

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-and-

THE VULCAN SOCIETY, INC., *for itself and on behalf of its members*, JAMEL NICHOLSON, and RUSEBELL WILSON, *individually and on behalf of a subclass of all other victims similarly situated seeking classwide injunctive relief*;

ROGER GREGG, MARCUS HAYWOOD, and KEVIN WALKER, *individually and on behalf of a subclass of all other non-hire victims similarly situated*; and

CANDIDO NUÑEZ and KEVIN SIMPKINS, *individually and on behalf of a subclass of all other delayed-hire victims similarly situated*,

Plaintiff-Intervenors,

-against-

THE CITY OF NEW YORK,

Defendant.

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NICHOLAS G. GARAUFGIS, United States District Judge.

The fairness hearing scheduled for October 1, 2014, and October 2, 2014 (the “Fairness Hearing”), will be an opportunity for oral argument in support of and in opposition to two proposed settlements: (i) the Amended Monetary Relief Consent Decree,¹ including the Proposed

¹ On June 30, 2014, the court preliminarily approved the Monetary Relief Consent Decree (Dkt. 1435). (June 30, 2014, Order (Dkt. 1437).) The Amended Monetary Relief Consent Decree submitted by the parties on September 22, 2014 (Dkt. 1468) differs from the Monetary Relief Consent Decree in two basic ways: (i) it incorporates an administrative change, reflecting that Defendant City of New York will be issuing payments to Claimants for the back pay portions of their awards, from which required withholdings will be made, and the claims administrator will be issuing payments to Claimants for the fringe benefits and interest portions of their awards; and (ii) it incorporates

Amended Relief Awards List, which if approved by the court will resolve the claims of Plaintiff United States of America (the “United States”) and the Plaintiff-Intervenors’ Nonhire and Delayed-Hire Subclasses for back pay and fringe benefits lost by black and Hispanic applicants who were not hired or who were delayed in their hiring as entry-level firefighters with the New York City Fire Department (“FDNY”) due to employment practices held by the court to create a disparate impact in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq., as amended (“Title VII”); and (ii) the Proposed Stipulation and Order (“Intent Stipulation and Order”), which if approved by the court will resolve Plaintiff-Intervenors’ claims that these same employment practices constituted intentional discrimination against black applicants to the FDNY in violation of Title VII as well as other federal, state, and local laws. No witnesses may be called; there will be no testimony.

At 10:00 a.m. on October 1, the proponents of the Joint Motion for Final Entry of Amended Monetary Relief Consent Decree (Dkt. 1467) (the United States, Plaintiff-Intervenors, and Defendant City of New York (the “City”)) will be heard. Those remarks will be limited to forty-five (45) minutes, and the proponents may determine amongst themselves how to divide their time.

Subsequently, Plaintiff-Intervenors will be heard in support of their Motion for Final Entry of the Intent Stipulation and Order. (Dkt. 1470.) The City, which does not oppose the proposed relief (see Sept. 22, 2014, Ltr. (Dkt. 1473)), may also address the court. Remarks by

changes that the parties believe will be necessary if the court agrees with the United States’ and Plaintiff-Intervenors’ recommendations to sustain the objections lodged by seven Claimants to the Monetary Relief Consent Decree. (See Joint Mot. for Final Entry of Am. Monetary Relief Consent Decree (Dkt. 1467) at 2-3.) The Proposed Amended Relief Awards List also reflects the United States’ and Plaintiff-Intervenors’ recommendations with respect to those seven Claimants.

Plaintiff-Intervenors and the City will be limited to forty-five (45) minutes, and Plaintiff-Intervenors and the City may determine amongst themselves how to divide their time.

Next, those Claimants who are objecting to the Amended Monetary Relief Consent Decree and/or the Intent Stipulation and Order will then be heard in the order set forth in the table below. Each objecting Claimant will be allotted two (2) minutes. The court is aware of thirty-seven (37) Claimants who gave notice of their intention to appear at the Fairness Hearing. Twenty-eight (28) of these Claimants gave such notice solely with respect to the Amended Monetary Relief Consent Decree. These twenty-eight (28) Claimants will speak first, in order of Claimant Number. Nine (9) other Claimants gave notice of their intention to appear at the Fairness Hearing in connection with either (i) the Intent Stipulation and Order or (ii) both the Intent Stipulation and Order and the Amended Monetary Relief Consent Decree. After the twenty-eight (28) aforementioned Claimants address the court, those nine (9) additional Claimants will speak in order of Claimant Number. After reviewing the submitted objections, the court believes that certain Claimants who have objected formally to only the Intent Stipulation and Order are in fact dissatisfied with the Amended Monetary Relief Consent Decree; therefore, the court will permit all nine (9) of these Claimants to address both proposed settlement agreements in their two (2) minutes if they wish to do so. For the sake of clarity, this is reflected in the table set forth below. After all objecting Claimants who are listed in the below table have spoken, the court will hear from any additional interested parties, each also subject to a two (2) minute time limit.

Upon completion of objectors' remarks, the proponents of the Amended Monetary Relief Consent Decree will be allowed a rebuttal not to exceed a total of sixty (60) minutes.

Finally, Plaintiff-Intervenors and the City will be allowed a rebuttal in support of entry of the Intent Stipulation and Order not to exceed a total of sixty (60) minutes.

The Fairness Hearing will adjourn at approximately 5:00 p.m. on October 1, 2014, and will resume at 10:00 a.m. on October 2, 2014, or at a time otherwise directed by the court upon adjournment, until the court has heard from all who have a right to speak and who have chosen to do so.

In anticipation of more attendees than can be accommodated in the courtroom, a live video/audio feed will transmit proceedings to the Central Jury Room. Objectors should initially report to the Central Jury Room; from there, they will be directed to the courtroom in an orderly fashion. Court Security Officers will direct overflow attendees as necessary.

Attorneys who plan to address the court must either be members of the bar of the Eastern District of New York or have filed an application for leave to appear pro hac vice prior to the Fairness Hearing.

TABLE

	Claimant Number	Last Name	First Name	Attorney or Law Firm	Regarding:
1	200000047	Alphonse	Robert		Amended Monetary Relief Consent Decree ("AMRCD")
2	200000095	Assemian	Felix		AMRCD
3	200000468	Daniels	Aaron		AMRCD
4	200000693	Garrido	Richard		AMRCD
5	200000861	Hermo	Anthony		AMRCD
6	200000901	Hollingsworth	Lawrence		AMRCD
7	200001051	Laurenceau	Harold		AMRCD
8	200001209	Forbes	Tenisha		AMRCD
9	200001461	Patrick	Antoine	Levy Ratner	AMRCD
10	200001723	Roldan	Eric		AMRCD
11	200001806	Santangelo	Michael	Margaret Santangelo	AMRCD

12	200001854	Sierra	Luis		AMRCD
13	200001940	Talton	Jason		AMRCD
14	200002030	Vargas	Joseph		AMRCD
15	200002056	Velez	Raymond		AMRCD
16	200002154	Williamson	Damel	Levy Ratner	AMRCD
17	200002663	Branford	Hasani		AMRCD
18	200002962	Chile	Luis		AMRCD
19	200003152	Cronenberg	Christopher		AMRCD
20	200003436	Duarte	Maurice		AMRCD
21	200003627	Figueroa	Robert		AMRCD
22	200003674	Foster	Sean		AMRCD
23	200005610	Quinones	Matthew	Wellerstein Associates	AMRCD
24	200006232	Scott	Ihsan		AMRCD
25	200006382	Sonera	Carlos		AMRCD
26	200006524	Thomas	Abundi		AMRCD
27	200006833	Viruso	Pietro		AMRCD
28	200007159	Miranda	Jeffrey		AMRCD
29	200000219	Bresilien	Henry	Peter Gleason	AMRCD and Intent Stipulation and Order
30	200000471	Darby	Devin		AMRCD and Intent Stipulation and Order
31	200000889	Hill	Dwayne	Levy Ratner	AMRCD and Intent Stipulation and Order
32	200000896	Holder	Rivolena		AMRCD and Intent Stipulation and Order
33	200001052	Laurenceau	Jerry	Levy Ratner	AMRCD and Intent Stipulation and Order
34	200001690	Rodriguez	Arnaldo	Peter Gleason	AMRCD and Intent Stipulation and Order
35	200001975	Whyte	Lauriette		AMRCD and Intent Stipulation and Order
36	200006013	Romero	Rolando	Peter Gleason	AMRCD and Intent Stipulation and Order
37	200006841	Waite	Damion		AMRCD and Intent Stipulation and Order

The United States and Plaintiff-Intervenors are DIRECTED to forward this Order to the Claimants listed in the table above by first-class mail and/or electronic mail no later than Friday, September 26, 2014.

SO ORDERED.

Dated: Brooklyn, New York
September 24, 2014

s/ Nicholas G. Garaufis
~~NICHOLAS G. GARAUFIS~~
United States District Judge