

**IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

CASE NO. CACE18028483 DIVISION 03 JUDGE Nicholas Lopane

Tiffany Agüero

Plaintiff(s) / Petitioner(s)

v.

Nova Southeastern University Inc

Defendant(s) / Respondent(s)

_____ /

**AGREED ORDER FINAL ORDER APPROVING CLASS ACTION SETTLEMENT,
INCLUDING ATTORNEYS' FEES, COSTS, AND INCENTIVE AWARD**

This cause came before this Court pursuant to Plaintiff's Motion for Final Approval of Class Action Settlement and Attorneys' Fees, Costs and Incentive Award ("Motion"). Upon careful review and consideration of the Motion, and after hearing argument from counsel at the March 2, 2021 Final Fairness Hearing, entertaining any objections to the Class Settlement, and otherwise being duly advised in the premises, the Court hereby grants the Motion and FINDS, ORDERS and ADJUDGES as follows:

1. The Court is satisfied that the settlement terms described in the Motion and further addressed at Final Fairness Hearing ("the Settlement") was the product of serious, informed and arms-length negotiations, is free of obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class members and falls within the range of possible approval. The Court agrees that the instant case was hardly without its risks to both sides, as noted in the Motion, and involves complex substantive and procedural issues which could take years of litigation to resolve.
2. The Court approves the Settlement as fair, adequate, and reasonable, and finds that it is in compliance with all requirements of Fla. R. Civ. P. 1.220.
3. The Court's final approval of the settlement is based upon the grounds set forth in the Motion and successful completion of all requirements therein.
4. The Court finds that any Settlement Class Members that did not request exclusion from this Settlement will be releasing Defendant as part of the Settlement as follows:

The Representative Plaintiff and all Class Members, including their respective current and former officers, directors, employees, attorneys, heirs, executors, administrators, agents, legal representatives, professional corporations, partnerships, assigns and successors, but only to the extent their claims are derived from the claims of Class Members (collectively, the "Releasing Parties"), shall forever release and discharge all claims, including any and all claims, rights, and liabilities of any nature, including but not limited to, actions, claims, demands, causes of action, obligations, damages, debts, charges,

attorneys' fees, costs, arbitrations, forfeitures, judgments, indebtedness, liens and losses of any whatever kind, source or character whether arising out of federal or state law, whether known or unknown, whether asserted or unasserted, whether asserted by any Releasing Party on its own behalf or on behalf of any other person or entity, arising on or before the Effective Date, whether in contract, express or implied, tort, at law or in equity or arising under or by virtue of any statute or regulation, by reason of, arising out of, or in any way related to any of the facts, acts, events, transactions, occurrences, courses of conduct, business practices, representations, omissions, circumstances or other matters related in any way to the Lawsuit, or addressed in this Agreement, whether any such claim was or could have been asserted by any Releasing Party on its own behalf or on behalf of other Persons (the "Released Claims"), against Defendant and any of its former, present, and future assigns, predecessors, successors, affiliates, parent companies, subsidiaries, controlled companies, insurers, employees, officers, directors, principals and agents (collectively, the "Released Parties").

The Releasing Parties and each of them agree and covenant to the maximum extent permitted by law not to sue or cooperate in the filing or prosecution of any suit or proceeding, in any forum based upon or related to any Released Claims against any Released Party.

The Parties intend that this Agreement eliminate all further risk and liability of the Released Parties relating to the Released Claims, and accordingly agree that the Court shall include in the Final Order and Judgment a Bar Order Provision as follows:

Except as compelled by a Court of competent jurisdiction, the Releasing Parties are permanently enjoined from: (i) filing, commencing, prosecuting, intervening in, participating in or receiving any benefits from any lawsuit, arbitration, administrative or regulatory proceeding or order in any jurisdiction based on any or all Released Claims against one or more Released Parties; (ii) instituting, organizing class members in, joining with class members in, amending a pleading in or soliciting the participation of class members in, any action or arbitration, including but not limited to a purported class action, in any jurisdiction against one or more Released Parties based on, involving, or incorporating, directly or indirectly, any or all Released Claims; and (iii) filing, commencing, prosecuting, intervening in, participating in or receiving any benefits from any lawsuit, arbitration, administrative or regulatory proceeding or order in any jurisdiction based on an allegation that an action of the Released Parties, which is in compliance with the provisions of the Agreement, violates any right of any Class Member.

All Persons who are, have been, could be, or could have been alleged to be joint tortfeasors, co-tortfeasors, co-conspirators, or co-obligors with any or all of the Released Parties respecting any or all of the Released Claims, are hereby, to the maximum extent permitted by law and except as compelled by a Court of competent jurisdiction, barred and permanently enjoined from making, instituting, commencing, prosecuting, participating in or continuing any claim, claim-over, cross-claim, action, or proceeding, however denominated, regardless of the allegations, facts, law, theories or principles on which they are based, in this Court or in any other court or tribunal, against any or all of the Released Parties with respect to any or all of the Released Claims, including without limitation equitable, partial, comparative, or complete contribution, set-off, indemnity, or otherwise, whether by contract, common law or statute, arising out of or relating in any way to the Released Claims. All such claims are hereby fully and finally barred, released, extinguished, discharged, satisfied and made unenforceable to the maximum extent permitted by law, and no such claim may be commenced, maintained, or prosecuted against any Released Party.

Defendant reserves the right to pursue any debts allegedly owed by Class Members to Defendant for payment due and owing to Defendant, only to the extent that such debts accrued after the date that Class Members received the Notice Letter associated with the underlying claims. Class Members retain any and all defenses they may have concerning the alleged debts stated herein, except that they may not assert a defense or Counterclaim based upon the Released Claims. The aforesaid alleged debts are not part of this Agreement.

Furthermore, Defendant acknowledges and affirms that any and all debts accrued or incurred by Class Members through November 2018 have been voluntarily waived by Defendant, and Defendant releases Class Members from any obligations related to those debts accrued or incurred through November 2018.

5. Class Counsel's application for attorneys' fees and reimbursement of costs and expenses from the Settlement Fund in the amount of \$1.8 million is approved. The Court finds Class Counsel's application for attorneys' fees and reimbursement of costs to be fair and reasonable in light of the nature of this litigation and the substantiating fee expert affidavit provided to this Court. The claims administrator shall pay Class Counsel's attorneys' fees and costs from the Settlement Fund within 30 days of this Order.

6. The Parties acknowledged, and the Court agrees and finds that the named Plaintiff and Class Counsel are appropriate and adequate class representatives and counsel, pursuant to the Rule 1.220(a) of the Fla.R.Civ.P.

7. The Class, having been previously certified, has been mailed the previously approved Class Settlement Notice Form in accordance with the requirements set forth in this Court's Order Preliminarily Approving Class Settlement entered on October 13, 2020.

8. The Settlement calls for the creation/set aside of a common fund not to exceed \$5,456,000 ("the Settlement Fund"). The categories of payments to be deducted from the Settlement Fund are as follows:

• Payments to the 1,152 class members	Total: \$3,456,000.00
◦ Each class member to receive \$3,000.00	
• Named Plaintiff Award	Total: \$12,000.00
• Each of the 29 Consolidated Plaintiffs will receive	Total: \$58,000.00
\$2,000.00	
• Class Counsel Costs	Total: \$30,000.00
• Class Counsel attorney's fees	Total: \$1,800,000.00
• Administrative costs (estimated)	Total: \$100,000.00

9. As represented by the Parties, and the Third Party Administrator by Declaration, no more than 20% of the eligible class members opted out or requested exclusion from the settlement. Therefore, the Settlement is valid.

10. Funding of the Settlement Fund will be as follows:

Within twenty (20) business days after the Effective Date (i.e. the date of entry of the Final Order Approving Settlement), Defendant shall make a one-time deposit of the Gross Settlement Amount into a Qualified Settlement Fund ("QSF") to be established by the Claims Administrator, RG/2 Claims Administration LLC. The QSF shall be an interest-bearing account at a federally-insured bank that is mutually acceptable to the Parties and the Claims Administrator. The funds in the QSF shall be invested either in short-term U.S. Treasury securities with maturity dates of less than 90 days at the time of deposit, or in an SEC-registered money market fund investing exclusively in U.S. Treasury securities with average maturities of less than 90 days and rated AAA by Standard & Poor's. The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code and Treas. Reg. § 1.468B-1, 26 C.F.R. § 1.468B- 1, et seq., and will be administered by the Claims Administrator as such. With respect to the QSF, the Claims Administrator shall: (1) open and administer the Settlement Account in such a manner as to qualify and maintain the qualification of the QSF as a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code and Treas. Reg. § 1.468B-1; (2) satisfy all federal, state and local and income and other tax reporting, return, and filing requirements with respect to the QSF and any interest or other income earned by the QSF, and (3) satisfy out of the QSF all (i) taxes (including any estimated taxes, interest, or penalties) with respect to the interest or other interest earned by the QSF, and (ii) fees, expenses and costs incurred in connection with the opening and administration of the QSF and the performance of its duties and functions as described in this Agreement. The aforementioned taxes, fees, costs and expenses shall be treated as and included in the costs of administering the QSF and as Claims Administration Expenses. The Parties and the Claims Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1(j)(2)(i), and such election statement shall be attached to the appropriate returns as required by 26 C.F.R. § 1.468B-1(j)(e)(ii). The Parties agree to cooperate with the Claims Administrator and one another to the extent reasonably necessary to carry out the provisions of this Section.

11. Following final approval of the Class Action Settlement and compliance with the requirements set forth herein to fund and make settlement payments, but under no circumstances to exceed 60 days from the date of this Order of Final Approval, this action shall be dismissed on the merits and with prejudice pursuant to the terms of the Settlement. Plaintiff shall file a voluntary dismissal of this Class Action on or before said deadline.
12. Settlement Class Members who have not opted out are bound by the release contemplated with the Settlement and set forth in the Court's Order Preliminarily Approving the Settlement- which is also attached hereto.
13. The Court is satisfied that the Parties and the third party administrator have complied with all requirements of law, as well as the requirements set forth in this Court's Order Preliminarily Approving the Class Settlement.
14. No objections to the Class Settlement were made by any Class Member at the Final Fairness Hearing.
15. That Plaintiff's application for Cy Pres award is approved pursuant to the requirements and limitations set forth in the Amended Notice of Proposed Class Action Settlement approved by this Court on December 17, 2020 and shall be paid, if at all, to "Legal Aid Service of Broward County".
16. The Court further orders as follows:
 - a. The Motion shall not be construed or used as an admission, concession, declaration or finding by or against the Parties that their claims or defenses lack merit or that the relief requested in their pleadings is inappropriate, improper or unavailable, or as a waiver by any party of any defenses or claims he, she or it may have and, as

such, other than for purposes to enforce the Settlement, if finally approved, by the Court. Neither this Motion nor the settlement (or any communications or proceedings in connection there with) shall be offered or received in evidence in this action or any other action or proceeding, or be used or asserted in any way as an admission, concession or evidence of any matter whatsoever.

17. The Plaintiff's Motion for Final Approval of Class Action Settlement, including for Approval of Attorneys' Fees, Costs, and Incentive Award is hereby GRANTED. The Class Action Settlement is hereby Approved, and the parties shall proceed as stated herein and in the Motion.

DONE and ORDERED in Chambers, at Broward County, Florida on 03-01-2021.

~~CACE18028483 03-01-2021 8:15 AM~~

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Hon. Nicholas Lopane

CIRCUIT JUDGE

Electronically Signed by Nicholas Lopane

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