

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

IN RE: THE PROGRESSIVE
INSURANCE CORPORATION
UNDERWRITING AND RATING
PRACTICES LITIGATION

CASE NO. 1:03-cv-01519-MP-AK

FINAL JUDGMENT

This matter is before the Court following the issuance of the Eleventh Circuit Court of Appeals' mandate. In its mandate, the Eleventh Circuit dismissed for lack of jurisdiction appeals filed by Angela Fetcher, Julius Dunmore, and GwanJun Kim of this Court's October 1, 2008, order (Doc. 506) denying Dunmore and Fetcher's motion for a second fairness hearing on the issue of attorneys' fees and setting forth findings of fact and conclusions of law in support of the Court's award to Class Counsel of fees and costs in the amount of \$3,000,000.

The Eleventh Circuit stated in its mandate that this Court anticipated further proceedings when issuing its October 1, 2008, order. In that order, the Court directed the parties to submit to Class Counsel any request for a portion of the fee award and to make a good faith effort to resolve any disputes concerning the apportionment of the award. Doc. 506 at 19. In accordance with the Court's order, Class Counsel then submitted a report (Docs. 513 and 514) representing that all issues related to the distribution of the fee award had been resolved, save for (1) a request by Dunmore and Fetcher for \$500,000 in attorneys' fees and costs and (2) a request by Kim for

\$204,455.00 in attorneys' fees and costs. Before the Court could resolve those disputes and finalize the distribution of the fee award among the various plaintiffs' attorneys, however, Dunmore and Fetcher filed their appeal, followed shortly by Kim.

After the Eleventh Circuit issued its mandate, Dunmore and Fetcher filed an updated response (Doc. 542) to the Court's October 1, 2008, order instructing the parties to negotiate on the issue of attorneys' fees and report any outstanding disputes. In their response, Dunmore and Fetcher indicated that they have resolved their dispute with Class Counsel on the issue of attorneys' fees. On March 24, 2009, the Court ordered the parties to submit by April 2, 2009, a report to the Court detailing the nature and status of all outstanding issues in this case and proposing a method for resolving those issues. The time for filing reports has now passed, and the Court has received reports from Mr. Kim (Doc. 544) and Class Counsel (Docs. 545 and 546). According to lead class counsel Terry A. Smiljanich, comprehensive agreement with all counsel herein has been reached concerning the distribution of attorneys' fees.

The sole pending issue is Mr. Kim's request for attorneys' fees. Mr. Kim, a class member bound by the Judgment in this case, is not awarded any fee in this matter because a *pro se* litigant, such as Mr. Kim, who is not a lawyer, is not entitled to attorneys' fees. See Kay v. Ehrler, 499 U.S. 432, 435 (1991). Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. Mr. Kim's request for an award of attorneys' fees and costs, contained in his response at Doc. 544, is DENIED.
2. The Court notes that, on September 5, 2008, Mr. Smiljanich gave notice that the motions at Docs. 470, 472, and 479, filed by Ruby Johnson, concerning her request for attorneys' fees, were withdrawn. Doc. 493. Ms. Johnson also filed a notice of settlement on that issue (Doc. 497), prior to the Court's October 1, 2008, order granting fees and costs. The Clerk is directed to terminate those motions.

3. Pursuant to Consolidated Plaintiffs' notice at Doc. 547, the Motion for Rule 11 Sanctions Against GwanJun Kim (Doc. 511) is withdrawn.
4. There being no outstanding disputes concerning the distribution of the Court's award of attorneys' fees and costs, the Clerk is directed to enter Final Judgment pursuant to Rule 58 as to all matters.

DONE AND ORDERED this 7th day of April, 2009

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge