

permitted. Therefore, the court's final judgment provided:

Plaintiffs' counsel may submit no later than May 31, 1997, a supplemental petition for counsel fees and costs and accompanying affidavits documenting their final work in this action.

Defendant objects to an award of time at counsels' regular hourly rates after the date court approved the settlement; it asserts there was no benefit conferred on the class after that date. Defendant also objects to granting plaintiffs' supplemental fee petition because, if granted, the counsel fees will exceed the total class recovery, even though the class action was settled on a basis fully compensatory to the class.

A problem arises because plaintiffs' petition was clearly stated to cover time only until March 21, 1997, but the court reasonably understood the petition to cover all time prior to the April 30, 1997, hearing and considered its award adequate for all actual time expended prior to the date of the hearing. The court contemplated a modest supplemental petition for administrative activities in implementing the settlement.

The pending supplemental petition covers all attorney time since March 21, 1997, rather than April 30, 1997. If the petition is granted in full, the total fees would amount to \$60,456.50, when the present value of the settlement according to plaintiff's counsel is no more than \$53,317.90.¹ The actual time

¹ Defendant avers it will contribute only \$21,243.56.

now claimed is almost precisely the amount estimated in the prior submission; that amount was deemed excessive by the court on the date of the hearing. In the circumstances, the court is justified in considering its prior award adequate for all time expended prior to the hearing on April 30, 1997,

The time expended by attorneys Smolow and Keen after the hearing was for ministerial acts related to class administration, except for attendance at the settlement approval hearing. No fees will be awarded attorneys Smolow and Keen for time spent conferring with each other, reviewing each other's work, or correcting misinformation to class members, as these activities did not benefit the class. The court has reduced time expended for preparing the fee petition as grossly excessive.

Fees will be awarded to attorneys Smolow and Keen only at their hourly rates of \$275 and \$150 respectively.

Ronald Jay Smolow, Esq.

Settlement hearing	2.0
Communicating with class members	0.5
Preparing supplemental fee petition	<u>2.0</u>

4.5 hours at \$275 = \$1,237.50

Richard A. Keen, Esq.

Settlement Hearing	2.0
Communication with Class Members	<u>0.5</u>

2.5 hours at \$150 = \$375.00

\$1,612.50

Plaintiffs' counsel claims \$253.94 in costs. Defendant challenges the sum expended for ERISA research after the class

1. For time expended on behalf of the class, Plaintiffs' counsel are awarded the following amounts:

Ronald Jay Smolow, Esq. \$1,237.50

Richard A. Keen, Esq. \$375.00

\$1,612.50

2. Plaintiffs' counsel are awarded costs: \$253.94.

3. No further fee petition will be considered.

J.