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15  
16 UNITED STATES DISTRICT COURT  
17 NORTHERN DISTRICT OF CALIFORNIA  
18 SAN FRANCISCO DIVISION

19 JOSH HAZEL, on behalf of himself, the  
20 general public, and all others similarly  
situated,

21 Plaintiffs,

22 v.

23 CONNECTICUT GENERAL LIFE  
24 INSURANCE COMPANY, a Connecticut  
corporation, and DOES 1 through 10,  
25 inclusive,

26 Defendants.

Case No. 08-cv-03552-MMC

~~REVISED PROPOSED~~ ORDER  
GRANTING FINAL APPROVAL OF  
SETTLEMENT

FINAL JUDGMENT

Date: November 20, 2009  
Time: 9:00 a.m.  
Courtroom: 7  
Judge: Hon. Maxine M. Chesney

1 On November 20, 2009, a hearing was held on the parties' joint motion for final  
 2 approval of the parties' proposed class action settlement. Eric M. Epstein of Eric M. Epstein, APC,  
 3 and Mark R. Thierman of the Thierman Law Firm, appeared for plaintiff; and Marlene Muraco of  
 4 Littler Mendelson, A Professional Corporation, appeared for defendant, Connecticut General Life  
 5 Insurance Company ("CGLIC").

6 The parties have previously filed with this Court their Joint Stipulation of Class  
 7 Settlement and Class Settlement Agreement and Release (the "Settlement"). This Court preliminarily  
 8 approved the Settlement in its July 10, 2009 Order. In accordance with the preliminary approval  
 9 order, class members have been given notice of the terms of the Settlement and the opportunity to  
 10 object to it or to exclude themselves from its provisions. 2,215 or 49 % of the FLSA Class Members  
 11 filed timely valid claim forms, representing approximately 58% of the compensable days at issue.  
 12 438 or approximately 56% of the California Class Members filed timely valid claim forms  
 13 representing approximately 72.34% of the compensable days at issue. Only 18 or 2.28% of the Class  
 14 Members have filed elections not to participate in the Settlement. No class members objected to the  
 15 proposed settlement.

16 Defendant has certified that it mailed out the notice required by the Class Action  
 17 Fairness Act ("CAFA") on September 15, 2009. As CAFA provides that "[a]n order giving final  
 18 approval of a proposed settlement may not be issued earlier than 90 days after the requisite notice is  
 19 provided," 28 U.S.C. § 1715(d), this Order is being signed on December 15, 2009.

20 Having received and considered the proposed Settlement, the supporting papers filed  
 21 by the parties, including the Declarations of Eric M. Epstein, Marlene Muraco and Tony Dang in  
 22 Support of Final Approval of Class Action Settlement, the Declarations of Eric M. Epstein, Mark R.  
 23 Thierman and Walter Haines in support of the Motion for Approval of Attorneys' Fees and Costs,  
 24 and the Declarations of Eric M. Epstein and Josh Hazel in support of the Motion for an Enhanced  
 25 Payment to the Class Representative, the evidence and argument received by the Court at the  
 26 preliminary approval hearing held on July 10, 2009, and the final approval hearing on November 20,  
 27 2009, the Court, pursuant to California Rule of Court 3.76(g), GRANTS FINAL APPROVAL to the  
 28 Settlement and HEREBY ORDERS and MAKES DETERMINATIONS as follows:

1           1. Pursuant to this Court's July 10, 2009 order, a Notice of Certification of  
2 Settlement Class, Proposed Settlement and Hearing Date for Final Court Approval were sent to each  
3 class member by first-class mail. This notice informed class members of the terms of the Settlement,  
4 their right to opt out of the class and pursue their own remedies, their opportunity to file written  
5 objections, and their right to appear in person or by counsel at the final approval hearing and be  
6 heard regarding approval of the settlement. Adequate periods of time were provided by each of  
7 these procedures. No class members filed written objections to the proposed settlement as part of this  
8 notice process or stated an intent to appear at the final approval hearing.

9           2. The Court finds and determines that this notice procedure afforded adequate  
10 protections to class members and provides the basis for the Court to make an informed decision  
11 regarding approval of the settlement based on the responses of class members. The Court finds and  
12 determines that the notice provided in this case was the best notice practicable, which satisfied the  
13 requirements of federal law and due process.

14           3. For the reasons stated in the Court's July 10, 2009, preliminary approval  
15 order, the Court finds and determines that the proposed Settlement Class, as defined in paragraphs  
16 10 and 11 of the Settlement, meets all of the legal requirements for class certification, and it is  
17 hereby ordered that the Settlement Class is finally approved and certified as a class for purposes of  
18 settlement of this action.

19           4. The Court finds that no class member has objected to the terms of the  
20 settlement. The Court further finds and determines that the terms of the Settlement are fair,  
21 reasonable and adequate to the class and to each class member and that the California Class  
22 members who have not opted out, and the FLSA Class members who opted in, will be bound by the  
23 Settlement, that the Settlement is ordered finally approved, and that all terms and provisions of the  
24 Settlement should be and hereby are ordered to be consummated.

25           5. The Court finds and determines that the payments to be made to the  
26 Settlement Class Members as provided for in the Settlement are fair and reasonable. The Court  
27 gives final approval to and orders the payment of those amounts be made to the Settlement Class  
28

1 Members out of the \$3,300,000 Maximum Gross Settlement Amount in accordance with the terms of  
2 the Settlement.

3           6.       The Court finds and determines that the payments to be made to cover the  
4 employer's shares of payroll taxes on the Settlement Shares as provided for in the Settlement are fair  
5 and reasonable. The Court gives final approval to and orders the payment of those amounts be made  
6 out of the unclaimed portion of the \$3,300,000 Maximum Settlement Distribution Amount in  
7 accordance with the terms of the Settlement.

8           7.       The Court finds and determines that the payment of 75% of \$15,000 (i.e.,  
9 \$11,250) to the Labor and Workforce Development Agency ("LWDA") in settlement of the  
10 LWDA's share of the penalties alleged by plaintiffs and compromised under the Settlement is fair  
11 and reasonable. The Court gives final approval to and orders that the payment of that amount be  
12 made to the LWDA out of the \$3,300,000 Maximum Gross Settlement Amount in accordance with  
13 the terms of the Settlement.

14           8.       The Court finds and determines that the payment of \$52,000 as the fees and  
15 expenses of the Settlement Administrator, Simpluris, Inc., is fair and reasonable. The Court gives  
16 final approval to and orders that the payment of that amount be paid to the Settlement Administrator  
17 out of the \$3,300,000 Maximum Gross Settlement Amount in accordance with the terms of the  
18 Settlement.

19           9.       The Court finds and determines that the payment of \$10,000 to the  
20 representative plaintiff, Josh Hazel, as an enhanced Class Representative Payment is fair and  
21 reasonable. The Court gives final approval to and orders that the payment of that amount be paid to  
22 Josh Hazel, the representative plaintiff, out of the \$3,300,000 Maximum Gross Settlement Amount  
23 in accordance with the terms of the Settlement.

24           10.      The Court finds and determines that the payment of \$825,000 as plaintiff's  
25 counsel's Class Counsel Attorneys' Fees, and \$6,251.56 for Class Counsel's costs is fair and  
26 reasonable. The Court gives final approval to and orders that the payment of those amounts be paid  
27 to Eric M. Epstein of Eric M. Epstein, APC; Walter Haines of United Employees Law Group, PC;  
28 and Mark R. Thierman of Thierman Law Firm out of the \$3,300,000 Maximum Gross Settlement

1 Amount in accordance with the terms of the Settlement, and Class Counsel’s agreement to apportion  
2 the fees and costs among themselves.

3 11. The Court retains jurisdiction of all matters relating to the interpretation,  
4 administration, implementation, effectuation and enforcement of this order and the Settlement.

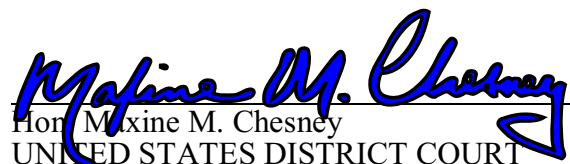
5 12. Nothing in this order will preclude any action to enforce the parties’  
6 obligations under the Settlement or under this order.

7 13. Upon completion of administration of the settlement, the Settlement  
8 Administrator will provide written certification of such completion to the Court and counsel for the  
9 parties.

10 14. Upon satisfaction of all payments and obligations under the Settlement  
11 Agreement and under this order, all California Class Members who did not opt out, and all FLSA  
12 class members who opted in, are permanently barred from prosecuting against CGLIC and each of  
13 its past or present officers, directors, shareholders, employees, agents, principals, heirs,  
14 representatives, accountants, auditors, consultants, insurers and reinsurers, and its and their  
15 respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys and  
16 each of their employee benefit plans, and all of their respective officers, directors, employees,  
17 administrators, fiduciaries, trustees and agents, any of the individual or class claims released as set  
18 forth in the Settlement.

19 The parties are hereby ordered to comply with the terms of the Settlement.

20 Dated: December 15, 2009

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22   
23 Hon. Maxine M. Chesney  
24 UNITED STATES DISTRICT COURT  
25 JUDGE

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