

Gables, Case No. 13-20731 CA (13), in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. In the Subject Lawsuit, Plaintiffs sought a cost-of-living adjustment to their retirement benefits effective January 1, 2013, and clarification about exactly what conditions must be met to trigger a COLA in subsequent years.

2. The City disputes Plaintiffs' claims in the Subject Lawsuit and has denied, and continues to deny, any liability to Plaintiffs or any Class Member.

3. The Parties desire to settle the Subject Lawsuit to avoid the uncertainties and risks of trial, to avoid further expenses, inconveniences, and the distraction of burdensome and protracted litigation, and to obtain the covenants, releases, orders, and judgments contemplated by the Settlement Agreement; and as to Future COLAs, the Parties wish to establish an Alternative Dispute Resolution Mechanism to avoid future litigation, while the Alternative Dispute Resolution Mechanism remains in effect, and to settle and put to rest totally and finally the matters raised by the Subject Lawsuit.

4. All capitalized terms not defined in this Final Judgment shall have the meanings set forth in ¶ 2 of the Agreement. In the event of a conflict between the Settlement Agreement and the Final Judgment, the Settlement Agreement governs.

CLASS DEFINITION

5. On February 26, 2016, the Court certified a Class in the Subject Lawsuit by agreement of the Parties; appointed Robert Murrhee and Daryl Blakely to serve as Class Representatives; and appointed the law firms of Rice Pugatch Robinson Storfer & Cohen, PLLC and Phillips, Richard & Rind, P.A. to serve as Class Counsel.

6. The Preliminary Approval Order, in accordance with ¶ 3.1 of the Agreement, and pursuant to Florida Rule of Civil Procedure 1.220(d)(1), redefined the Class for purposes of the Settlement as follows:

All persons who have been in receipt of benefits from the Coral Gables Retirement System, pursuant to Chapter 50, Article II, Coral Gables Code, for a full year preceding January 1, 2014, or their Designated Beneficiaries.

Pursuant to ¶ 2.21 of the Agreement, “Designated Beneficiaries” means any individual or estate that will receive benefits from the Coral Gables Retirement System, pursuant to Section 50-235, Coral Gables Code, upon the death of a plan participant that has been in receipt of benefits from the Coral Gables Retirement System, pursuant to Chapter 50, Article II, Coral Gables Code, for a full year preceding January 1, 2014. The Class does not include anyone who opted out of the Settlement, pursuant to the procedures outlined in ¶ 5 of the Agreement, and as identified in the Notice of Class Action Opt-Out filed by Class Counsel or their designee, pursuant to ¶ 5.3 of the Agreement.

7. The Preliminary Approval Order confirmed that Robert Murrhee and Daryl Blakely would continue to serve as Class Representatives, and that the law firms of Rice Pugatch Robinson Storfer & Cohen, PLLC and Phillips, Richard & Rind, P.A. would continue to serve as Class Counsel.

NOTICE OF SETTLEMENT

8. The Preliminary Approval Order approved the form and manner of providing notice. It directed the Settlement Administrator and the Parties to send notices by U.S. First Class Mail to Class Members and to publish the Agreement and other important documents related to the Settlement on a website no later than fifteen (15) days from the date of the

Preliminary Approval Order. The Notice summarized the Settlement's terms and informed Class Members of their right to object to the Settlement and to appear at the Final Approval Hearing.

9. In addition, the Preliminary Approval Order directed the Settlement Administrator and the Parties to send a separate notice to deceased Class Members or the personal representative or executor of the estate of such deceased Class Member, if known. This separate notice explained that any personal representative or executor of a deceased Class Member's estate who believes that the estate is entitled to benefits under the Settlement must provide written notice to Counsel for the City and Counsel for the Plaintiffs identifying the estate and its entitlement to such benefits no later than 90 days from the date provided on the notice sent to the deceased Class Members.

10. An affidavit has been filed with the Court that confirms that the notices were mailed to all Class Members and deceased Class Members and that the important documents related to the Settlement were published on a website pursuant to ¶ 4 of the Agreement. *See* Affidavit of Kimberly V. Groome dated February 15, 2018.

11. The objection/opt-out period ended on January 2, 2018. No Class Members filed objections or comments indicating dissatisfaction with the Settlement. Only four individuals opted out. *See* Notice of Class Action Opt-Outs dated January 12, 2018.

12. The deadline for an estate of a deceased Class Member to claim benefits was January 22, 2018. Approximately 19 letters were received requesting benefits on behalf of deceased Class Members. These deceased Class Members or their estates were added to the Class List.

13. Of the nineteen requests, only four related to Deceased Class Members who had open estates. For the other fifteen Deceased Class Members, an estate either was never opened

or is currently closed. The Parties nonetheless have agreed to include all of the nineteen Deceased Class Members or their estates in the Class. As a result, these Deceased Class Members will receive settlement benefits pursuant to ¶ 8.1 and will be bound by the Settlement Agreement and this Final Judgment. Settlement checks will be made payable to the Deceased Class Members or their estates and will be mailed, along with a cover letter, to the Deceased Class Member's last known address. The cover letter will explain that the checks will expire and the underlying funds will revert to the Trust Fund one hundred and ninety (190) days after such checks are issued. Upon the issuance and mailing of such checks, the City, the Retirement Board, the Class Representatives, and Class Counsel will be relieved of any further responsibility for COLA benefits to which the Deceased Class Member would be entitled under the Settlement Agreement. Furthermore, the City, the Retirement Board, the Class Representatives, and Class Counsel shall be deemed released from liability arising from or relating to the presentation of such checks for payment.

14. Since the Court's entry of the Preliminary Approval Order, nine Class Members have passed away. Other Class Members may pass away before the Lump-Sum Payment Date. The Parties have agreed to permit these Deceased Class Members to remain in the Class. As a result, these Deceased Class Members will receive settlement benefits pursuant to ¶ 8.1 and will be bound by the Settlement Agreement and this Final Judgment. Settlement checks will be made payable to the Deceased Class Members or their estates and will be mailed, along with a cover letter, to the Deceased Class Member's last known address. The cover letter will explain that the checks will expire and the underlying funds will revert to the Trust Fund one hundred and ninety (190) days after such checks are issued. Upon the issuance and mailing of such checks, the City, the Retirement Board, the Class Representatives, and Class Counsel will be relieved of any

further responsibility for COLA benefits to which the Deceased Class Member would be entitled under the Settlement Agreement. Furthermore, the City, the Retirement Board, the Class Representatives, and Class Counsel shall be deemed released from liability arising from or relating to the presentation of such checks for payment.

FINAL APPROVAL OF SETTLEMENT

15. Class Counsel have represented the Class adequately, conducting substantial discovery, investigations, and negotiations. After considering the benefits of the Settlement and the risks of litigation, Class Counsel have concluded, as has this Court, that it is in the best interest of Plaintiffs and the Class Members to enter into the Settlement Agreement. Plaintiffs and Class Counsel agree that the Settlement is fair, reasonable, and adequate with respect to the interests of Plaintiffs and the Class Members, and that it should be approved by the Court pursuant to Florida Rule of Civil Procedure 1.220.

16. The Court has reviewed the terms of the Settlement Agreement and finds that the Settlement is fair, reasonable, and adequate under the circumstances of this case, and that its terms are in the best interests of the Class. Accordingly, the Settlement and Agreement are approved, the Agreement's terms are incorporated in this Final Judgment, and the Parties shall perform pursuant to its terms. In evaluating the proposed Settlement, the Court considered a variety of factors and makes the following findings:

- Robert Murrhee and Daryl Blakely are adequate Class Representatives, and treatment of the Subject Lawsuit as a class action, with the Class defined in the Preliminary Approval Order, is appropriate, proper, and satisfies the criteria set forth in Florida Rule of Civil Procedure 1.220;

- The Notice provided was the best practicable under the circumstances and satisfied Florida Rule of Civil Procedure 1.220(e) and the requirements of due process;
- The Settlement Agreement is the product of informed and extensive arm's-length negotiations by experienced Class Counsel acting for the benefit of the Class, and it falls within the range of possible approval;
- Adequate discovery has been conducted over the past four years of litigation for the purpose of determining the reasonableness of the Settlement and the strengths and weaknesses of the Parties' claims and positions;
- The terms of the Settlement provide substantial and immediate benefits to the Class, particularly when considered against the uncertainty of continued litigation;
- Lead Class Counsel is an experienced trial practitioner with substantial experience in class action litigation and recommended approval of the Settlement Agreement;
- The future expense and likely duration of the litigation, which would likely include appellate proceedings, supports approval of the Settlement;
- There were no objections to the Settlement, which is indicative of its adequacy and supports a determination that it should be approved; and
- Nothing indicates an absence of good faith between Plaintiffs and the Defendant regarding the Settlement Agreement.

CLASS RELIEF

As is more fully set out in ¶ 8 of the Settlement Agreement, the terms and conditions of which are incorporated into this Final Judgment, the Class Members are entitled to the following relief.

17. Class Members will be entitled to receive a permanent COLA of 2.975%, retroactive to January 1, 2013, and/or a permanent COLA of 0.25%, retroactive to January 1, 2014, depending on the date on which the Class Member began receiving retirement benefits. Class Members who began receiving retirement benefits on or before January 1, 2012 will be entitled to both the 2.975% COLA and the 0.25% COLA. Class Members who began receiving retirement benefits after January 1, 2012 but on or before January 1, 2013 will be entitled to only the 0.25% COLA.

18. The Settlement's COLA benefits will be paid thirty days after the Effective Date of the Settlement Agreement. The retroactive part of the COLA benefits will be paid in a lump sum, and the prospective part of the COLA benefits will be paid as a permanent adjustment to Class Members' monthly retirement benefits. COLA benefits paid pursuant to the terms of the Settlement Agreement shall be paid in the manner that a Class Member customarily receives his or her retirement benefits (including by direct deposit). If a Class Member is entitled to both the 2.975% COLA and the 0.25% COLA, the 0.25% COLA will be applied to the Class Member's monthly retirement benefits after application of the 2.975% COLA.

19. Settlement checks issued pursuant to ¶ 8.1.1(1) or ¶ 8.1.2(1) of the Agreement to a Class Member who customarily receives his or her retirement benefits by check, that are not cashed or deposited by a Class Member, will expire and the underlying funds will revert to the Trust Fund one hundred and ninety (190) days after the date on which the checks are issued. The

Settlement Administrator shall send a notice to Class Members notifying them of the expiration and reversion date one hundred and sixty (160) days after the date on which the checks are issued. In the event a settlement check is returned to the Settlement Administrator by the U.S. Post Office due to a faulty or expired address for a Class Member, the Settlement Administrator will use his or her best efforts to obtain a correct address for such Class Member and resend such settlement check.

20. The Parties agree that the City Code shall be amended to incorporate by reference the Alternative Dispute Resolution Mechanism outlined in ¶ 8.3 of the Agreement for the determination of Future COLAs for Class Members.

APPLICABILITY

21. This Final Judgment is applicable to and binding on the Defendant and all Class Members (except those individuals who excluded themselves from the Class), their current or former agents, employees, predecessors-in-interest and/or title, successors-in-interest and/or title, heirs, and assigns. As is more fully set out in ¶ 10 of the Settlement Agreement, this Final Judgment dismisses with prejudice the Class Members' claims against the Defendant, with the Court retaining jurisdiction to reinstate this action under the circumstances set forth in the Settlement Agreement and to interpret and enforce the Settlement Agreement, and with the Parties to bear their own attorneys' fees, costs, and other expenses, except as provided otherwise in ¶ 8.5 of the Settlement Agreement and herein.

22. In the Preliminary Approval Order, the Court found that the Class List attached as Exhibit A to the Settlement Agreement was represented to be a complete and accurate list of all Class Members. Since then, the Parties have revised the Class List to include nineteen deceased Class Members or their estates whose relatives submitted requests for Settlement benefits; and to

exclude four individuals identified on the Notice of Class Action Opt-Out filed by Class Counsel. The Parties have not deleted from the Class List any Class Members who passed away after the Preliminary Approval Order.

23. The Court finds that the individuals and estates identified on the revised Class List, filed on February 16, 2018 make up the Class and shall be bound by this Final Judgment. In the event it is determined that a legitimate Class Member did not receive the Notice of this Settlement because such Class Member was not identified on the Class List, such Class Member promptly will be sent such Notice and the Class List will be amended to include such Class Member.

24. Except as otherwise provided in ¶¶ 7 and 10 of the Settlement Agreement, this Final Judgment is intended by the Parties and the Court to be *res judicata* and to prohibit and preclude any prior, concurrent, or subsequent litigation brought individually, or in the name of, and/or otherwise on behalf of the Plaintiffs or the Class Members against the Defendant or the other Released Parties with respect to any and all claims, demands, actions, suits, and causes of action that have been brought or could have been brought, now accrued or hereafter accruing, currently pending or were pending, whether known or unknown, suspected or unsuspected, asserted or unasserted, under or pursuant to any statute, regulation, common law, or equity, that arise or relate in any way, directly or indirectly, to: (a) any claims or issues raised or which could have been raised in the Subject Lawsuit related to the COLA; (b) any claims or issues related to the facts alleged in the Subject Lawsuit related to the COLA; (c) any claims that the Class is entitled to any additional funds for COLAs with effective dates of January 1, 2012 through January 1, 2017; and (d) any claims related to future COLAs once they have been granted, rejected, or reduced pursuant to the procedures set forth in ¶ 8.3 of the Agreement. Provided,

however, that nothing in ¶ 10 of the Settlement Agreement or this Final Judgment is intended to or shall be construed as releasing any Party of his or, her, or its respective retroactive and prospective obligations under the Settlement Agreement or this Final Judgment, or otherwise preclude any Party or Class Member from seeking this Court's enforcement of the Settlement Agreement and this Final Judgment. In addition, if the Alternative Dispute Resolution Mechanism is terminated pursuant to ¶ 7 or is otherwise not complied with to determine future COLAs, claims related to entitlement to COLAs not yet finally determined pursuant to the Alternative Dispute Resolution Mechanism shall not be released; if any of the permanent 2013 Relief or 2014 Relief set forth in ¶¶ 8.1.1(1) or 8.1.2(2) is not paid, claims related to the permanent portion of the 2013 Relief and 2014 Relief that is not paid shall not be released; and the release shall not preclude a Class Member from arguing or challenging his individual calculation of COLA benefits is incorrect due to errors made by the Retirement System Administrator for the Retirement System, but it will preclude a Class Member from arguing that the formula is incorrect or not compliant with applicable law and from contesting entitlement to COLA benefits.

25. Except as otherwise required for the purpose of seeking construction and enforcement of the Settlement Agreement and this Final Judgment, and except as otherwise provided in ¶ 7 and ¶ 10 of the Agreement, Plaintiffs and all Class Members, individually and on behalf of their affiliates, agents, successors, and assigns, are deemed to have covenanted not to sue, institute, or instigate any legal, equitable, or administrative proceedings against the Defendant or the Released Parties for any Released Claims, as is more fully set out in ¶ 10 of the Settlement Agreement.

26. Except as otherwise required for the purpose of seeking construction and enforcement of the Settlement Agreement and this Final Judgment, and except as otherwise provided in ¶ 7 and ¶ 10 of the Agreement, each Class Member is barred and permanently enjoined from amending the Subject Lawsuit or prosecuting any action in state or federal court against the Defendant or the Released Parties with respect to any Released Claims, as is more fully set out in ¶ 10 of the Settlement Agreement. This prohibition shall not apply, however, to any individual who has excluded himself or herself from the Settlement pursuant to the opt-out provisions of the Settlement Agreement.

ATTORNEYS' FEES AND COSTS

27. Pursuant to ¶ 8.5 of the Settlement Agreement, the City has agreed to pay Class Counsel one hundred and twenty-five thousand dollars (\$125,000) in full satisfaction of any obligation of the City and the Class Representatives for attorneys' fees and costs incurred by all counsel representing the Class in connection with the Subject Lawsuit, irrespective of the number of attorneys or Class Counsel who file fee petitions or claim fees. This will not reduce the relief to which Class Members are entitled.

28. The Preliminary Approval Order directed Class Counsel to provide notice of the Settlement and the Final Approval Hearing to all known attorneys who provided services to the Class in the Subject Lawsuit so that the Court could adjudicate any claims for attorneys' fees and costs at the Final Approval Hearing. An affidavit has been filed with the Court confirming that notice has been provided. *See* Notice of Filing, dated February 15, 2018.

29. Class Counsel has filed a motion for final award and approval of attorneys' fees and costs ("Motion for Attorneys' Fees and Costs"). No other petitions for fees or costs has been filed.

30. The Court has been advised that Class Counsel has been paid attorneys' fees and costs from third parties. In addition to those attorneys' fees and costs paid to Class Counsel from such third parties, Class Counsel shall be paid additional Attorneys' Fees and Costs by the City in the amount of \$125,000.00. The Court finds that the Attorneys' Fees and Costs are reasonable.

TERMINATION RIGHTS

31. Pursuant to the Agreement, there are several ways in which the Parties may terminate the Settlement or certain provisions of the Agreement.

32. As is more fully set forth in ¶ 7 of the Agreement, in the event that the Agreement is not finally approved, or is terminated pursuant to ¶¶ 7.1, 7.2, or 7.4 before payment of any 2013 Relief or 2014 Relief, the Settlement and Agreement shall be null and void and of no further force and effect; this Order and any other orders entered pursuant to the Agreement shall be vacated; to the extent the Subject Lawsuit has been dismissed, it shall be reinstated; the Parties shall be returned to their respective positions and statuses immediately prior to negotiation of the Settlement and execution of the Agreement; nothing stated in the Agreement or this Preliminary Approval Order shall be deemed or construed to be an admission or confession of any fact, matter or proposition of law; the Settlement and all negotiations, proceedings, documents prepared and statements made in connection with it shall be without prejudice to any Party and shall not be used in any manner for any purpose, including to justify or support the notion that the Subject Lawsuit should be certified for class action treatment; and none of the Parties shall forfeit or waive any factual or legal defense or contention in the Subject Lawsuit.

33. As is more fully set forth in ¶ 7 of the Agreement, in the event that the Agreement is terminated pursuant to ¶ 7.4 of the Agreement after payment of any 2013 Relief or 2014 Relief, any 2013 Relief or 2014 Relief that has been paid will not be subject to repayment or disgorgement; the permanent portion of the 2013 Relief and 2014 Relief will continue to be paid, unless prohibited by state or federal law; all releases and covenants provided for in ¶ 10 of the Agreement shall survive termination and shall be neither affected nor prejudiced in any way, except that claims related to entitlement to COLAs not yet finally determined pursuant to the Alternative Dispute Resolution Mechanism and claims related to 2013 Relief and 2014 Relief that will not be paid are not released, compromised, or subject to ¶ 10; the Parties retain all rights and arguments regarding claims related to entitlement to COLAs not yet finally determined pursuant to the Alternative Dispute Resolution Mechanism and claims related to 2013 Relief and 2014 Relief that will not be paid; Class Members may litigate such claims by seeking reinstatement of the Subject Lawsuit, or by commencing a new lawsuit, if the termination date occurs within four (4) years of the Lump-Sum Payment Date, or by commencing a new lawsuit, if the termination date occurs after four (4) years of the Lump-Sum Payment Date, with the City waiving any defense to such claims under the statute of limitations or laches if they are brought within four (4) years of the termination date; and ¶ 11 of the Agreement shall survive termination and shall be neither affected nor prejudiced in any way.

34. As is more fully set forth in ¶ 7 of the Agreement, in the event that the Alternative Dispute Resolution Mechanism is terminated pursuant to ¶¶ 7.7 or 7.8 of the Agreement, ¶¶ 8.3 and 12.1 of the Agreement shall be of no further force and effect and shall not be subject to enforcement by the Parties; the 2013 Relief and 2014 Relief provided for in ¶¶ 8.1 and 8.2 will continue to be paid and will not be subject to repayment or disgorgement; all releases and

covenants provided for in ¶ 10 shall survive termination of the Alternative Dispute Resolution Mechanism and shall be neither affected nor prejudiced in any way, except that claims related to entitlement to COLAs not yet finally determined pursuant to the Alternative Dispute Resolution Mechanism are not released, compromised, or subject to ¶ 10; the Parties retain all rights and arguments regarding claims related to entitlement to COLAs not yet finally determined pursuant to the Alternative Dispute Resolution Mechanism; Class Members may litigate such claims by seeking reinstatement of the Subject Lawsuit, or by commencing a new lawsuit, if the termination date occurs within four (4) years of the Lump-Sum Payment Date, or by commencing a new lawsuit, if the termination date occurs after four (4) years of the Lump-Sum Payment Date, with the City waiving any defense to such claims under the statute of limitations or laches if they are brought within four (4) years of the termination date; and ¶ 11 of the Agreement shall survive termination and shall be neither affected nor prejudiced in any way.

DISCLAIMER OF ADMISSIONS

35. This Final Judgment is entered as a result of the Settlement Agreement. The Settlement Agreement and this Final Judgment are not intended to and shall not be construed as an admission or finding, express or implied, of any fault or wrongdoing by the Defendant, or that Plaintiffs' claims are not valid.

DISMISSAL WITH PREJUDICE

36. Pursuant to the Settlement Agreement, this action is hereby dismissed with prejudice. Provided, however, such dismissal shall be subject to ¶¶ 7 and 10 of the Settlement Agreement providing for reinstatement of this action under certain circumstances and shall not be res judicata or collateral estoppel as to those claims which are not released or finally resolved

in accordance with ¶¶ 7 and 10 of the Settlement Agreement, which provisions are incorporated herein by reference.

37. The Miami Dade Clerk of the Courts is ordered to enter this Final Judgment in the Public Records for Miami Dade County, Florida.

38. The Defendant shall go hence without day, except as otherwise provided in the Settlement Agreement.

RETENTION OF JURISDICTION BY COURT

39. Notwithstanding anything contained herein to the contrary, the Court expressly retains jurisdiction over this action and the Parties and subject matter of this action, for the purpose of enforcing, construing, interpreting, and otherwise insuring compliance by the Parties with the Settlement Agreement and this Final Judgment. That includes, but is not limited to, resolving any dispute as to whether an individual is or should be a member of the Class and entering orders as may be necessary or reasonably required in connection with the performance of the Agreement.

DONE and ORDERED in Chambers in Miami-Dade County, Florida on February ____, 2018.

Confirmed Copy

FEB 26 2018

THE HONORABLE THOMAS J. REBULL
MIAMI-DADE CIRCUIT COURT JUDGE

Copies to: All counsel of record