

**IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI**

LINDA GERKEN, et al., on behalf of)	
themselves and all others similarly)	
situated,)	
)	
Plaintiffs,)	
)	
v.)	CASE NO. 06AC-CC00123-04
)	
GARY SHERMAN, et al.,)	
)	
Defendants.)	

**ORDER AND JUDGMENT OF FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**

On March 6, 2018, this Court preliminarily approved the Class Action Settlement Agreement filed with the Court on March 1, 2018 (the "Settlement" or "Settlement Agreement"). The Class had been previously certified in this litigation with Class Counsel appointed.

Notice of the Settlement has been provided to the Class, and Class Members have been given a right to object or be heard.

The Court now finds, orders and adjudicates as follows:

1. Notice in this case was properly completed by the Missouri Department of Social Services, which possessed the database of Class Members. Postcard notices were sent to 7,700 people.
2. Further notice was provided by means of relevant documents being posted by the Department to the public on its website, and dissemination of information about the Settlement was also effectuated by the Missouri Council of the Blind.
3. Class Counsel received hundreds of phone calls from persons who had received the

postcards or who otherwise heard about the Settlement. Not one of these persons objected to the Settlement, but callers instead asked questions about the details and timing of the back payments.

4. A small number of persons heard about the Settlement but had not received the postcard notice. They were provided information about the Settlement.

5. The Court finds that there were no opt-outs and no objections to the Settlement, either formally filed with the Court, or informally raised to the parties.

6. The Court finds that all aspects of class notice were accomplished in accordance with this Court's preliminary approval of the Settlement.

7. The Court recognizes that this case constitutes complex litigation, and the litigation has extended over 12 years and four appeals, with the fifth appeal pending at the time of the Settlement. The benefits to the Class of the Settlement include having the case resolved with payments of back benefits to be made more quickly than if the fifth appeal had proceeded.

8. Class Counsel have fairly and adequately protected the interests of the Class.

9. This Court and the Court of Appeals have previously held that 25 percent of the back benefits and interest should be paid in attorneys' fees, and therefore the Settlement calling for 25 percent of the total Settlement to be paid in fees is fair and reasonable.

10. The Court finds that all things ordered by the Court in its Order of Preliminary approval have now been accomplished.

11. The Court gives final approval to the Settlement as fair, reasonable, and adequate to the Class Members, and gives final approval to all terms of the Settlement. The primary terms of the Settlement are as follows:

- a. The Department of Social Services will make available a total of \$21,000,000.00 (the "Settlement Amount") from a Settlement Fund as set

forth in the Settlement. The Parties have agreed that the Settlement Amount will fully satisfy all claims made in the lawsuit by the Plaintiffs, both on their own behalf and on behalf of the Class, including but not limited to compensation for underpayment of benefits, attorneys' fees, prejudgment interest, and post-judgment interest.

- b. The Parties have agreed that the Settlement Amount of \$21,000,000.00 shall comprise \$11,478,681.00 to compensate Class Members for underpayments of pension benefits, and \$9,521,319.00 to compensate Class Members for interest on those underpayments.
- c. The parties have agreed that attorneys' fees shall be calculated as twenty-five (25) percent of the Settlement Amount of \$21,000,000.00, which equals \$5,250,000.00.

12. The Court Orders Defendants to make payments to the Class Members as set forth in the Settlement Agreement. The Court further orders that attorneys' fees be paid as set forth in the Settlement Agreement.

13. In addition to the terms set forth in the Settlement Agreement, the Court finds that the additional terms should be implemented as part of the Settlement Agreement:

- a. Surviving spouses who are entitled to the funds as a matter of law of deceased Eligible Members shall be able to make claims from the Settlement Fund by filing a completed claim form as set forth in the Settlement Agreement. The surviving spouse shall be subject to all terms and requirements in the Settlement Agreement and shall attach the following to their claim form: an affidavit, in the form approved by DSS (attached hereto and identified and

incorporated as Exhibit G to the Settlement Agreement); and a copy of the deceased Eligible Member's death certificate.

- b. Any heirs or others claiming on behalf of a deceased Eligible Member, other than a surviving spouse, shall only be allowed to make claims if they are authorized to do so by an order from a probate court or as specified in the Settlement Agreement, or by affidavit of an attorney for the estate or affidavit of an attorney who represents the heirs of a non-probate estate. The affidavit shall be signed by the attorney and the claimant and shall be in a form approved by DSS, which shall be filed with the court and incorporated in the Settlement Agreement as Exhibit H.
- c. The Department shall have no obligation to determine who the heirs at law of a deceased class member are and shall under no circumstance be required to make more than one payment on behalf of an Eligible Member. If a spouse or heir submits a claim form and other documents required by the Settlement Agreement and this Order, and the Department remits an Eligible Member's full payment to that spouse or heir, the Department's obligation to pay that Eligible Member's share of the Settlement Fund is fulfilled and extinguished. The Department cannot be held liable and cannot be sued by a subsequent claiming spouse or heir of an Eligible Member seeking to challenge an initial disbursement under the Settlement Agreement.
- d. The terms set forth in paragraph 13(a) and 13(b) in no way modify the total Settlement Amount which remains \$21,000,000. Nor do those additions add to

or subtract from the portion of the Settlement Amount that will be received by an Eligible Member pursuant to the terms of the Settlement Agreement.

14. The Court reaffirms all aspects of the Court's earlier Order of Preliminary Approval as Final Rulings.

15. The Court hereby enters this Final Judgment Approving the Class Action Settlement, which is binding on all Class Members and which incorporates all the terms of the Settlement Agreement.

So Ordered: 
Judge Patricia Joyce

Date: 3-30-18

STATE OF MISSOURI }
COUNTY OF COLE } SS

Clerk of the Circuit Court of Cole County, Missouri, hereby certify that the above and foregoing is a full true and correct copy of

Judgment
as fully as the same remains of record in my said office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my said office this 30 day of March 2018


Clerk
Circuit Court of Cole County, Missouri