

## **JUDGE GRANTS \$75 million JUDGMENT**

On February 15, 2022, Civil District Court Judge D. Nicole Sheppard held a hearing by “zoom” (no one was allowed in the Courthouse, and only the attorneys were allowed to participate) on the Class Members’ Motion for Summary Judgment that we filed on April 9, 2021. We sent a letter last year notifying all Class Members that we had filed the Motion.

The Motion was originally set for hearing on November 2, 2021. Then it was changed to November 19, 2021. Then it was changed to January 5, 2022. And then it was changed to February 15, 2022, when it finally took place.

The Judge issued her Judgment on March 14, 2022, and she granted the Class Members’ Motion. The total value of the Judgment, including interest, as of April 9, 2021, is \$75,323,455.71.

The Judgment awards individual amounts to everyone who received a partial payment for their claims in the 2015 Settlement with the former Insurers of HANO. So if you received a payment in 2015, then you are listed in “Exhibit A”, which is attached to the Motion that the Judge just granted. The individual awards the Judge made are based on whether you lived on the EPA site or in the Adjacent Area, and the present value of your home if you are a homeowner, as those matters were determined by the Court and the Special Master in 2014-2015.

At this time, we have absolutely no indication from the City of New Orleans or the Housing Authority of New Orleans (HANO) that they will ever pay the amounts awarded to each of you in the Judgment. By State law, we cannot force them to pay you. All we can do, and what we will do, is continue to talk with attorneys for the City and HANO to try to convince them to agree to pay this Judgment.

You should also understand that this \$75 million Judgment has nothing to do with the lawsuits filed by about 24 Gordon Plaza homeowners in Federal Court in New Orleans, trying the force the City to pay to relocate the remaining Gordon Plaza residents. Those two lawsuits only pertained to Gordon Plaza, and did not ask for anything for anyone else who ever lived on the Agriculture Street Landfill or went to school at Moton. Those two Federal Court lawsuits were filed by another group of lawyers, and they were both dismissed by the Federal Court. So both Federal Court lawsuits failed. Fortunately, their failure in Federal Court has no effect on the \$75 million Judgment that the 5 of us who are your Court-appointed Class Counsel were able to finally get for you.

If/when we have any news about the possibility of any payments, we will post the announcement on our firm’s websites. Meanwhile, if you have moved, please call 504-297-1215, and give us your new address.

Thank you for your patience –

Your Class Counsel – Suzette Bagneris, Joseph Bruno, Linda Harang, Stephen Murray, and George Roux

Civil District Court for the Parish of Orleans  
STATE OF LOUISIANA

No: 1993 - 14333  
2011 - 05733

Division/Section: J-15

JOHNSON, JOHN                      ET AL  
versus  
ORLEANS PARISH SCHOOL BOARD      ET AL

Date Case Filed: 8/31/1993

NOTICE OF SIGNING OF JUDGMENT

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In accordance with Article 1913 C.C.P., you are hereby notified that Judgment  
in the above entitled and numbered cause was signed on March 14, 2022

New Orleans, Louisiana  
March 14, 2022

  
\_\_\_\_\_  
MINUTE CLERK

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.: 1993-14333

DIVISION "J"

SECTION: 15

JOHN JOHNSON, ET. AL

VERSUS

ORLEANS PARISH SCHOOL BOARD, ET. AL

FILED: \_\_\_\_\_

DEPUTY CLERK

REASONS FOR JUDGMENT

Plaintiffs are seeking summary judgment in favor of the HANO/City of New Orleans Class claimants for \$75,323,455.71 and for its apportionment to be in accordance with the calculations of the Court Appointed Distribution Agent, ("CADA"), Bourgeois Bennet, L.L.C., along with judicial interest. The basis for seeking summary judgment is that liability has already been determined via judgments rendered by this Court in 2006 and 2013, which the Fourth Circuit and Supreme Court affirmed on appeal, thus making the only issue before the Court the question of amounts owed.

Defendants, the City of New Orleans and HANO, challenge Plaintiffs' contentions by alleging a Due Process violation. The argument's premise is that granting summary judgment will deprive Defendants of the ability to seek discovery from each claimant and have them prove their entitlement to compensation. Relying on the fact that trials occurred in the past for later added class members, Defendants' ultimate contention is that summary judgment is premature at this time since they have not engaged in discovery for these claimants. The Court disagrees.

A motion for summary judgment shall be granted "if the motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law."<sup>1</sup> The summary judgment procedure is designed to secure the just, speedy, and inexpensive determination of every action.<sup>2</sup> The party moving for summary judgment bears the burden of showing that no genuine issue of material fact exists.<sup>3</sup> Once the motion has been properly supported by the moving party, the failure of the non-moving party to produce evidence of a material factual dispute mandates the granting of the motion.<sup>4</sup> A fact is

<sup>1</sup> La. Code Civ. Pro. art. 966(A)(3).

<sup>2</sup> La. Code Civ. Pro. art. 966(A)(2).

<sup>3</sup> La. Code Civ. Pro. art. 966(D)(1).

<sup>4</sup> *Hutchinson v. Knights of Columbus, Council No. 5747*, 2003-1533 (La. 2/20/04, 7), 866 So.2d 228, 233

“material” if its existence or nonexistence may be essential to plaintiff’s cause of action under the applicable theory of recovery. Facts are “material” if they potentially insure or preclude recovery, affect a litigant’s ultimate success, or determine the outcome of a legal dispute.<sup>5</sup>

Pursuant to La. R.S. 13:4165:

Special masters; appointment; duties and powers; compensation

B. The order appointing a special master may specify or limit the master's powers. Subject to such specifications or limitations, the master has and shall exercise the power to regulate all proceedings before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties.

C.(1) The court may order the master to prepare a report upon the matters submitted to him and, if in the course of his duties he is required to make findings of facts or conclusions of law, the order may further require that the master include in his report information with respect to such findings or conclusions.

According to the February 10, 2014 Order appointing the Special Master, his duties are as follows:

The Special Master shall: a) supervise the distribution of Notice to the Class; b) develop a plan for establishing appropriate reserves to be deducted from the settlement funds and “judgment funds”, so that the Court can determine the amount of money available from the settlement funds and “judgment funds” for distribution to Class members; c) establish criteria for evaluating the claims of Class members; d) review and evaluate claims of Class members in accordance with the established criteria, and resolve any objections to the proposed settlements and/or any proposed allocations; e) propose allocations for each Class member in accordance with the evaluation protocol; f) prepare a plan for distribution of the individual allocations; g) review and make findings and recommendations regarding payment of attorney’s fees and reimbursement of approved litigation costs; h) establish a protocol for the receipt and repository of objections; and i) such other acts and functions as may be necessary or appropriate to fulfill his/her duties and responsibilities as the Court may direct.

Issues of liability have been resolved and there is now no need to make any determinations regarding Defendants’ liability. As such, the sole responsibility of the Special Master now is the allocation and distribution of funds to Class member claimants. It is the determination of this Court that the Special Master has acted in accordance with his duties and determined the eligibility of claimants and, in conjunction with the CADA, the appropriate amount of compensation due them based on the established criteria. Defendants’ arguments against the grant of summary judgment are a disguised attempt at relitigating the issue of liability, which the Court rejects. Accordingly, Plaintiffs’ Motion for Summary Judgment is **GRANTED**.

**NEW ORLEANS, LOUISIANA** this 14th day of March, 2022.

  
**JUDGE D. NICOLE SHEPPARD**

<sup>5</sup> *American Bank & Trust Co. in Monroe v. Vinson*, 528 So.2d 693,694 (La. App. 2 Cir. 1988)

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

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ORLEANS PARISH SCHOOL BOARD, ET. AL

FILED: \_\_\_\_\_

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DEPUTY CLERK

JUDGMENT

This matter came for hearing on February 15, 2022 on Plaintiffs' Motion for Summary Judgment.

Present were:

**Joseph Bruno, Linda Harang, and Suzette Bagneris, George Roux and Robin Myers**  
for Plaintiffs;

**Michael Laughlin, Donesia Turner and Kimlin Lee** for the City of New Orleans;

**Roy Rodney and John Etter** for Housing Authority of New Orleans;

**Paul Valteau**, Court Appointed Special Master

After having considered the record, evidence, and arguments of counsel:

**IT IS ORDERED, ADJUDGED AND DECREED** that Plaintiffs' Motion for Summary Judgment is hereby **GRANTED**.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** Plaintiffs are due \$75,323,455.71 to be apportioned as follows:

Emotional Distress Damages:

a. Plaintiffs who lived or worked directly on the ASL (EPA) site as determined and provided by the Special Master"

1-up to 5 years \$2,000.00 (per year)

Over 5 up to 10 years \$12,500.00 (total)

Over 10 up to 15 years \$15,000 (total)

Over 15 up to 20 years \$20,000 (total)

Over 20 years \$25,000 (total)

b. Plaintiffs in the "Adjacent Area" as determined and provided by the Special Master:

\$1,250 (total amount regardless of length of exposure after one year threshold)

Loss of Property Value Damages (based on the site of the property, value of the home and entitlement percentage as determined and provided by the Special Master:

a. Property Directly on ASL (EPA) site:

Gordon Plaza: 20% of the present day value of the home

Press Park: 20% of the Pre-Katrina value of the home

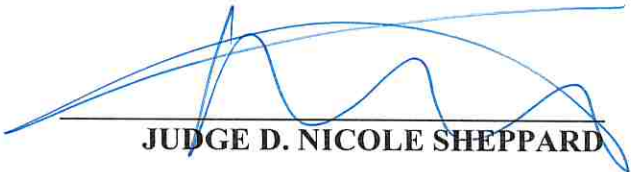
b. Property in the "Adjacent Area":

10% of the fair market value of the present unimpaired value

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the interest accrual commenced on April 10, 2021 and shall accrue until the principal balance is paid at a rate pursuant to the authority granted by La. R.S. 13:4202(A) and Louisiana Bar Journal pursuant to authority granted by La. R.S. 13:4202(B), as amended by Acts 2001, No, 841.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Housing Authority of New Orleans is due a credit of \$13,590,770.83 from the Court's approval of the Settlement by its former insures with the Class.

**NEW ORLEANS, LOUISIANA** this 14th day of March, 2022.

  
**JUDGE D. NICOLE SHEPPARD**