

SANCHEZ, et al. v. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM,  
et al.

MOTION FOR GOOD FAITH SETTLEMENT DETERMINATION

Date of Hearing: **October 25, 2017**

Department: 308

Case No.: BC517444

TENTATIVE RULING

The unopposed motion for good faith settlement determination is GRANTED.

BACKGROUND

Following mediation on 3/1/17, Plaintiffs Holly Wedding, Richard M. Lodyga, and Eileen Lodyga (collectively, "Plaintiffs") and Defendants Towers Watson Co., Towers Perrin, and Tillinghast-Towers Perrin (collectively, "Towers Watson Defendants") entered into a "Joint Stipulation for Class Action Settlement."

By this motion, the Towers Watson Defendants move for an order determining that the settlement agreement<sup>1</sup> was made in good faith in accordance with the requirements of CCP §§877 and 877.6 and Tech-Bilt, Inc. v. Woodward-Clyde & Associates (1985) 38 Cal.3d 488.

DISCUSSION

In Tech-Bilt, the California Supreme Court set forth the factors to be considered in determining whether a settlement is in good faith within the meaning of CCP §877.6:

[T]he intent and policies underlying section 877.6 require that a number of factors be taken into account including a rough approximation of plaintiffs' total recovery and the settlor's proportionate liability, the amount paid in settlement, the allocation of settlement proceeds among plaintiffs, and a recognition that a settlor should pay less in settlement than he would if he were found liable after a trial. Other relevant considerations include the financial conditions and insurance policy limits of settling defendants, as well as the existence of collusion, fraud, or tortious conduct aimed to injure the interests of nonsettling defendants.

<sup>1</sup> The parties have since made revisions to the settlement agreement. The most recent version is the "Second Amended and Restated Joint Stipulation for Class Action Settlement as to Towers Watson Defendants" attached as Exhibit A to the "Amended Proposed Order Granting Preliminary Approval of Class Action Settlement Between Plaintiffs and Towers Watson Defendants."

Finally, practical considerations obviously require that the evaluation be made on the basis of information available at the time of settlement.<sup>2</sup>

Further, "when no one objects, the barebones motion which sets forth the ground of good faith, accompanied by a declaration which sets forth a brief background of the case is sufficient." See City of Grand Terrace v. Superior Court (1987) 192 Cal.App.3d 1251, 1261.

As the Towers Watson Defendants contend, the settlement constitutes a good faith settlement under Tech-Bilt because: (1) Plaintiffs face multiple hurdles in proving the Towers Watson Defendants' liability (e.g., the potential bar of the two-year statute of limitations; the purported absence of a cognizable legal duty running from the Towers Watson Defendants to Plaintiffs, who are neither parties to nor third party beneficiaries of the contracts between the Towers Watson Defendants and CalPERS; and the purported absence of breach of the applicable standards of care, but-for causation, and particularized damages); (2) there is minimal potential liability for indemnity to non-settling defendant CalPERS; and (3) other Tech-Bilt factors (i.e., the "recognition that a settlor should pay less in settlement than he would if he were found liable after a trial" and the absence of "collusion, fraud, or tortious conduct aimed to injure the interests of nonsettling defendants") support a finding of good faith. See Motion, §§V.A to V.C.

The Towers Watson Defendants have also met the minimal requirements of City of Grand Terrace. See Allison Declaration, ¶¶13-23.

Finally, the Court's prior concerns regarding the original settlement agreement (particularly, the potentially unlimited claim for "future costs," the unspecified attorney fees and incentive awards, and the absence of a concrete plan of allocation) have now been addressed.

For these reasons, the unopposed motion for good faith settlement determination is GRANTED.

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<sup>2</sup> See Tech-Bilt, *supra*, 38 Cal.3d at 499.