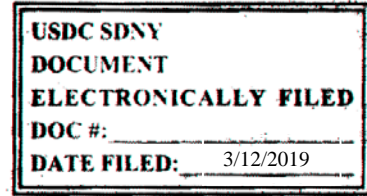


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X



TERESA GARCIA,

Plaintiff,

16-CV-08370 (SN)

-against-

**FINAL ORDER OF CLASS
SETTLEMENT APPROVAL**

STEVEN BANKS,

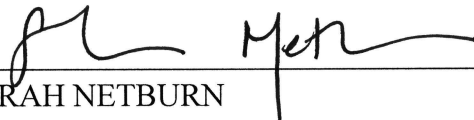
Defendant.

-----X

SARAH NETBURN, United States Magistrate Judge:

The Court held a fairness hearing today on Plaintiff's motion for final approval of the class settlement. For the reasons stated on the record, the Court finds that the Settlement Agreement is fair, reasonable and adequate pursuant to Rule 23 of the Federal Rules of Civil Procedure. Plaintiff is directed to file either a motion for attorneys' fees or a status letter on April 15, 2019. The Clerk of Court is directed to terminate the motion at ECF No. 81.

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

DATED: March 12, 2019
New York, New York

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TERESA GARCIA, by her guardian Robert Kruger, on
behalf of herself and all others similarly situated,

16-CV-8370 (SN)

Plaintiff,

-against-

STEVEN BANKS, in his official capacity as Commissioner,
New York City Human Resources Administration,

**(PROPOSED)
STIPULATION AND
ORDER OF
SETTLEMENT**

Defendant.

-----X
WHEREAS, Plaintiff filed a Complaint on October 27, 2016 against Defendant Commissioner Steven Banks of the New York City Department of Social Services (“DSS”) (the “Complaint”), alleging that the New York City Human Resources Administration (“HRA”), which is a part of DSS, did not timely determine Plaintiff’s eligibility for Medicaid benefits within 90 days of HRA’s receipt of Plaintiff’s application, as required by 42 U.S.C. § 1396a(a)(8) and its implementing regulation, 42 C.F.R. § 435.912(c)(3), and that HRA has a policy and/or practice of not rendering eligibility determinations within 90 days of receipt of Medicaid Applications that are based on disability;

WHEREAS, Defendant denies all wrongdoing alleged in this action and denies any liability whatsoever, and asserts that Defendant has meritorious defenses;

WHEREAS, Plaintiff and Defendant (collectively, the “Parties”) wish to voluntarily resolve the claims raised in the Complaint, according to the terms set forth in this Proposed Stipulation and Order of Settlement (“Stipulation and Order”);

WHEREAS, in furtherance of this proposed settlement, HRA has added a days-tracking feature to multiple screens in its existing electronic database, the Eligibility Data &

Image Transfer System (“EDITS”), which will apprise workers of pending deadlines for Medicaid Applications in their work queue and enable workers to prioritize Medicaid Applications in their work queue based on the application deadlines, and has agreed to make additional electronic system reforms prior to the contemplated Effective Date of this Stipulation and Order as detailed in Section II.B, *infra*;

WHEREAS, in furtherance of this proposed settlement, HRA has agreed to eliminate its Backlogged Medicaid Applications prior to the contemplated Effective Date of this Stipulation and Order—the details of which are set forth in Section II.D, *infra*.

WHEREAS, in furtherance of this proposed settlement, HRA has further agreed to issue three monitoring reports in 2018 prior to the contemplated Effective Date of this Stipulation and Order—the details of which are set forth in Section II.E, *infra*.

WHEREAS, the Parties agree that the Stipulation and Order shall apply to all Class Medicaid Applications, as that term is defined in Section I.C. *infra*.

WHEREAS, nothing in this Stipulation and Order shall be deemed to be a finding or an admission that Defendant has in any manner violated Plaintiff’s or any Class Member’s rights as contained in the constitutions, statutes, ordinances, rules and regulations of the United States, the State of New York, or the City of New York;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, through their respective attorneys, subject to approval of the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure (“FRCP”), that all claims in the Complaint and in this action shall be compromised, settled, released, and dismissed with prejudice, subject to the following terms and conditions:

I. DEFINITIONS

For purposes of this Stipulation and Order, the following terms shall have the following meanings:

- A. A “**Backlogged Application**” is a Medicaid Application filed prior to June 1, 2018 that was not processed within the required regulatory time frame.
- B. “**Class Counsel**” refers to Plaintiff’s counsel in this action.
- C. A “**Class Medicaid Application**” refers to an application submitted by any individual (i) who newly applied or will newly apply for Medicaid on the basis of disability, and (ii) for whom HRA must make a Medicaid eligibility determination within 90 days of receipt of the application.
- D. A “**Decision**” means HRA’s determination granting or denying Medicaid eligibility for an individual’s Class Medicaid Application.
 - 1. A Decision includes, but is not limited to, a determination as to whether or not an applicant is disabled. With respect to applications that require a disability determination from the New York State Disability Review Team, HRA will refer the application to the New York State Disability Review Team in a timely manner— that is, within a time frame calculated to allow sufficient time for the State to process the determination after receipt of the application, provided all documentation necessary for the referral is provided by the applicant in a timely manner. To the extent a failure to obtain a timely disability determination is identified as an alleged cause of delay in any monitoring report described in Sections II.E-F *infra*, HRA will provide Class Counsel with information regarding (i)

the date HRA referred the application to the New York State Disability Review Team and (ii) the date the New York State Disability Review Team provided a disability determination. It shall be HRA's burden to prove that any alleged delay was caused by the New York State Disability Review Team.

2. If a Class Member is deemed eligible for Medicaid, the Decision will contain (i) the effective date of Medicaid coverage and (ii) the level of coverage.
3. If the Class Member is deemed eligible for the Medicaid Excess Income program, the Decision will further contain the monthly excess income amount (also known as the "surplus amount").
4. If the Class Member requests that HRA disregard income and/or resources in a trust when determining his or her financial eligibility for Medicaid, a determination regarding the impact of the trust on the eligibility and/or budget for the Class Member's Medicaid coverage will be made within 90 days of Receipt of the Class Medicaid Application.

E. The "**Effective Date**" means the earliest date after which all of the following events have occurred: (i) notice to the Settlement Class has been issued, (ii) the Fairness Hearing has been held, (iii) the Court has granted approval of this Stipulation and Order, (iv) the Court has entered an order and judgment, and (v) the time to appeal such order and judgment has expired in the absence of any appeal filed, or if an appeal of the order and judgment is filed, then when all appeals are fully resolved in favor of final approval of the order and judgment.

- F. A “**Medicaid Application**” refers to any application submitted directly to HRA by any individual not currently in receipt of Medicaid, or by his or her agent, (i) who newly applies for Medicaid, and (ii) for whom—pursuant to 42 C.F.R. § 435.912(c)(3)—HRA must make a Medicaid eligibility determination within 90 days of Receipt (if the application is made on the basis of disability) and within 45 days of Receipt (for other applicants).
- G. “**Receipt**” means the date on which HRA receives a Medicaid Application, in-person, by postal service or other delivery services (e.g., Federal Express), or electronically.
- H. The “**Settlement Class**” or “**Class Members**” refers to individuals who have submitted or will submit a “Class Medicaid Application,” as that term is defined in Section I.C *supra*, to HRA.

II. TERMS AND CONDITIONS

A. **Decisions within 90 Days of Application Date**

- 1. HRA must make a Decision on all Class Medicaid Applications within 90 days of Receipt of the Class Medicaid Application, as required by 42 C.F.R. § 435.912(c)(3), except in unusual circumstances such as (a) when HRA cannot reach a decision because the applicant or an examining physician delays or fails to take a required action, or (b) when there is an administrative or other emergency beyond HRA’s control, as provided in 42 C.F.R. § 435.912(e).

B. **Electronic System Reforms**

- 1. In addition to the days-tracking feature that HRA has already implemented in EDITS, HRA agrees to update EDITS to (i) automatically refer Class

Medicaid Applications that require a disability determination from HRA to the unit responsible for making disability determinations (i.e., HRA's Disability Services Program); and (ii) enable workers to electronically transmit disability review documents to the New York State Disability Review Team for Class Medicaid Applications that require a disability determination from the State. This system-wide update is expected to be completed by December 16, 2018.

C. Appointment of Dedicated Troubleshooter

1. Class Members may call HRA's Medicaid Helpline at (888) 692-6116 to obtain information about the status of their Class Medicaid Applications.
2. If a Class Member is unable to obtain sufficient assistance through the Helpline, the Class Member may then contact Class Counsel, who in turn can contact HRA's troubleshooter for Class Medicaid Applications (the "Dedicated Troubleshooter").
3. The Dedicated Troubleshooter will be an attorney in the Office of Legal Affairs, who will regularly monitor a dedicated email inbox for queries from Class Counsel regarding Class Medicaid Applications, will respond to each such query within 5 business days, and contact the appropriate staff at HRA to resolve any issues raised in the queries.
4. The troubleshooter shall be appointed, and the dedicated e-mail inbox shall be activated, within 30 days of the Effective Date.
5. Pursuant to 45 C.F.R. 164.512(e)(1)(i) and the Order annexed hereto as Exhibit A, the Dedicated Troubleshooter shall not be required to obtain a HIPAA authorization before responding to Class Counsel's inquiries

regarding specific Class Medicaid Applications. Pursuant to 45 C.F.R. 164.512(e)(1)(i) and the Order annexed hereto as Exhibit A, HRA shall, upon request, disclose to Class Counsel only such information as is necessary to resolve a Class Member's issue and Class Counsel shall maintain strict confidentiality of any information disclosed in this manner and may not use such information for any purpose other than assisting the Class Member in resolving his/her/their issue.

6. Information and procedures about contacting HRA's Medicaid Helpline and Class Counsel will be published on HRA's Health Assistance webpage (<https://www1.nyc.gov/site/hra/help/health-assistance.page>) and on signs at all New York City Medicaid offices, a list of which is annexed hereto as Exhibit B, within 30 days of the Effective Date with the following text:

“If your Medicaid application, based on disability is delayed, you, or your authorized representative should contact HRA's Medicaid Helpline at (888) 692-6116. If you already contacted the Medicaid Helpline and your issue is not resolved, you or your authorized representative may contact the Garcia Class Counsel: Nina Keilin at 225 Broadway, #2008, New York NY 10007, (212) 302-7760, nina@ninakeilinlaw.com or Aytan Y. Bellin, Esq., 50 Main Street, Suite 1000, White Plains, NY 10606, (914) 358-5345, aytan.bellin@bellinlaw.com. If you are the applicant, please provide your name and birth date. If you are an authorized representative, please include the name and birthdate of the applicant and documentation establishing your authority to represent the applicant and receive Medicaid information.

7. Class Counsel is entitled to seek attorneys' fees and costs incurred in connection with communicating with Class Members and the Dedicated Troubleshooter pursuant to this subsection.

D. Plan for Eliminating Backlogged Medicaid Applications by End of Year 2018

1. HRA agrees to render a Decision regarding all Backlogged Medicaid Applications as that term is defined in Section I.A *supra*, by December 31, 2018, and to mail out a notice regarding the Decision to each Medicaid applicant by that date. HRA will also mail an additional notice regarding the Decision to an optional other party identified by the applicant on his/her/their application.
2. HRA agrees to provide Plaintiff’s counsel a letter update regarding the status of Backlogged Medicaid Applications by January 4, 2019, which will state whether or not the backlog has been eliminated, and if not, how many backlogged applications remain. HRA’s January 15, 2019 report will provide additional details regarding the backlogged Class Medicaid Applications, as set forth in Section II.F. *infra*.
3. Class Counsel may seek attorneys’ fees and costs incurred in connection with a motion to compel compliance with this section using the same procedure set forth in Section II.F *infra*. Any such motion, however, may only be made after the Effective Date.

E. Plan for Monitoring Timeliness of Decisions Issued Regarding Class Medicaid Applications in 2018

1. HRA agrees to issue three reports in 2018 (“Monthly Reports”) as follows:

Date of Report	Relevant Application Period
October 15, 2018	June 1-30, 2018
November 22, 2018	July 1 – 31, 2018
December 14, 2018	August 1 – 31, 2018

2. HRA shall include the following information in each report:
 - a. The number of Class Medicaid Applications received during the relevant application period (e.g. the October 15, 2018 report will quantify the number of Class Medicaid Applications received between June 1 - 30, 2018);
 - b. The number of Class Medicaid Applications received within the relevant application period for which HRA did not issue a Decision within 90 days of Receipt (the “**90-day Deadline**”). If the deadline falls on a Saturday, Sunday, or legal holiday, the deadline shall be extended to the succeeding business day.
 - c. For each Class Medicaid Application for which HRA did not issue a Decision within the 90-day Deadline (hereinafter a “**Flagged Application**”), (a) the date the application was received, and (b) the cause of the delay (if the cause is identifiable by the date the report is issued).
 - i. If the delay was caused by actions or omissions that HRA believes are outside of HRA’s control, HRA shall provide documentation of such cause. For example, if the delay was allegedly caused by an applicant’s request for additional time to submit necessary documentation to HRA, HRA shall furnish with its report a copy of the applicant’s Request for a Time Extension (Form MAP-3062a or other client request form) and HRA’s response to the request (Form MAP-3062b or other client request form). It shall be

HRA's burden to prove that any alleged delay was caused by actions or omissions outside of its control.

- d. HRA will redact all client-identifying information from the reports, client request forms, and responses to client request forms.
 - e. Each report will be encrypted and transmitted to Plaintiff's counsel by e-mail.
3. Within 5 days of HRA's issuance of the Monthly Report, Plaintiff will initiate a telephonic meet-and-confer to discuss any Flagged Applications listed in the Monthly Report.
 4. If the Parties cannot reach a resolution regarding any Flagged Application, Plaintiff's counsel may, within 10 days of the telephonic meet-and-confer, demand that HRA issue a Decision on any of the Flagged Applications. The demand (hereinafter "**Demand Notice**") must be made, by e-mail, to HRA's counsel.
 5. Within 10 days of receipt of a Demand Notice, HRA must explain the status of each application for which Plaintiff's counsel has demanded a Decision. If a Decision was issued, HRA must state the date on which the Decision was issued. If a Decision was not issued for any application (an "**Outstanding Application**"), HRA must identify the cause of the delay (if the cause is identifiable by the date the explanation must be provided). The explanatory report (hereinafter "**Status Report**") must be encrypted and transmitted to Plaintiff's counsel by e-mail.

6. If the Parties cannot agree on a resolution regarding the Outstanding Applications, Plaintiff's counsel may commence a motion against Defendant to compel HRA to comply with the terms of this Stipulation and Order with respect to any Outstanding Applications. Any such motion, however, may only be made after the Effective Date. Additionally, Plaintiff's counsel agrees to initiate motions only in good faith and under reasonable circumstances.

a. Regardless of the outcome of the motion, Plaintiff's reasonable attorneys' fees and costs for bringing and prosecuting any non-frivolous motion to compel will be paid by HRA. In order to receive payment, Plaintiff's counsel must provide HRA's counsel with its time sheets, and other required documentation (e.g. substitute W-9 forms). If the Parties cannot reach agreement on the amount of fees and costs within 60 days of a request by Plaintiff to HRA, then Plaintiff may apply to the Court for an award of attorneys' fees and costs for any motion to compel, and Plaintiff's counsel shall be awarded additional attorneys' fees and costs for the application for fees and costs, if the amount awarded is greater than the amount HRA offered to Plaintiff.

F. Plan for Monitoring Class Medicaid Applications in 2019 and 2020

1. HRA shall issue reports, on a monthly basis, for two years after the Effective Date. Each report shall be issued on the 15th of the month, unless the 15th falls on a Saturday, Sunday, or legal holiday, in which case the report shall be issued on the succeeding business day.

2. HRA shall include the following information in each monthly report:
 - a. The number of Class Medicaid Applications received during the relevant application period (e.g. the January 15, 2019 report will quantify the number of Class Medicaid Applications received between September 1 - 30, 2018);
 - b. The number of Class Medicaid Applications received within the relevant application period for which HRA did not issue a Decision within the 90-day Deadline. If the deadline falls on a Saturday, Sunday, or legal holiday, the deadline shall be extended to the succeeding business day.
 - c. For each Class Medicaid Application for which HRA did not issue a Decision within the 90-day Deadline, (a) the date the application was received, and (b) the cause of the delay (if identifiable by the date the report is issued). HRA will make best efforts to determine the cause of delay for each Class Medicaid Application for which it did not issue a Decision within the 90-day Deadline.
 - i. If the delay was caused by actions or omissions that HRA believes are outside of HRA's control, HRA shall provide documentation of such cause. For example, if the delay was allegedly caused by an applicant's request for additional time to submit necessary documentation to HRA, HRA shall furnish with its report a copy of the applicant's Request for a Time Extension (Form MAP-3062a or other

client request form) and HRA's response to the request (Form MAP-3062b or other client request form). It shall be HRA's burden to prove that any alleged delay was caused by actions or omissions outside of its control.

- d. HRA will redact all client-identifying information from the reports, client request forms, and responses to client request forms.
 - e. Each report will be encrypted and transmitted to Plaintiff's counsel by e-mail.
3. Within 5 days of the issuance of the report, HRA shall issue a Decision for each Class Medicaid Application listed on the report that was not decided within 90 days ("**Undecided Application**"), unless HRA is awaiting documentation from the client pursuant to the applicant's Request for a Time Extension (Form MAP-3062a or other client request form).
 4. On the sixth day following issuance of the monthly report, HRA shall inform Plaintiff's counsel by e-mail which applications remain undecided, and Plaintiff's counsel may commence a motion against HRA to compel HRA to comply with the terms of this Stipulation and Order with respect to any Undecided Application. Any such motion, however, may only be made after the Effective Date. Additionally, Plaintiff's counsel agrees to initiate motions only in good faith and under reasonable circumstances.
 5. Regardless of the outcome of the motion, HRA will pay Plaintiff's reasonable attorneys' fees and costs for bringing and prosecuting any non-frivolous motion to compel. In order to receive payment, Plaintiff's

counsel must provide HRA's counsel with its time sheets, and other required documentation (e.g. substitute W-9 forms). If the Parties cannot reach agreement on the amount of fees and costs within 60 days of a request by Plaintiff to HRA, then the Plaintiff may apply to the Court for an award of attorneys' fees and costs for any motion to compel, and Plaintiff's counsel shall be awarded such additional attorneys' fees and costs for the application for fees and costs, if the amount awarded is greater than the amount HRA offered to Plaintiff.

III. MOTION FOR CERTIFICATION OF PROPOSED SETTLEMENT CLASS

- A. On the date that this Stipulation and Order is executed, Plaintiff will move for certification of a Settlement Class pursuant to FRCP Rule 23.
- B. Consistent with the definitions set forth in Section I *supra*, the **Proposed Settlement Class** shall be defined as "any individual who has newly applied or will newly apply for Medicaid on the basis of disability, and for whom HRA must make a Medicaid eligibility determination within 90 days of receipt of the application" (hereinafter also referred to as "**Proposed Class Member**").
- C. HRA agrees not to oppose the motion for certification of the proposed Settlement Class.
- D. If certification of the proposed Settlement Class is denied, the Parties shall work together to remedy the basis or bases for such denial, and Plaintiff shall file a renewed motion for certification of a proposed Settlement Class as soon as practicable.

- E. If the Parties are unable to obtain certification of a proposed Settlement Class notwithstanding their diligent efforts, then this Stipulation and Order shall become null and void in its entirety, and the Parties shall be restored to their positions immediately prior to the execution of this Stipulation and Order.

IV. CLASS NOTICE AND COURT APPROVAL

- A. Concurrently with the filing of this Stipulation and Order, the Parties shall jointly submit a proposed form of notice to the Proposed Settlement Class regarding this Stipulation and Order to the Court for approval. The fact that the Court may require changes in the form of notice does not invalidate this Stipulation and Order if the changes do not affect the substance of this Stipulation and Order. If the Court's changes affect the substance of this Stipulation and Order, the Parties hereby agree to revise the Stipulation and Order and resubmit it for the Court's approval within 5 business days.
- B. HRA shall bear the full expenses and costs of such notice to the Settlement Class as ordered by the Court. Neither the Plaintiff nor the other Class Members shall be responsible for the costs and expenses of such notice.
- C. Within 14 days of filing this Stipulation and Order, the Parties shall jointly move, pursuant to FRCP 23(e), for approval of the terms of this Stipulation and Order.
- D. The final approval hearing will be held on such date as the Court, in its discretion, may order.
- E. Except as otherwise specified, the terms and conditions of this Stipulation and Order shall be deemed effective, and the Parties' obligations, rights and responsibilities hereunder shall commence on the Effective Date as that term is

defined in Section I.E *supra*. As the Parties believe that it is desirable to implement certain specified terms prior to the Effective Date, HRA shall implement such terms prior to the Effective Date.

V. ENFORCEMENT OF STIPULATION AND ORDER

- A. With the exception of motions described in Section II.E and II.F *supra*, if Plaintiff's counsel believes HRA has not complied with the terms of this Stipulation and Order, Plaintiff's counsel shall notify HRA's counsel, in writing, of the nature and specifics of the alleged failure(s) to comply, along with any supporting documents or data, at least 30 days before any motion is made regarding this Stipulation and Order.
- B. Thereafter, the Parties' counsel shall meet within the thirty-day period following notice to HRA's counsel to discuss the claimed violations and possible solutions.
- C. If no resolution is reached within 30 days following written notice of the claimed violation, Plaintiff's counsel may move this Court for an order for all appropriate relief as to the specific provision for which non-compliance is timely alleged by Plaintiff.
- D. In the event of such a motion by Plaintiff for enforcement or contempt based upon Defendant's alleged non-compliance with this Stipulation and Order, Defendant shall be considered to be in compliance unless Plaintiff establishes that Defendant's failures or omissions were systemic, which means that the failures or omissions were sufficiently significant or recurring and not *de minimis* or isolated. "Systemic" failure or omission is not defined by a failure or omission in any

specific percentage of cases or failure or omission in any specific number of cases.

VI. DISMISSAL OF CLAIMS

- A. In consideration of the terms and conditions set forth in Section II *supra*, upon execution of this Stipulation and Order, Plaintiff agrees, on behalf of herself and other members of the Proposed Settlement Class, to dismiss and discontinue, with prejudice, all claims asserted in this action, and to release HRA and the City of New York and all past and present officials, employees, representatives, and agents of HRA and the City of New York from any and all manner of claims, demands, causes of action, obligations, damages, or liabilities whatsoever, of every kind and nature, at law or in equity, known or unknown, and whether or not discoverable, that any Proposed Class Member has, or may have, arising out of or otherwise relating to, any of the events alleged in the Complaint in this action, including claims for costs, expenses and attorneys' fees, except those fees, costs, and expenses discussed in Section VII *infra*.
- B. Notwithstanding the foregoing, no provision of this Stipulation and Order shall be deemed to infringe upon Plaintiff's or other Proposed Class Members' ability to seek individual relief through an administrative hearing or a state court judicial proceeding pertaining to Plaintiff's or other Proposed Class Members' Medicaid benefits, including but not limited to a proceeding brought pursuant to Article 78 of the New York Civil Practice Law and Rules.
- C. Plaintiff further agrees, on behalf of herself and other Proposed Class Members that, for the duration of this Stipulation and Order, she and other Proposed Class

Members shall not impose nor seek to have imposed, in this or in any other litigation, any additional systematic obligations upon HRA or the City of New York with respect to the issues that are subject to enforcement under this Stipulation and Order, except as a remedy should Plaintiff or other Proposed Class Members establish their entitlement to such a remedy in connection with a motion to enforce the terms of this Stipulation and Order.

VII. ATTORNEYS' FEES AND COSTS

- A. HRA agrees that Plaintiff is entitled to reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988.
- B. Within three days of Parties' submission for a motion for final approval, Plaintiff's counsel shall forward their time sheets and statements of costs incurred in this action to HRA's counsel.
- C. The Parties shall negotiate in good faith Plaintiff's entitlement to reasonable attorneys' fees and costs, for all work done through the motion for final approval. Plaintiff's counsel agrees to execute and deliver all necessary documentation requested by HRA's counsel, including releases from Plaintiff and Plaintiff's attorneys and substitute W-9 forms.
- D. If the Parties reach an agreement, they shall inform the Court of such agreement in the motion for final approval. If the Parties cannot reach such an agreement within 14 days before the motion for final approval is due, Plaintiff and the Class shall request attorneys' fees and costs as part of their motion for final approval, and HRA shall be permitted to oppose only the amount of the award of attorneys'

fees and costs and not Plaintiff's and the Class's entitlement to such attorneys' fees and costs under 42 U.S.C. § 1988.

VIII. JURISDICTION OF THE COURT

- A. The Court's jurisdiction shall end two years from the Effective Date of the Stipulation and Order, except that if Plaintiff's counsel moves pursuant to Section II.F.4 *supra* regarding Undecided Applications, jurisdiction shall continue until any such motion is decided and if any such motion is decided favorably for Plaintiff, until such time as directed by the Court.
- B. Following the termination of the Court's jurisdiction as set forth in this section, this Stipulation and Order shall be deemed unenforceable as to the respective Defendant and the Class Members.

IX. GENERAL PROVISIONS

- A. Nothing contained in this Stipulation and Order shall be deemed to have created any rights or entitlements to administrative or judicial proceedings for any individual, which do not otherwise exist pursuant to the relevant statutes or regulations.
- B. In the event of any change in federal statute or regulation, or state or local statute or regulation, that HRA or the Class believes changes their responsibilities pursuant to this Stipulation and Order, the Parties shall notify each other's counsel in writing and the Parties shall attempt to come to an agreement as to any modifications of the Stipulation and Order that are warranted by any such changes in federal, state or local law, which they will present to the Court for its approval. If no resolution is reached within 30 days following the written notice, either of

the Parties may move this Court for an order for all appropriate relief pursuant to FRCP Rule 60(b) or any other applicable rule or procedure.

- C. This Stipulation and Order shall have no precedential value or effect whatsoever and shall not be cited, used or admissible in this or any other action or proceeding as evidence or for any other purpose, except in an action or proceeding to enforce the terms of this Stipulation and Order, or to assert that Class Members and HRA are bound by the terms of this settlement.
- D. This Stipulation and Order embodies the entire agreement of the Parties in this matter and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceedings, shall be deemed to exist, or to bind the Parties hereto, or to vary the terms and conditions contained herein.
- E. All Parties to this Stipulation and Order have participated in its drafting such that any ambiguity contained therein shall not be construed for or against any party.
- F. The Parties warrant and represent that the persons executing this Stipulation and Order are duly authorized to do so.
- G. This Stipulation and Order shall be binding upon and inure to the benefit of the Parties and each of their heirs, successors, assigns, executors and legal representatives.
- H. Unless otherwise specified, FRCP Rule 6 shall govern the computation of any time period specified by this Stipulation and Order.
- I. This Stipulation and Order may be executed by facsimile or email signatures in multiple counterparts, each of which shall be deemed an original and all of which,

when taken together, shall constitute one and the same valid and binding agreement of the Parties.

- J. Any communication required by or made pursuant to this Stipulation and Order, other than notices sent to Class Members, shall be sent by electronic mail, or by first class mail upon request, to counsel at the addresses specified below.

Dated: New York, NY
October 31, 2018

NINA KEILIN, ESQ.
Attorney for Plaintiff
225 Broadway, #2008
New York NY 10007
(212) 302-7760

By: _____

Nina Keilin, Esq.

ZACHARY W. CARTER
Corporation Counsel of the
City of New York
Attorney for Defendant
100 Church Street
New York, NY 10007
(212) 356-0881

By: _____

Agnelha E. Jacob
Assistant Corporation Counsel

BELLIN & ASSOCIATES LLC
Attorney for Plaintiff
50 Main Street, Suite 1000
White Plains, NY 10606
(914) 358-5345

By: _____

Aytan Y. Bellin, Esq.

SO ORDERED:

SARAH NETBURN
UNITED STATES MAGISTRATE JUDGE