

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WENDY GRAHAM, MARIA HÖHN, MIA
MASK, CINDY SCHWARZ, AND DEBRA
ZEIFMAN, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

VASSAR COLLEGE,

Defendant.

No. 23-cv-7692

~~PROPOSED~~ ORDER (1) GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT; (2) CERTIFYING A
SETTLEMENT CLASS; (3) APPROVING
NOTICE PLAN AND DIRECTING
DISTRIBUTION OF NOTICE; AND (4)
SETTING A SCHEDULE FOR FINAL
APPROVAL

Complaint Filed: August 20, 2023

On behalf of themselves and a proposed class, Plaintiffs Wendy Graham, Maria Höhn, Mia Mask, Cindy Schwarz, and Debra Zeifman (“Named Plaintiffs” or “Plaintiffs”) in the above-captioned action have asserted unequal pay and pay and promotion discrimination claims against Defendant Vassar College (“Defendant” or “Vassar”). The Second Amended Complaint makes these class claims under the New York State Equal Pay Law (“NY EPL”), Labor Law § 194; the New York State Human Rights Law (“NY HRL”), Executive Law §§ 296–301; and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* (“Title VII”). Vassar has denied Plaintiffs’ allegations.

The parties’ third mediation resulted in a settlement. Plaintiffs and Vassar have agreed to the entry of a proposed class action settlement agreement (“Settlement Agreement” or “Settlement”) to resolve Plaintiffs’ claims in this action, subject to this Court’s final approval

thereof, with the Court reserving jurisdiction over the programmatic relief provided in the Settlement. On August 10, 2026, Plaintiffs filed that Settlement in connection with their Motion for Preliminary Approval of the Settlement on behalf of the following Settlement Class: all women who were employed by Vassar as a full professor at any time between May 14, 2015 through the date of preliminary approval of the Settlement. A copy of the Settlement Agreement is attached as Exhibit 1 to this Order.

Notwithstanding Vassar's agreement to the proposed Settlement, Vassar continues to deny all allegations of unlawful conduct contained in Plaintiffs' Second Amended Complaint, and does not admit or concede that it has, in any manner, violated federal or state laws prohibiting discrimination, or committed any other unlawful action that would entitle Plaintiffs or the Class to any recovery.

Plaintiffs and Vassar have agreed that, for purposes of settling this action only, this Settlement will constitute a final and complete adjudication of the parties' and Settlement Class Members' rights, liabilities, and obligations as set forth in the Settlement. Specifically, Plaintiffs have presented to the Court an unopposed Motion for an Order: (1) preliminarily approving the Settlement; (2) provisionally certifying the Settlement Class; (3) approving the proposed form and plan of notice and directing that notice be disseminated; and (4) setting a schedule for final approval. In support of this unopposed Motion, Plaintiffs submitted an accompanying memorandum in support, and declarations of Settlement Class Counsel in support thereof.

Having considered this Motion, supporting documents, the arguments of counsel, and the pleadings and filings in this action, and in the interest of justice, the Court FINDS that it has jurisdiction over this matter and hereby CONCLUDES and ORDERS as follows:

I. PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

The Court has reviewed the terms of the proposed Settlement Agreement attached as Exhibit 1 to this Order, including the programmatic and monetary relief provisions. The Court ^{heard the parties on 9/9/26 and} also reviewed the motion papers and declarations of counsel, which describe Settlement Class Counsel's legal and factual investigation and the settlement process, as well as the ^{Amended} Notice of Settlement ^(ECF No. 111-1) ("Notice") and Distribution Plan.¹ The Court FINDS and CONCLUDES as follows:

"Before approving a proposed class action settlement, the district court must determine that the settlement, taken as a whole, is fair, reasonable, and adequate." *Maywalt v. Parker & Parsley Petroleum Co.*, 67 F.3d 1072, 1079 (2d Cir. 1995). At preliminary approval, courts in the Second Circuit look to the same overlapping factors—outlined in Rule 23(e)(2) of the Federal Rules of Civil Procedure and in *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974)—that govern final approval. *See Moses v. New York Times Co.*, 79 F.4th 235, 244 (2d Cir. 2023) (noting "*Grinnell* and the revised Rule 23(e)(2) largely overlap"). The Rule 23(e)(2) factors are: (1) adequacy of representation, (2) presence of arm's-length negotiations, (3) adequacy of relief, and (4) equitable treatment of class members.

The Court concludes that the applicable Rule 23(e)(2) and *Grinnell* factors favor preliminary approval. The Settlement is the product of adequate representation by Plaintiffs and Settlement Class Counsel. It is also the result of arm's-length negotiations among the parties, informed by sufficient discovery and motion practice. The Court understands that the parties disagree strongly on the potential exposure and that the monetary recovery represents approximately 82 percent of the total exposure (or 122 percent without interest) under Plaintiffs' expert's estimates, and \$5 million over the total exposure estimated by Vassar and its expert.

¹ ~~The Notice is Exhibit A to the Settlement Agreement.~~ The Distribution Plan is set forth in Section II.A.8 of the Settlement Agreement.

Having reviewed both the monetary and the programmatic relief provisions of the Settlement, the Court believes the Settlement confers meaningful benefits on the Settlement Class. Such relief is especially adequate in light of the risks of further litigation, the automatic distribution of relief, and the reasonable proposed award of attorney's fees and costs. Finally, the Settlement treats Settlement Class Members equitably relative to each other.

It is therefore ORDERED that:

- (a) The Settlement Agreement is hereby PRELIMINARILY APPROVED. Final approval of the Settlement is subject to consideration of any objections by Settlement Class Members to the proposed Settlement.
- (b) Pending final determination of the fairness of the Settlement, all further litigation of this action not related to the settlement approval process is hereby STAYED and the pre-trial dates set forth in the Court's April 16, 2026 Order are hereby VACATED.

II. PROVISIONAL CERTIFICATION OF SETTLEMENT CLASS

The Court has reviewed the terms of the proposed Settlement Agreement attached as Exhibit 1 to this Order, including the definition of the proposed Settlement Class. The Court FINDS and CONCLUDES as follows:

"To preliminarily approve the Settlement, the Court must also find that it will likely be able to certify the class for purposes of judgment on the Settlement." *Whelan v. Diligent Corp.*, 349 F.R.D. 79, 88 (S.D.N.Y. 2025). Provisional class certification is appropriate "where the proposed settlement class meets the requirements for Rule 23(a) class certification, as well as one of the three subsections of Rule 23(b)." *In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 700 (S.D.N.Y. 2019) (citing *In re Am. Intern. Grp., Inc. Sec. Litig.*, 689 F.3d 229, 238 (2d Cir. 2012)).

The Court concludes that the proposed Settlement Class satisfies Rule 23(a) and Rule 23(b)(3). The Settlement Class is sufficiently numerous. The Named Plaintiffs' claims and defenses are typical of those of the class, and they are adequate class representatives. There are questions of law and fact common to the class, which predominate over any questions affecting individual members. A class action is superior to other available methods to resolve this case.

It is therefore ORDERED that the Settlement Class as set forth in the Settlement Agreement is hereby PROVISIONALLY CERTIFIED.

III. APPROVAL OF NOTICE PLAN AND DISTRIBUTION OF NOTICE

The parties have submitted for this Court's approval a proposed ^{Amended} Notice of Proposed Settlement of Class Action ^(ECF No. 111-1) ("Notice"). The Court has carefully reviewed that Notice and supporting documents.

The Court FINDS and CONCLUDES as follows:

- (a) The proposed plan for distributing the Notice satisfies the notice requirements and all other legal and due process requirements. The parties have designated ILYM Group, Inc. as the Settlement Administrator after a competitive bidding process. Under the Settlement Agreement, after receiving information about the Settlement Class Members from Vassar, the Settlement Administrator will run the list of Settlement Class Members through the United States Postal Service's National Change of Address database before mailing the Notice via first class U.S. mail and will skip-trace and re-send any returned undeliverable Notices. The Settlement Administrator will also email the Notice to Class Members and maintain a website with a copy of the Notice, complete Settlement Agreement, and other relevant case documents.

- (b) In the present case, mailed and emailed notice is the best practicable method of notice that is reasonably calculated to apprise Settlement Class Members of the Settlement Agreement and their rights. The proposed plan for distributing the Notice by U.S. mail and email and on a website is a reasonable method to inform Class Members of what the terms of the Settlement are, how to obtain additional information about the Settlement, how to object to or comment on the Settlement or motion for attorneys' fees and costs, and how to opt out of the monetary relief provisions of the Settlement by submitting an opt out statement.
- (c) The proposed Notice allows Settlement Class Members a full and fair opportunity to consider the proposed Settlement and Settlement Class Counsel's motion for attorneys' fees and costs, which will be filed before the deadline for Settlement Class Members to opt out or object to the Settlement. The proposed Notice is sufficient to inform Settlement Class Members of: the meaning and nature of the Claims; the definition of a Settlement Class Member; the terms and provisions of the Settlement; the monetary and non-monetary relief the Settlement will provide to the Settlement Class; the allocation of the monetary relief; the Settlement Class Member's estimated individual share of the Settlement, should she not exclude herself; the fact that Settlement Class Counsel will seek service awards for the Named Plaintiffs; the amounts that Settlement Class Counsel will seek for attorneys' fees and expenses; the procedures and deadlines for opting out or objecting to the Settlement; and the date, time and place of the final approval hearing.

It is therefore ORDERED that:

- (a) The form and content of the proposed Notice is approved. Settlement Class Counsel shall proofread the Notice for typos and fill in all blanks, including all highlighted dates, addresses, and/or websites prior to the mailing of the Notice. The Settlement Administrator shall include information within each Notice identifying the estimated share of the Net Settlement Amount that the particular Settlement Class Member may be eligible to receive, using the data provided by Vassar and the Settlement Share calculations provided by Plaintiffs' expert.
- (b) The manner of distributing the Notice via U.S. mail and email, updating Class Member U.S. mail addresses through the National Change of Address database and skip-tracing any returned notices, and posting additional information on a website, is approved.
- (c) ILYM Group, Inc. is approved as the Settlement Administrator.
- (d) Plaintiffs' expert labor economist, Dr. David Neumark, will calculate the Settlement Share of each Class Member pursuant to the Distribution Plan and provide a draft of the information to the Settlement Administrator within one week of the Preliminary Approval Hearing. Dr. Neumark will provide an updated Distribution Plan to the Settlement Administrator within one week of Vassar producing to the Settlement Administrator the data described in subparagraph (e) below.
- (e) Within 7 days after the Court grants preliminary approval, Vassar will provide the Settlement Administrator the information that it has in its records for each Settlement Class Member: name, employee ID number, last known address, email address, and telephone number, dates of their employment as a Full Professor

during the Settlement Class Period, date of termination or retirement (if any), and Social Security number, together with any other data reasonably needed for administration of the Settlement (the “Eligible Settlement Class List”). The Settlement Administrator will keep this information confidential and not disclose it except as required to administer the Settlement. Vassar will provide Settlement Class Counsel with the Eligible Settlement Class List, but will exclude Social Security numbers.

- (f) Within 10 days after receiving the Eligible Settlement Class List from Vassar, the Settlement Administrator will send to each Settlement Class Member the Notice, including the estimated Settlement Share that the Eligible Settlement Class Member may qualify to receive, by first class U.S. mail and by email (where available).
- (g) Any Settlement Class Member who wishes to opt out of the Settlement must submit to the Settlement Administrator a written, signed statement that they are opting out, postmarked or emailed within 45 days of the initial mailing of the Notice. Settlement Class Members who file opt outs may rescind their opt outs via a written submission to the Settlement Administrator, postmarked or emailed within 60 days of the initial mailing of the Notice.
- (h) Settlement Class Member objections to the Settlement must also be submitted in writing to the Settlement Administrator, postmarked or emailed within 45 days of the initial mailing of the Notice.

- (i) The parties are further directed to carry out and comply with the terms of the Settlement Agreement, particularly with respect to providing the Settlement Administrator the information and data necessary to carry out its duties.

IV. PROCEDURES FOR FINAL APPROVAL OF THE SETTLEMENT

The Court hereby schedules a hearing ("Final Approval Hearing") for ~~November 2, 2026~~ ^{December 9,} (or next available hearing date of the Court, approximately 83 days from date of preliminary approval), at 10 a.m./p.m. to consider any objections that may be filed, to determine whether the Settlement is fair, reasonable, and adequate and should be finally approved, to determine the amount of attorneys' fees and expenses to be paid to Settlement Class Counsel, and to determine the amount of service awards to be awarded to the Named Plaintiffs. Settlement Class Counsel shall file a Motion for Final Approval of the Settlement Agreement no later than 14 days prior to the Final Approval Hearing, ~~or by October 19, 2026,~~ with any reply briefing addressing any objections to be filed 7 days prior to the Final Approval Hearing, ~~or by October 26, 2026.~~

All memoranda, affidavits, declarations, and other evidence in support of the request for Settlement Class Counsel's fees and expenses and the Plaintiffs' service awards shall be filed no later than 30 days after preliminary approval, ~~or by September 10, 2026.~~ Settlement Class Counsel may file a reply memorandum in support of the motion no later than 7 days before the Final Approval Hearing, ~~or by October 26, 2026.~~ Settlement Class Counsel will file all objections and opt out statements with the Court within 5 days of the deadline for submitting such objections and opt out statements, ~~or by October 19, 2026.~~ Settlement Class Counsel will also file any rescissions of opt out statements within 5 days of the deadline for submitting such objections and opt out statements, ~~or by November 2, 2026.~~

Any Settlement Class Member who submits an objection may appear at the Final Approval Hearing in person, or through her own attorney, to show cause why the Court should

not approve the Settlement, or the motion for the award of Settlement Class Counsel's attorneys' fees and costs and Named Plaintiffs' service awards.

IT IS SO ORDERED.

DATED

9/10/26


JUDGE CATHY SEIBEL