

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In re BLACK FARMERS DISCRIMINATION)
LITIGATION)

Misc. No. 08-0511 (PLF)

MEMORANDUM OPINION AND ORDER

On September 3, 2015, the Court issued a Memorandum Opinion and Order, see Dkt. No. 430, directing the parties to file memoranda of law addressing certain issues on or before October 9, 2015. By an Order of October 1, 2015, see Dkt. No. 433, and a Minute Order of October 7, 2015, the Court extended the time for both parties to file their memoranda of law up to and including October 30, 2015. The Court then vacated that filing date by a Minute Order on October 21, 2015.

The parties, the Court, the Ombudsman, and the Deputy Ombudsman participated in a conference call on October 29, 2015 to discuss adding additional questions to those that the Court already had directed the parties to brief in its September 3, 2015 Memorandum Opinion and Order, see Dkt. No. 430, concerning the *cy pres* provision of the Settlement Agreement in this case.

To assist the Court in its consideration of *cy pres* issues, it is hereby

ORDERED that the government file a memorandum of law not to exceed 30 pages in length, addressing only the questions presented in the September 3rd Memorandum Opinion and Order not later than December 4, 2015; it is

FURTHER ORDERED that class counsel file a memorandum of law not to exceed 30 pages in length addressing the following two questions, in addition to the questions

presented in the September 3rd Memorandum Opinion and Order, not later than December 18, 2015:

1. Does class counsel's ethical obligation to its clients require that they make the best possible case that identifiable class members are entitled to the distribution of any excess funds?

2. Do (a) Rule 23(g)(4) of the Federal Rules of Civil Procedure, which places a "[d]uty" upon "[c]lass counsel [to] fairly and adequately represent the interests of the class," or (b) Section I.M of the Settlement Agreement, which states that the plaintiffs "believe that the terms of this Agreement are . . . in the best interests of the proposed Class and the Class Members," see Dkt. No. 170-2, require class counsel to make the best possible case that identifiable class members are entitled to the distribution of any excess funds?; it is

FURTHER ORDERED that anyone interested in filing an amicus brief, not to exceed 30 pages in length, must do so as soon as possible, but not later than December 31, 2015; it is

FURTHER ORDERED that, if necessary, the government may file a reply not to exceed 15 pages in length in response to the briefs of either class counsel or any amicus brief not later than January 15, 2016; and it is

FURTHER ORDERED that, if necessary, class counsel may file a reply not to exceed 15 pages in length in response to any amicus brief not later than January 15, 2016.

SO ORDERED.

/s/

PAUL L. FRIEDMAN
United States District Judge

DATE: November 19, 2015