

Rakoff, JS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

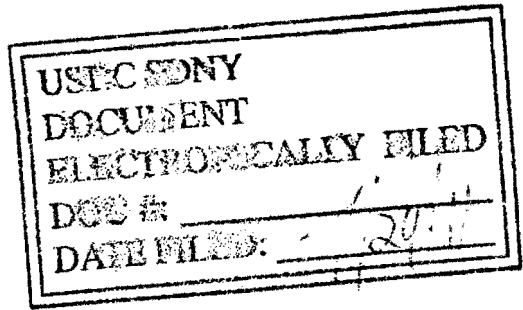
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M.K.B. O.P., L.W., M.A. MARIEME DIONGUE, M.E.
P.E., ANNA FEDOSENKO, A.J., L.A.M., L.M., DENISE
THOMAS, and J.Z., on their own behalf, and on behalf of
their minor children and all others similarly situated,

Plaintiffs,

-against-

VERNA EGGLESTON, as Commissioner of the New York
City Human Resources Administration; ROBERT DOAR,
as Commissioner of the New York State Office of
Temporary and Disability Assistance; and ANTONIA C.
NOVELLO, as Commissioner of the New York State
Department of Health

Defendants.



05 Civ 10446 (JSR)

**STIPULATION AND
ORDER**

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STIPULATION AND ORDER OF SETTLEMENT

WHEREAS, plaintiffs commenced this lawsuit on behalf of themselves and others similarly situated, by complaint filed December 13, 2005, against Verna Eggleston, as Commissioner of the New York City Human Resources Administration ("HRA") (the "City defendant"), Robert Doar, as Commissioner of the New York State Office of Temporary and Disability Assistance ("OTDA") and Antonia C. Novello, as Commissioner of the New York State Department of Health ("SDOH") (collectively "State defendants"); and

WHEREAS, plaintiffs and defendants entered into a Stipulation and Order of Settlement (the "Stipulation of Settlement") for the purpose of settling the disputes between them and to avoid further litigation, and without admitting any fault or liability; and

WHEREAS, the Court determined that the Stipulation of Settlement was fair, reasonable, and adequate by order filed on June 6, 2007; and

WHEREAS, Judgment based on the provisions set forth in the Stipulation of Settlement was entered on July 16, 2007; and

WHEREAS, by its terms the Stipulation of Settlement is set to expire on August 15, 2011 absent an extension; and

WHEREAS, plaintiffs filed a motion on June 23, 2011, pursuant to paragraphs 68 and 69 of the Stipulation of Settlement, seeking an order extending the terms of the Stipulation of Settlement against the City defendant and State defendants for an additional period or periods of time to be determined by the Court; and

WHEREAS, plaintiffs and City defendant are entering into the within Stipulation solely for the purpose of extending the term of the Stipulation of Settlement without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the undersigned attorneys for the plaintiffs and City defendant,

1. The term of the Stipulation of Settlement is hereby extended to February 15, 2013.

2. In consideration of the terms of this agreement, plaintiffs' motion to extend the term of the Stipulation of Settlement is settled as to City defendant only.

3. All terms of the Stipulation of Settlement remain in full force and effect until February 15, 2013, except that

(a) City defendant's obligations under paragraphs 39, 40(iv), 44, and 45 are modified to the extent that City defendant will send all applicable class members who were found ineligible for retroactive Family Assistance or Safety Net Assistance notice(s) to be agreed on by City defendant and plaintiffs' counsel, and will refer for a separate determination of

federal or state Medicaid eligibility only those class members who return proof of medical bills incurred during the relevant Medicaid retroactive period for services covered by Medicaid; and

(b) the City defendant agrees not to assert a statute of limitations as a defense (i) in any fair hearing sought by plaintiffs' counsel on behalf of a class member challenging a determination on eligibility for retroactive relief where more than 30 days elapsed between the City defendant's issuance of the notice of determination and the production of the notice of determination to the plaintiffs' counsel pursuant to paragraph 47 of the Stipulation and Order of Settlement; and (ii) in any fair hearing sought by a putative class member challenging a determination of eligibility for retroactive relief issued after March 1, 2011; and

(c) City defendant will continue to provide the monitoring described in paragraphs 54 through 59 of the Stipulation of Settlement for three additional cycles.

4. The City defendant and plaintiffs agree to continue to negotiate in good faith over actions to be undertaken by the City defendant in response to issues raised by plaintiffs' counsel pursuant to paragraph 65 of the Stipulation of Settlement, which shall be memorialized in a separate understanding. The actions to be undertaken by the City defendant will include, at a minimum, those described in the letters dated July 13, 2011 and July 15, 2011 from City defendant's counsel to plaintiffs' counsel. The parties' separate understanding will include means of assessing the effectiveness of the actions taken by the City defendant to be negotiated by the parties. Should the parties fail to reach a separate understanding satisfactory to all parties to this Stipulation, plaintiffs reserve the right to ask the Court for further relief.

5. Nothing contained in this Stipulation extending the term of the Stipulation of Settlement shall be deemed to be, or be used as evidence of, in this or any other proceeding, an admission by the City defendant of systemic non-compliance with the terms of the Stipulation

of Settlement, of any liability or wrongdoing, or an admission of the truth of any of the allegations set forth in plaintiffs' motion to extend the terms of the Stipulation of Settlement.

6. Nothing contained in this Stipulation extending the term of the Stipulation of Settlement prevents plaintiffs from using the evidence upon which the motion to extend is based in a future motion to enforce.

7. Nothing contained in this Stipulation prohibits plaintiffs from moving for a further extension of the Stipulation of Settlement, consistent with paragraphs 68 and 70 of the Stipulation, based on non-compliance after the date of this Stipulation.

IN WITNESS WHEREOF, the undersigned, counsel for the City defendant and plaintiffs, have executed this stipulation on July 18, 2011

Dated: New York, New York
July 18, 2011

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So ordered:



Hon. Jed S. Rakoff

Dated:
New York, New York
7/28, 2011

