

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

37 BESEN PARKWAY, LLC, et al.,

Plaintiffs,

- against -

JOHN HANCOCK LIFE INSURANCE
COMPANY, et al.,

Defendants.

ORDER

15 Civ. 9924 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

The parties submitted a “Joint Stipulation and Settlement Agreement” to the Court on July 20, 2018 and a Motion for Final Approval of Class Action Settlement on January 18, 2019. “In approving an allocation plan [in a proposed class settlement agreement], the Court must ensure that the distribution of funds is fair and reasonable.” In re Merrill Lynch & Co., Inc. Research Reports Sec. Litig., No. 02 MDL 1484 (JFK), 2007 WL 313474, at *11 (S.D.N.Y. Feb. 1, 2007) (quoting Hicks v. Stanley, No. 01 Civ. 10071 (RJH), 2005 WL 2757792, at *7 (S.D.N.Y. Oct. 24, 2005)).

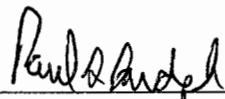
Here, Plaintiffs’ counsel has not explained why “[e]ach policy issued before December 31, 1996, and thus allegedly subject to [a prior release in Duhaime v. John Hancock Mutual Life Insurance Company, 177 F.R.D. 45 (D. Mass. 1997)], shall have its alleged COI Overcharge discounted by 50%.” (Dkt. No. 133-2, Ex. D ¶ 3(a)(ii).) The release in that case appears to apply to the claims in this case, see Duhaime, 177 F.R.D. at 74-77, and Plaintiffs’ counsel has not addressed why such policy owners should recover any portion of the Settlement Funds. Plaintiffs’ counsel likewise has not addressed whether, if such pre-December 31, 1996 policy owners receive a portion of the Settlement Funds, the remaining class members’

settlement amount will be reduced. Accordingly, the Court lacks sufficient evidence to determine whether the proposed settlement is, in fact, fair and reasonable. Plaintiffs' counsel is directed to submit a supplemental brief addressing these issues by **February 25, 2019**. Anyone else wishing to address these issues will likewise file a submission by **February 25, 2019**.

The fairness hearing scheduled for February 19, 2019, at 10:00 a.m. is adjourned to **March 19, 2019 at 4:00 p.m.**

Dated: New York, New York
February 13, 2019

SO ORDERED.



Paul G. Gardephe
United States District Court