and costs will not affect the total amount of funds available for distribution to the Class members, which amounts have already been approved by the Court. The Court will retain ancillary jurisdiction to decide the Motion for Attorneys' Fees and Costs.

3. For clarification, and in order to trigger relevant dates in the Settlement Agreement, it is hereby ordered that on the merits of the settlement, there is nothing further for the Court to do in the above-captioned matters. The Court's September 3, 2010 Decision and Order approving the settlement is a final judgment pursuant to Federal Rule of Civil Procedure 54(b), dismissing these matters with prejudice, and the Clerk is directed to enter such judgment forthwith. For the reasons set forth herein, it is expressly determined by this Court that there is no just reason for delay in the entry of this judgment until final determination of the Motion for Attorneys' Fees and Costs.

4. The date of this order shall be the Final Approval Date as that term is used in the Settlement Agreement. Pursuant to paragraph 3.3 of the Settlement Agreement, within five business days of the date of this order, Kodak shall wire to the Claims Administrator the monies constituting the Settlement Fund, except the portion allocated for attorneys' fees and costs as set forth in paragraph 3.1(f) of the Settlement Agreement.

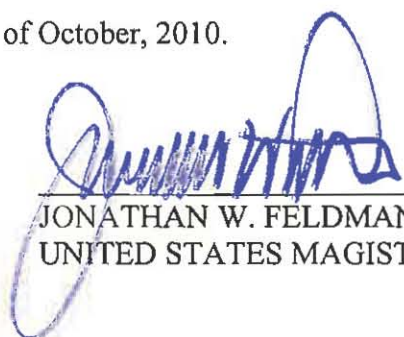
5. The Effective Date for all purposes in the Settlement Agreement, except relating to the payment of attorneys' fees and costs, shall be calculated pursuant to the terms of paragraph 1.13 of the Settlement Agreement using the date of this Final Approval Order without regard to the date the Court reaches a decision on the Motion for Attorneys' Fees and Costs.

6. The Effective Date for purposes of the payment of attorneys' fees and costs shall be calculated pursuant to the terms of paragraph 1.13 of the Settlement Agreement using the date

the Court reaches a decision on that collateral matter and Kodak shall have no obligation to provide those funds to the Claims Administrator for distribution to Plaintiffs' Counsel until after the Court issues a decision on the Motion for Attorneys' Fees and Costs.

7. Counsel for the parties shall inform the Court of Appeals for the Second Circuit that the settlement has been finally approved and any pending appeal relating to these matters should be dismissed.

IT IS SO ORDERED, this 1st day of October, 2010.



JONATHAN W. FELDMAN
UNITED STATES MAGISTRATE JUDGE