

OCT 23 2013

UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

for the Northern Mariana Islands
By _____
(Deputy Clerk)

BETTY JOHNSON on behalf of herself,)
and as a representative of a class of)
similarly-situated persons,)

Plaintiff,)

vs.)

ELOY S. INOS, Governor of the)
Commonwealth of the Northern Mariana)
Islands (“CNMI”); ADELINA C.)
ROBERTO, Fund Trustee and Vice)
Chairwoman; NACRINA BARINAS, Fund)
Trustee; RICHARD S. VILLAGOMEZ,)
Fund Administrator; LARISSA LARSON,)
Acting Secretary of the CNMI Finance)
Department; CNMI GOVERNMENT;)
NORTHERN MARIANA ISLANDS)
RETIREMENT FUND; NORTHERN)
MARIANA ISLANDS RETIREMENT)
FUND BOARD OF TRUSTEES; CNMI)
DEPARTMENT OF FINANCE; CNMI)
DOES 1-95 in their official and personal)
capacities;)

Defendants.)

CIVIL CASE NO. 09-00023

CONSENT JUDGMENT

CONSENT JUDGMENT

WHEREAS, on September 10, 2012, Betsy Johnson filed a Second Amended Complaint on behalf of a class defined as, “all retired members of the Commonwealth of the Northern Mariana Retirement Fund or persons eligible for survivor’s benefits of members of the Fund,” alleging counts for (1) breach of contract; (2) violation of the United States Constitution, (3) violation of the CNMI Constitution, (4) deprivation of rights in violation of 28 U.S.C. § 1983, (5) breach of fiduciary duty, (6) unjust enrichment, and (7) appointment of a federal receiver;

WHEREAS, the Superior Court of the Commonwealth of the Northern Mariana Islands entered judgment in favor of the Commonwealth of the Northern Mariana Islands Retirement Fund (“CNMI Fund”) against the CNMI for failure to pay agreed and constitutionally required Employer and/or Employee Contributions in Civil Case No. 06-0367 now removed to the District Court as Civil Action No. 13-00006;

WHEREAS, Johnson alleged generally that because of the CNMI’s failure to pay its annual contributions as required by the law, Johnson’s and the class’s accrued benefits had been impaired and diminished, and the CNMI Fund is grossly underfunded, and will soon be unable to pay any benefits or even continue to exist;

WHEREAS, the Parties to this action have agreed to an Amended Stipulation and Agreement of Settlement;

WHEREAS, the court has entered a Preliminary Approval Order and Final Approval Order approving the Stipulation and Agreement of Settlement and certifying the Settlement Class defined, “All persons who on August 6, 2013 are members of the Defined Benefit Plan of the Northern Mariana Islands Retirement Fund or persons who are entitled to survivor’s benefits of such members; provided the person did not execute and deliver to the CNMI Fund a timely Election to Terminate,” and creating a Settlement Fund for the Class.

WHEREAS, the court has found the Stipulation and Agreement of Settlement to be fair and reasonable and in the best interests of the Settlement Class;

WHEREAS, it is the intent of the settlement that all prior orders and decisions of the court in the *Johnson* action shall be affirmed and merged in to the Consent Judgment and remain in force and effect unless modified or otherwise vacated; and

WHEREAS, the Stipulation and Agreement of Settlement provide for entry of this Consent Judgment and the parties waive any rights of appeal.

IT IS HEREBY ORDERED ADJUGED AND DECREED that the CNMI Fund on behalf of the Settlement Class Members and the Settlement Fund shall recover from the Defendant the Commonwealth of the Northern Mariana Islands money damages in the amount of Seven Hundred and Seventy Nine Million dollars (\$779,000,000.00) or the equivalent of the actuarial present value of benefits related to the Settlement Class Members, without prejudgment interest and costs, plus post judgment interest at the rate of 0.14% per annum from the date the court allows enforcement of this Consent Judgment pursuant to Paragraph 6.0 of the Settlement Agreement. This Consent Judgment is immediately assigned to the Settlement Class and the assignment cannot be revoked.

IT IS FURTHER ORDERED ADJUGED AND DECREED that this Consent Judgment does not create any rights in persons who are not Settlement Class Members.

IT IS SO ORDERED.

Dated: October 23, 2013, *nunc pro tunc* to September 30, 2013



**/s/ Frances M. Tydingco-Gatewood
Designated Judge**