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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

GEOFFREY MOYLE, an individual,  
PAULINE ARWOOD, an individual,  
THOMAS ROLLASON, an individual,  
and, JEANNIE SANDERS, an individual,  
on behalf of themselves and all others  
similarly situated, and ROES 1 through  
500, inclusive,

Plaintiffs,

v.

LIBERTY MUTUAL RETIREMENT  
BENEFIT PLAN; LIBERTY MUTUAL  
RETIREMENT PLAN RETIREMENT  
BOARD; LIBERTY MUTUAL GROUP  
INC., a Massachusetts company;  
LIBERTY MUTUAL INSURANCE  
COMPANY, a Massachusetts company;  
and, DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 10-cv-02179-GPC-MDD

**ORDER GRANTING  
UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT;  
DIRECTING ISSUANCE OF  
NOTICE; AND SETTING FINAL  
APPROVAL HEARING**

**[Dkt. No. 332.]**

1 Plaintiffs Geoffrey Moyle, Pauline Arwood, Thomas Rollason, and Jeannie  
2 Sanders (“Plaintiffs”) filed an unopposed Motion for Preliminary Approval of Class  
3 Action Settlement. Based on the findings and reasoning below, the Court GRANTS  
4 Plaintiffs’ Motion for Preliminary Approval.

## 5 Discussion

### 6 I. Preliminary Approval

7 Rule 23(e) requires the Court to determine whether a proposed settlement is  
8 “fundamentally fair, adequate, and reasonable.” *Staton v. Boeing Co.*, 327 F.3d  
9 938, 959 (9th Cir. 2003) (internal quotations omitted). In making this  
10 determination, a court may consider: (1) the strength of the plaintiff’s case; (2) “the  
11 risk, expense, complexity, and likely duration of further litigation;” (3) “the risk of  
12 maintaining class action status throughout the trial;” (4) “the amount offered in  
13 settlement;” (5) “the extent of discovery completed and the stage of the  
14 proceedings;” (6) “the experience and views of counsel;” (7) “the presence of a  
15 governmental participant;” and (8) “the reaction of the class members to the  
16 proposed settlement.” *Id.* (internal quotations omitted). Moreover, the settlement  
17 may not be the product of collusion among the negotiating parties. *In re Mego Fin.*  
18 *Corp. Sec. Litig.*, 213 F.3d 454, 458 (9th Cir. 2000); *see also Barani v. Wells*  
19 *Fargo Bank, N.A.*, 2014 WL 1389329, at \*4 (S.D. Cal. Apr. 9, 2014).

20 In considering whether to preliminarily approve a class settlement, the Court  
21 should consider whether the deal is both procedurally and substantively fair. *In re*  
22 *Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1080 (N.D. Cal. 2007)  
23 (“preliminary approval of a settlement has both a procedural and a substantive  
24 component”). Specifically, the Court should confirm that “(1) the proposed  
25 settlement appears to be the product of serious, informed, non-collusive  
26 negotiations, (2) has no obvious deficiencies, (3) does not improperly grant  
27 preferential treatment to class representatives or segments of the class, and (4) falls  
28 with[in] the range of possible approval.” *Dilts v. Penske Logistics, LLC*, No.

1 08cv318-CAB(BLM), 2014 WL 12515159, \*2 (S.D. Cal. July 11, 2014) (citations  
2 omitted).

3 **A. The Settlement Is the Product of Serious, Informed, Non-**  
4 **Collusive Negotiations**

5 A settlement agreement is presumed to be fair if it is reached in arm's length  
6 negotiations after relevant discovery has taken place. *Cohorst v. BRE Prop., Inc.*,  
7 No. 3:10cv2666-JM(BGS), 2011 WL 7061923, \*12 (S.D. Cal. Nov. 14, 2011)  
8 (stating that voluntary mediation before a retired judge in which the parties reached  
9 an agreement-in-principle are factors "highly indicative of fairness") (citations  
10 omitted).

11 In this case, the proposed Settlement is the product of over seven years of  
12 litigation. The Parties reached a settlement after completion of fact and expert  
13 discovery, an order certifying a class, a ruling in favor of Defendants on their  
14 motion for summary judgment, a cross-appeal to the Ninth Circuit, supplemental  
15 briefing and argument on Defendants' supplemental motion for summary judgment  
16 and a pending motion for reconsideration.

17 The parties engaged an experienced class action and ERISA mediator and  
18 attended two separate full-day mediations, which was followed by several weeks of  
19 follow up over the telephone when the parties finally accepted the mediator's  
20 proposal on August 8, 2017.

21 Thus, the posture of the litigation and the process of negotiating the  
22 Settlement indicate that the deal is informed and non-collusive. Further, the  
23 Settlement's terms demonstrate procedural fairness and lack of collusion.

24 **B. The Settlement Treats All Class Members Fairly**

25 Next, the Court should consider whether the proposed Settlement improperly  
26 grants preferential treatment to the Class Representatives or any segment of the  
27 Class. *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d at 1079. Here, the proposed  
28 Settlement affords all Class members relief based on the accrual of past service  
credit at a rate of 50% of their time at GEIC. The class members will receive

1 different amounts under the Settlement but that is based on the differences in the  
2 past service credit earned while at GEIC. The Settlement compensates each Class  
3 member in proportion to the harm he or she suffered.

4 **C. The Settlement Has No Obvious Deficiencies and Falls Well**  
5 **Within the Range of Possible Approval**

6 In determining whether a proposed settlement is “fair, adequate, and  
7 reasonable,” a court may consider the following factors: (a) the strength of the  
8 plaintiff’s case; (b) the risk, expense, complexity, and likely duration of further  
9 litigation; (c) the risk of maintaining class action status throughout the trial; (d) the  
10 amount offered in settlement; (e) the extent of discovery completed and the stage of  
11 the proceedings; (f) the experience and views of counsel; (g) the presence of a  
12 governmental participant; and (h) the reaction of the class members to the proposed  
13 settlement. *See Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 576 (9th Cir.  
14 2004); *see also Barani*, 2014 WL 1389329 at \*4-8.

15 Since some of these factors cannot be fully evaluated until notice has been  
16 disseminated, “a full fairness analysis is unnecessary at this stage.” *Barani*, 2014  
17 WL 1389329 at \*4 (citation omitted). Even so, the other factors establish that the  
18 proposed Settlement is an excellent result for the Class and worthy of this Court’s  
19 approval.

20 **a. The Strength of Plaintiffs’ Case and the Risk, Expense,**  
21 **Complexity, and Likely Duration of Further Litigation**

22 Given that almost all class actions involve risk, expense, and complexity, the  
23 Ninth Circuit has a particularly strong judicial policy in favor of settlements in class  
24 action litigation. *Johnson v. General Mills, Inc.*, No. SACV 10-61-CJC(ANx),  
25 2013 WL 3213832, at \*2 (C.D. Cal. June 17, 2013) (citing *Linney v. Cellular*  
*Alaska P’ship*, 151 F.3d 1234, 1238 (9th Cir. 1998)).

26 Without settlement, the Parties would be forced to spend considerable time  
27 and resources on a trial. Moreover, trial and any post-trial motions and appeals  
28 would also further delay the resolution of this case.

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**b. The Amount Offered in Settlement**

The proposed Settlement provides a New Benefit in addition to the existing retirement benefits provided by the Plan. The New Benefit will grant “50% past service credit for years of employment by Golden Eagle Insurance Company for purposes of benefits accrual, and subject to all the other terms and conditions of the Plan.” (Dkt. No. 332-4, Nicholas Decl., Ex. B, Settlement at ¶ 13.1.)

**c. The Extent of Discovery Completed and the State of Proceedings**

Where a case is near trial, the Parties have conducted extensive discovery, and the issues have been thoroughly litigated, the stage of the proceedings weigh in favor of the proposed settlement. *Low v. Trump University, LLC*, Case Nos. 10cv940-GPC-WVG, 13cv2519-GPC(WVG), 2016 WL 7387292, at \*3 (S.D. Cal. Dec. 20, 2016). Here, the Parties have completed fact and expert discovery, legal issues have been litigated and setting a trial date was the next step after a ruling on Defendants’ motion for reconsideration. This factor weighs heavily in favor of the proposed Settlement.

**d. The Experience and Views of Class Counsel**

Plaintiffs’ counsel are well-versed in class action litigation, particularly employee class actions, and believe the proposed Settlement is fair, just and in the best interests of the Class.

**e. The Reaction of Class Members**

The Class has yet to be notified of the Settlement and given an opportunity to object; thus, it is premature to assess this factors.

After considering the papers and supporting documents, including the Class Action Settlement Agreement and Release (“Settlement Agreement”), and good cause appearing, **IT IS HEREBY ORDERED** as follows:

- 1. For purposes of this Order, the Court adopts and incorporates all definitions set forth in the Settlement Agreement unless a different definition is set

1 forth in this Order.

2           2. The Court finds that the requirements of Rule 23(b)(1) of the Federal  
3 Rules of Civil Procedure and other laws and rules applicable to preliminary  
4 settlement approval of class actions have been satisfied, and the Court preliminarily  
5 approves the settlement of this Action as memorialized in the Settlement Agreement,  
6 which is incorporated herein by this reference, as being fair, reasonable, and adequate  
7 to the Class and its members, subject to further consideration at the Final Fairness  
8 and Approval Hearing described below. The Court approves the Notice of Class  
9 Action Settlement (“Class Notice”) attached as Exhibit A to the Settlement  
10 Agreement, which is attached as Exhibit B to the moving papers. The Court finds that  
11 the notice and objection process set out in the Settlement Agreement is the best notice  
12 practicable under the circumstances and suffices to meet the due process  
13 requirements imposed by the Constitution of the United States and Federal Rule of  
14 Civil Procedure 23. The completion of the notice process described in the moving  
15 papers shall constitute sufficient notice to all Class Members.

16           3. Defendants shall cause the Notice of Class Action Settlement (“Class  
17 Notice”) to be provided to each Class Member, or in the case of any deceased Class  
18 Member, such Class Member’s beneficiary as determined under the Plan, by  
19 **November 27, 2017**, according to the procedures described in the Settlement  
20 Agreement.

21           4. Plaintiffs shall file their motion for attorneys’ fees and costs by  
22 **December 15, 2017**.

23           5. The deadline for objections by Class Members to the settlement is  
24 **January 16, 2018**, in the form and manner described in the Class Notice.

25           6. The deadline for a response to any objections by Class Members to the  
26 settlement is **January 30, 2018**.

27           7. The motion for Final Approval and Dismissal of the Action shall be filed  
28

1 by **February 6, 2018.**

2 8. A hearing on the Final Approval and Dismissal of the Action shall be  
3 held on **March 2, 2018, at 1:30 p.m.** before the undersigned Judge in Courtroom 2D  
4 of the United States District Court for the Southern District of California, located at  
5 221 West Broadway, San Diego, CA 92101.

6 9. At the above-mentioned hearing, the Court will determine:

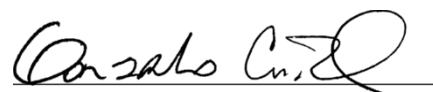
- 7 a. Whether the proposed Settlement is fair, reasonable, and adequate  
8 and whether it should be finally approved;  
9 b. Whether judgment as provided in the Settlement should be  
10 entered herein; and  
11 c. Whether to approve Class Counsel's application for an award of  
12 attorneys' fees and costs, and named Plaintiffs' application for an  
13 incentive award.

14 **10.** Defendants shall cause pension election kits to be sent to the Members  
15 of the Settlement Class by **March 9, 2018.** The deadline for Defendants to receive  
16 election forms from Class Members is **May 11, 2018.**

17 11. The Court reserves the right to adjourn the date of the Final Fairness and  
18 Approval Hearing and any adjournment thereof without further notice to the members  
19 of the Class, and retains jurisdiction to consider all further applications arising out of  
20 or connected with the settlement. The Court may approve the settlement, with such  
21 modifications as may be agreed to by the parties to the settlement, if appropriate,  
22 without further notice to the Class.

23 **IT IS SO ORDERED.**

24 Dated: November 15, 2017

25   
26 Hon. Gonzalo P. Curiel  
27 United States District Judge  
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