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22-2-00461-29
ORAPST 24
Order Approving Settlement
14323414



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR COUNTY OF SKAGIT

SHANNON SPENCER, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

CITY OF MOUNT VERNON, a Washington
municipal corporation; and DOES 1-10,

Defendants.

Case No. 22-2-00461-29

~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT

*Clerk's Action Required:
Special Set Re-Approved by
Court Admin on 8/11/23 at 9:00am*

Plaintiff's Unopposed Motion for Preliminary Approval of Class Settlement (the
"Motion") has come before this Court. The Court determines and orders as follows:

1. Counsel have advised the Court that the parties have agreed, subject to final approval by this Court following notice to the Settlement Class and a hearing, to settle this action (the "Settlement") upon the terms and conditions set forth in the Settlement Agreement that has been filed with the Court (the "Settlement Agreement").

2. The Court has reviewed the Settlement Agreement and is familiar with the files, records, and proceedings to date in this matter. This Order incorporates by reference the definitions in the Settlement Agreement.

3. It appears to the Court that, based upon preliminary examination, the Settlement appears to be fair, reasonable, and adequate and that a hearing should be held after notice to the Settlement Class to determine whether the Settlement is fair, reasonable and adequate, whether a

[PROPOSED] ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT- 1

1 final settlement approval order and judgment should be entered in this Action, based upon the
2 Settlement Agreement, and whether the application for Settlement Class Counsel attorneys' fees
3 and costs and the Settlement Class Representative Award should be approved.

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Motion is
5 GRANTED as follows:

6 4. Preliminary Approval of Proposed Settlement. The Settlement, as memorialized in
7 the Settlement Agreement is preliminarily approved as fair, reasonable, and adequate. The Court
8 finds that (a) the Settlement resulted from extensive arm's length negotiations and only after
9 significant investigation, exchange of information, and litigation in the case; (b) the amount offered
10 in settlement appears reasonable and adequate in light of the costs, delays, and risks inherent in
11 continued litigation; and (c) the Settlement is sufficient to warrant notice thereof to the Settlement
12 Class Members and a full hearing on the Settlement.

13 5. Certification of Settlement Class. For settlement purposes only, the following
14 Settlement Class is certified pursuant to Civil Rule 23, pending final approval of the Settlement:
15 All individuals who applied for one or more jobs with the City of Mount Vernon during the
16 Settlement Class Period (July 28, 2019 through March 18, 2022). The Court finds that the
17 prerequisites of Rule 23(a) and (b)(3) have been satisfied for settlement purposes only.
18 Specifically, the Court finds as follows:

- 19 a. The Settlement Class is so numerous that joinder of all members is impracticable.
20 b. There are questions of law and fact common to the Settlement Class for purposes
21 of settlement.
22 c. For settlement purposes the claims of Plaintiff Shannon Spencer are typical of the
23 claims of the Settlement Class, and Plaintiff and Settlement Class Counsel will fairly and
24 adequately protect the interests of the Settlement Class.
25 d. Certification of the Settlement Class under Rule 23(b)(3) is appropriate for
26 purposes of settlement because questions of law and fact common to the Settlement Class

1 Members predominate over questions affecting individual members, and a class action is superior
2 to other available means for the fair and efficient resolution of this controversy.

3 6. Appointments. Timothy W. Emery of Emery Reddy, PLLC is appointed as
4 Settlement Class Counsel. Plaintiff Shannon Spencer is appointed as the Settlement Class
5 Representative. JND Legal Administration is appointed as the Settlement Administrator.

6 7. Settlement Hearing. A Final Approval Hearing shall be held before this Court on
7 August 11, 2023 at 9:00 a.m. [*no earlier than 90 days after this Order*], to determine
8 whether the Settlement is fair, reasonable, and adequate and should be approved, and whether the
9 application for Settlement Class Counsel's attorneys' fees and costs (the "Attorneys' Fee Award"),
10 and the Settlement Class Representative Award should be approved. Papers in support of final
11 approval of the Settlement, including any response to Settlement Class Member objections and
12 request for the Attorneys' Fee Award and Settlement Class Representative Award, shall be filed
13 with the Court nine (9) court days prior to the Final Approval Hearing. The Final Approval
14 Hearing may be postponed, adjourned, or continued by order of the Court without further notice
15 to the Settlement Class. After the Final Approval Hearing, the Court may enter a Final Approval
16 Order in accordance with the Settlement Agreement that will adjudicate the rights of the Settlement
17 Class Members.

18 8. Notice. Within fourteen (14) days of the date of this Order, Defendant shall provide
19 the Settlement Class Data to the Settlement Administrator. Within thirty (30) days of the date of
20 this Order, the Settlement Administrator shall cause the Settlement Class Notice, in substantially
21 the form appended as Exhibit A to the Settlement Agreement, to be mailed by United States first
22 class mail to the last known valid addresses of the Settlement Class Members. The Settlement
23 Administrator will update the addresses using the National Change of Address database, conduct
24 a standard skip trace to locate missing Settlement Class Members, and re-mail the Settlement Class
25 Notice to the correct or updated address. Within thirty (30) days of the date of this Order, the
26 Settlement Administrator shall publish a copy of the Settlement Class Notice, in substantially the

1 form appended as Exhibit B to the Settlement Agreement, in the Skagit Valley Herald. The
2 Settlement Administrator will create and maintain a website that includes the Settlement Class
3 Notice during the Notice period.

4 9. Findings Concerning Notice. The Court finds that the Settlement Class Notice and
5 the manner of its dissemination constitute the best practicable notice under the circumstances and
6 are reasonably calculated, under all the circumstances, to apprise Settlement Class Members of the
7 proposed Settlement of this Action and their rights with respect thereto. The Court further finds
8 that the Notice is reasonable, that it constitutes due, adequate and sufficient notice to all persons
9 entitled to receive notice, and that it meets the requirements of due process.

10 10. Requests for Exclusion. All requests for exclusion from the Settlement Class must
11 be submitted as directed in the Settlement Agreement and Settlement Class Notice no later than
12 thirty (30) days following the date the Settlement Class Notice is mailed. Any Settlement Class
13 Member who fails to submit a request for exclusion by that time shall be deemed a Participating
14 Settlement Class Member and will be bound by any final judgment and the release as set forth in
15 the Settlement Agreement.

16 11. Objections and Appearances. Any Settlement Class Member may object to the
17 Settlement by submitting their written objection as directed in the Settlement Agreement and
18 Settlement Class Notice within thirty (30) days following the date the Settlement Class Notice is
19 mailed. Any Settlement Class Member who timely submits a written objection may also appear
20 at the Final Approval Hearing as directed in the Settlement Agreement and Settlement Class
21 Notice. Unless otherwise ordered by the Court, any Settlement Class Member who does not make
22 their objection in the manner provided for herein shall be deemed to have waived such objection
23 and shall forever be foreclosed from making any objection (by appeal or otherwise) to the proposed
24 Settlement.

25 12. No Admission. This Order and the Settlement are not admissions or concessions
26 by Defendant or the Released Parties of any liability or wrongdoing. This Order is not a

1 determination of liability and does not constitute any opinion of this Court as to the merits of the
2 claims and defenses in this Action.

3 13. Stay of Proceedings. All discovery and other proceedings in this action are hereby
4 stayed and suspended until further order of the Court, except such actions as may be necessary to
5 implement the Settlement and this Order. All case deadlines are hereby vacated. Pending final
6 determination of whether the Settlement should be approved, Plaintiff, all Settlement Class
7 Members and any person or entity allegedly acting on behalf of Settlement Class Members, either
8 directly, representatively or in any other capacity, are preliminarily enjoined from commencing or
9 prosecuting against the Released Parties any action or proceeding in any court or other forum
10 asserting any of the Released Claims. This injunction is necessary to protect and effectuate the
11 Settlement, this Order, and the Court's flexibility and authority to effectuate this Settlement and
12 to enter judgment when appropriate, and is ordered in aid of the Court's jurisdiction and to protect
13 its judgments.

14 14. Modification and Termination. Counsel for the Parties are hereby authorized to
15 utilize all reasonable and mutually agreed procedures in connection with the administration of the
16 Settlement which are not materially inconsistent with either this Order or the terms of the
17 Settlement Agreement. If Final Approval does not occur, the Parties shall be returned to the status
18 quo ex ante, for all litigation purposes, as if no Settlement had been negotiated or entered into; and
19 thus, this Order and all other findings or stipulations regarding the Settlement shall be
20 automatically void, vacated, and treated as if never filed.

21 15. Jurisdiction. This Court retains jurisdiction to consider all further matters arising
22 out of or connected with the Settlement.

23 DATED this 17th day of April, 2023.

24 
25 SKAGIT COUNTY SUPERIOR COURT JUDGE
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