

Weinstein Accusers Call \$19M Class Deal 'A Cruel Hoax'

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By **Lauren Berg**

Law360 (July 13, 2020, 7:53 PM EDT) -- Several of Harvey Weinstein's accusers have lodged their opposition to the proposed \$18.9 million settlement the Hollywood producer and convicted rapist reached to end a putative class action in New York alleging he sexually abused dozens of women, on Monday calling the deal "a cruel hoax" that would benefit Weinstein more than his accusers.

The nearly **\$19 million deal** proposed last month — which requires the approval of the district court as well as a bankruptcy court thanks to The Weinstein Co. Holdings LLC's **Chapter 11 filing** — would resolve a suit from the New York Office of the Attorney General accusing the disgraced mogul of maintaining a hostile work environment as well as separate suit from women accusing him of sexual abuse.

The deal also releases the women from confidentiality, nondisclosure or nondisparagement agreements with The Weinstein Co. or any former members of the company as they relate to sexual misconduct by Weinstein.

But some of the women say the deal doesn't do nearly enough and is "patently unfair," according to an opposition filed Monday in Manhattan federal court by Rowena Chiu, Wedil David, Dominique Huett, Zelda Perkins, Kaja Sokola and Tarale Wulff.

"Although the deal speaks about individual awards up to \$750,000 and the New York State Attorney General has bragged about a 'win' for victims, that is all a cruel hoax," the accusers said. "The truth is that the average award to class members under this proposal is likely to be in the range of \$10,000 to \$20,000."

"The main winners of this deal, if approved, are Harvey Weinstein, [his brother and former Weinstein Co. co-chair] Robert Weinstein, and the ultra-wealthy former directors of The Weinstein Company, who will be absolved from liability, contribute nothing to the settlement and collectively take in about \$15 million from the proposed settlement agreement," the accusers added.

The civil litigation at hand is brought by women who say Weinstein assaulted them, coerced them into sexual relationships or otherwise preyed on them over roughly two decades beginning in the mid-1990s by leveraging his powerful position atop his now-bankrupt Hollywood movie company.

In their opposition Monday, six of the accusers said the structure of the proposed agreement and related **global settlement** of the The Weinstein Co. bankruptcy proceeding is unfair because the alleged wrongdoers receive significantly more money than the proposed class of survivors.

The women also objected to the \$5 million in attorney fees requested by the proposed class counsel from Fegan Scott LLC and Hagens Berman Sobol Shapiro LLP.

"The court should say no to this," the women said. "Paying the wrongdoers millions of dollars more than the victims is wrong. Stripping away the rights of rape victims who want to continue their cases is wrong. Binding survivors to an inadequate and opaque deal is wrong."

The accusers' attorneys Douglas H. Wigdor, Bryan L. Arbeit and Kevin Mintzer said in a statement Monday that the deal should not benefit Weinstein and the other defendants more than the accusers.

"The efforts being made to prevent women from continuing with their litigation and holding those responsible for their trauma accountable are simply unprecedented," the attorneys said.

"We are heartened by the growing opposition to this settlement and are hopeful that it will be rejected," they added.

Two other accusers, Alexandra Canosa and Zoe Brock, have also filed separate oppositions to the proposed settlement.

Canosa filed her own opposition against the settlement on Monday, saying the agreement as proposed would nix the Weinstein Co. as a defendant in her pending case, cancel all possible insurance coverage for Weinstein and The Weinstein Co. in her case, give Weinstein \$1.5 million to fight her claims and force her to take a mere \$150,000 if she later decides to join the class.

Canosa, who says she was abused by Weinstein while working at The Weinstein Co., was one of the first women to speak out against Weinstein's abuse in Ronan Farrow's New Yorker article exposing Weinstein's behavior, according to the opposition.

Canosa's attorney, Thomas P. Giuffra of Rheingold Giuffra Ruffo & Plotkin LLP, told Law360 in a statement Monday that at first only a few accusers stood up against the proposed settlement, but once the "unjust terms" became more widely known, more of the women opposed it.

He said the proposed class counsel and New York's attorney general are supporting an agreement that would "give a war chest to a convicted rapist" to fight claims from accusers unwilling to settle, and that the Weinstein brothers will be given \$1.5 million to defend against accusers' claims.

"This agreement is nothing more than a complete miscarriage of justice in which those who survived Harvey Weinstein's personal reign of terror ... and have had the courage to stand up for what is morally right publicly at great personal and emotional expense are once again being sacrificed for those who have power," Giuffra said. "I am hopeful that the unity and courage of these brave women who brought down a monster and his acolytes will now succeed in preventing this grave miscarriage of justice from going forward."

On Friday, Brock also filed an opposition to the proposed settlement, saying that while she was named a class representative in the amended complaint she was excluded from the settlement negotiations. Brock, a model from New Zealand, said Weinstein sexually assaulted her at the Cannes Film Festival in 1998.

When the proposed settlement terms were disclosed to her last fall, Brock said she objected, saying the terms of the settlement wouldn't hold Weinstein and the other defendants responsible for the harm they allegedly caused. When she voiced her concerns, Brock said her attorney at Fegan Scott dropped her, forcing her to hire new counsel in order to try to continue advocating for the class.

"Having been excluded from the negotiating table, Ms. Brock could only hope that proposed class counsel would come to this court with an improved settlement that she could support," Brock said. "That has not happened."

All three oppositions ask the judge to reject the proposed settlement and allow all of the parties to participate in the negotiations.

Weinstein, who was arrested in May 2018, was accused of using his position as a powerful Hollywood producer to lure young women into situations where he was able to sexually assault them. Prosecutors charged Weinstein with rape, criminal sexual act and predatory sexual assault, but he steadfastly denied the allegations, calling the relationships consensual.

In February, a New York state **jury convicted Harvey Weinstein** of sexual assault and rape, but acquitted him of predatory sexual assault. The following month, Weinstein was sentenced by a New York state judge to **23 years in prison**, significantly higher than the five-year mandatory minimum his defense team had requested.

Counsel for TWC declined to comment and counsel for Brock, Weinstein and the settlement class did not immediately respond to requests for comment.

Chiu, David, Huett, Perkins, Sokola and Wulff are represented by Douglas H. Wigdor and Bryan L. Arbeit of Wigdor LLP, and Kevin Mintzer.

Canosa is represented by Thomas P. Giuffra and Jeremy A. Hellman of Rheingold Giuffra Ruffo & Plotkin LLP.

Brock is represented by Daniel D. Williams and John C. Clune of Hutchinson Black & Cook LLC.

The settlement class representatives are represented by Elizabeth A. Fegan and Lynn A. Ellenberger of Fegan Scott LLC and Steve W. Berman and Whitney K. Siehl of Hagens Berman Sobol Shapiro LLP.

Weinstein is represented by Elicor D. Shiloh and Brian Pete of Lewis Brisbois Bisgaard & Smith LLP and Phyllis Kupferstein of Kupferstein Manuel LLP.

The Weinstein Co. is represented by Gerald L. Maatman Jr., Karen Y. Bitar and Lisa L. Savadjian of Seyfarth Shaw LLP.

The case is Louissette Geiss et al. v. The Weinstein Co. Holdings LLC et al., case number 1:17-cv-09554, in U.S. District Court for the Southern District of New York.