

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

QUANISHA SMITH and ANTHONY COLAVECCHIO,
individually and on behalf of all others similarly situated,

Plaintiffs,

- against -

KRISTIN M. PROUD, as Commissioner of the New York State
Office of Temporary and Disability Assistance, and ROBERT
DOAR, as Commissioner of the New York City Human
Resources Administration,

Defendants.

Index. No. 400903/2010
Hon. Lucy Billings

**STIPULATION FOR
PARTIAL WITHDRAWAL
OF SETTLEMENT
ENFORCEMENT MOTION
WITHOUT PREJUDICE**

WHEREAS, plaintiffs filed the above-captioned action on or about April 6, 2010, pursuant to Article 78 and Section 3001 of the Civil Practice Law and Rules, and the Civil Rights Act of 1871, 42 U.S.C. § 1983, seeking, *inter alia*, (i) a declaratory judgment on behalf of the named plaintiffs and the plaintiff class (together, “plaintiffs,” or “Class Members”) that the predicate notices issued by the New York City Human Resources Administration (“HRA”) as a condition of reducing or discontinuing plaintiffs’ Public Assistance and Supplemental Nutrition Assistance Plan (“SNAP”) benefits failed to comply with the requirements of the New York Social Services Law and regulations promulgated thereunder, and the Due Process Clause of the Fourteenth Amendment to the United States Constitution; (ii) injunctive relief prohibiting defendants from sanctioning recipients of Public Assistance and SNAP unless and until they issued predicate notices that complied with the law; and (iii) directing defendants to delete the sanctions of the Class Members and issue to them all benefits lost as a result of the unlawful sanctions; and

WHEREAS, on or about November 8 and 9, 2018, the parties entered into a Stipulation and Order of Settlement of the action (the “Settlement Stipulation”), which the Court

preliminarily approved on December 20, 2018 and finally approved and “so ordered” on March 26, 2019; and

WHEREAS, the Settlement Stipulation provided for the Court’s continuing jurisdiction in certain instances, see Section VIII, ¶¶ 57-61; and

WHEREAS, on July 12, 2021, plaintiffs filed a two-pronged motion to enforce the Settlement Stipulation (the “Enforcement Motion”) [Motion #10], seeking the Court’s intervention with respect to (i) a dispute between the parties about whether certain Class Members qualify for payments under the Settlement Stipulation, see Point One of the Memorandum of Law in Support of Plaintiffs’ Motion to Enforce the Stipulation and Order of Settlement (the “Open Case Issue”), and (ii) an issue relating to the defendants’ issuance of settlement payments to Class Members who were in a Residential Treatment Center (“RTC”) on the dates the payments were due to be made, see Point Two of the Memorandum of Law in Support of Plaintiffs’ Motion to Enforce the Stipulation and Order of Settlement (the “RTC Issue”); and

WHEREAS, the Enforcement Motion is currently returnable on October 7, 2021; and

WHEREAS, the parties have engaged in discussions concerning the RTC Issue; and

WHEREAS, the plaintiffs wish to preserve their ability to renew their motion with respect to the RTC Issue in the event that it is not resolved satisfactorily;

IT IS HEREBY STIPULATED AND AGREED by and between the parties, by their undersigned counsel, that subject to the Court’s approval:

1. The prong of the Enforcement Motion relating to the RTC Issue is hereby withdrawn without prejudice.

2. By September 30, 2021, the New York State Office of Temporary and Disability Assistance (“OTDA”) will re-issue payments by Electronic Benefit Transfer (“EBT”) or paper check (to the last known address as determined by HRA’s Lexis Nexis search) to those Smith Class Members who were otherwise eligible to receive a Smith payment but who were in an RTC as of the Open Case Determination Date (“OCDD”) or any of the eight subsequent Closed Case Sweeps Dates (“CCSDs”) and were subsequently issued a Smith settlement payment that has since been canceled or become stale prior to September of 2021.

3. By October 30, 2021, Defendants will provide to plaintiffs’ counsel the list of RTC Smith Class Members who had been issued a paper check as a Smith settlement payment that has not yet been cashed as of that date (including any checks mailed pursuant to paragraph 2 that remain uncashed), and the address to which the check had been mailed. (In order to start generating this list, OTDA will have to start generating the list several weeks before October 30, 2021.) Within 45 days, plaintiffs’ counsel will provide Defendants with any alternative address that they are able to identify for those RTC Smith Class Members on the list.

4. By January 31, 2022, OTDA will re-issue payments by EBT or paper checks (to the last known address as determined by HRA no earlier than January 1, 2022 or, if plaintiffs’ counsel provide an alternative address pursuant to paragraph 3 above, to the alternative address) to those Smith Class Members who were otherwise eligible to receive a Smith payment but who were in an RTC as of the OCDD or any of the eight CCSDs and were subsequently issued a Smith settlement payment that has since been canceled or became stale after September of 2021 but before December 21, 2021.

5. If OTDA fails to take any of the steps described in paragraphs 2 through 4 above, plaintiffs may renew the prong of the Enforcement Motion relating to the RTC Issue.

6. In the event that plaintiffs renew the prong of the Enforcement Motion relating to the RTC Issue, the Court's jurisdiction to enforce the terms of the Settlement Stipulation shall continue until the Court resolves all outstanding enforcement motions, or such time as directed by the Court if an enforcement motion is decided favorably for plaintiffs, or such time as may be extended by the parties.

7. The prong of the Enforcement Motion relating to the Open Case Issue shall not be affected by this stipulation and continues to be returnable on October 7, 2021.

8. This stipulation may be executed in counterparts and filed with the Clerk of the Court without further notice.

Dated: New York, New York
September 21, 2021

THE LEGAL AID SOCIETY

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THE NEW YORK STATE OFFICE OF
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SO ORDERED:

J.S.C.