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Electronically Filed
FIRST CIRCUIT
1CC990004771
08-JUN-2023
03:05 PM
Dkt. 1675 STIP

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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG, special
administrator of the estate of JOSEPH
CHING, deceased, CAROLINE BRIGHT,
DONNA KUEHU, and JAMES
AKIONA, et al.,

Plaintiffs,

vs.

STATE OF HAWAII, STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME
LANDS; et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

**SECOND STIPULATION REGARDING
SETTLEMENT CLAIMS
ADMINISTRATION COSTS AND
ORDER**

POST-TRIAL PROCEEDINGS JUDGE:
HON. LISA W. CATALDO

SETTLEMENT JUDGE:
HON. GARY W.B. CHANG

**SECOND STIPULATION REGARDING SETTLEMENT CLAIMS ADMINISTRATION
COSTS AND ORDER**

Pursuant to Cir. Ct. R. 19, Plaintiffs, through their Counsel, Carl M. Varady and Thomas R. Grande, and Defendants, through their Counsel, Attorney General Anne E. Lopez, Deputy Attorney General Craig Y. Iha, and Special Deputy Attorneys General Linda Lee K. Farm and Donna H. Kalama, hereby stipulate:

WHEREAS, the parties have entered into a settlement intended to achieve a full and final resolution on a class-wide basis of all claims that have been asserted and could have been asserted in this matter (the “Settlement”) and have executed a Settlement Agreement to effectuate those terms (the “Agreement”);

WHEREAS, the Legislature has appropriated \$328,000,000.00 to fund the Settlement, and those funds have been deposited into a court account (“Settlement Fund”) to be used exclusively for (1) payments to be made to Payment Recipients as defined in the Agreement, (2) costs necessary to implement the Settlement, (3) reasonable and necessary costs related to probate proceedings for deceased Settlement Class Members, and (4) Payment of Plaintiffs’ Attorneys Fees, as described in the Agreement;

WHEREAS, the Agreement provides that costs necessary to implement the Settlement may include, but are not limited to, costs for a Settlement Special Master and Probate Special Master, costs for a Claims Administrator, costs to implement the Court’s approved Notice Plan, and costs to implement the Claims Administration Process;

WHEREAS, the Settlement must be granted both preliminary approval and Final Approval by the Court under Haw. R. Civ. P. 23(e) to be effective as intended by the parties;

WHEREAS, Final Approval is defined by the Agreement and this Stipulation to mean the occurrence of the following:

Following the Fairness Hearing, the Court has entered a final appealable order or judgment approving the Settlement, and

- i. The time for appellate review and review by application for certiorari has expired, and no notice of appeal has been filed; or
- ii. If appellate review or review by application for certiorari is sought, after any and all avenues of appellate review have been exhausted, the order approving settlement has not been modified, amended, or reversed in any way.

WHEREAS, since the Court's preliminary approval of the Settlement on June 9, 2022, the Claims Administrator, Settlement Special Master, Probate Special Master, and Probate Special Counsel have been required to engage in substantial work prior to Final Approval, including implementing the Notice Plan, and determining which Plaintiffs are Payment Recipients and the amount proposed to be paid to each Payment Recipient;

WHEREAS, the parties have agreed that if preliminary approval of the Settlement is granted, the costs reasonably and necessarily expended to implement the Settlement during the interim period between when the legislative appropriation of \$328,000,000.00 became effective and Final Approval may be paid from the Settlement Fund, provided that such costs shall not exceed \$1,000,000.00 or another amount agreed to by the parties in writing or an amount ordered by the Court ("Interim Costs");

WHEREAS, the Court previously approved payment of \$1,000,000.00 from the Settlement Fund to implement the Claims Administration Process through the June 21, 2022, *Stipulation Regarding Settlement Claims Administration Costs and Order* [Dkt. 1500], which funds now are nearly exhausted through payment of the Interim Costs of the Claims Administration Process;

WHEREAS, the parties agree that an additional \$1,000,000.00, from the Settlement Fund should be approved as to pay reasonable Interim Costs for implementation of the Claims Administration Process;

WHEREAS, the parties intend that in the event the Court does not grant Final Approval of the Settlement, Defendants shall be credited for any Interim Costs paid from the Settlement Fund towards any obligations of Defendants with respect to claims administration in the subsequent litigation of this matter;

NOW THEREFOR, the parties agree that,

1. The Court should authorize payment of Interim Costs up to and including an additional \$1,000,000.00 for Interim Costs, and that Interim Costs shall not exceed \$2,000,000.00, unless otherwise agreed to by the parties in writing, or as may be ordered by the Court;
2. In the event the Court does not grant Final Approval of the Settlement, Defendants shall be credited for all Interim Costs paid from the Settlement Fund towards any obligations of Defendants with respect to claims administration in subsequent litigation of this matter.
3. In the event the Court does not grant Final Approval of the Settlement, Plaintiffs and their counsel shall have no obligation to repay any costs paid for the Settlement Claims Administration provided that Plaintiffs, Class Counsel, the Claims Administrator, the Settlement Special Master, the Probate Special Master, the Probate Special Counsel, and any other person appointed by the Court under the Settlement or paid from the Settlement Fund shall provide to Defendants all documents and other information gathered, all summaries and compilations prepared, and any and all other work product collected or generated for the Settlement's claims administration process.

DATED: Honolulu, Hawai‘i, June 2, 2023.

/s/ Donna H. Kalama

ANNE E. LOPEZ

Attorney General

CRAIG Y. IHA

Deputy Attorney General

and

LINDA LEE K. FARM

DONNA H. KALAMA

Special Deputy Attorneys General

ATTORNEYS FOR DEFENDANTS

/s/ Carl M. Varady

CARL M. VARADY

THOMAS R. GRANDE

CLASS COUNSEL

APPROVED AND SO ORDERED:

/s/ Lisa W. Cataldo



JUDGE OF THE ABOVE-ENTITLED COURT

Kalima et al., v. State of Hawai‘i et al., Civil No. 99-4771-12 LWC, **SECOND STIPULATION REGARDING SETTLEMENT CLAIMS ADMINISTRATION COSTS AND ORDER**