

US Judge Swiftly Rejects 'Phony' Settlement for Weinstein Victims

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By Tom McParland

A Manhattan federal judge on Tuesday promptly rejected a proposed settlement that aimed to establish a nearly \$19 million compensation fund for women who said they were victimized by disgraced ex-movie mogul Harvey Weinstein, in a setback for New York Attorney General Letitia James and plaintiff's lawyers who negotiated the controversial deal.

Less than 15 minutes into a preliminary approval hearing, U.S. District Judge Alvin K. Hellerstein of the Southern District of New York lambasted the “phony” settlement as an end-run around class certification in the case, which he said was not possible given the variety of interactions that the accusers had with convicted rapist and former Hollywood film producer.

James' office had announced the agreement June 30, touting it as a win for all women who were abused by Weinstein and faced sexual harassment and intimidation while working at his former film studio, The Weinstein Co.

Weinstein was sentenced to 23 years in prison in March after he was convicted in New York on criminal sexual act and third-degree rape charges. He also faces additional criminal charges, including forcible rape, in California.

The proposed settlement sought to establish an \$18,875,000 compensation fund and two-tiered claims process that would be overseen by a special master. According to James, the agreement would also release women from nondisclosure agreements they signed with The Weinstein Co., or its former representatives, tied to Weinstein's sexual misconduct.

Attorneys for some of Weinstein's accusers, however, blasted the deal as “one-sided and unfair,” in part because it allowed the studio's former directors to recover attorney fees from insurance funds that they said should have gone to the survivors of Weinstein's abuse.

On Tuesday, Hellerstein said the proposed deal would treat all of Weinstein's victims the same, regardless of whether they were physically assaulted or had just met him after joining the company.

“Women who have been raped are entitled to a much greater recovery than those who just met him,” Hellerstein said in a contentious exchange with attorney Elizabeth Fegan, who was first up in defending the deal.

Fegan, a class action attorney with the firm FeganScott, responded that the claims process was meant to allay those concerns, but Hellerstein immediately shot down the idea as an “abdication of the court’s responsibility.”

“I don’t see how I could delegate that function to someone who’s not a judge. I won’t,” he said, adding that Fegan should litigate her client’s claims rather than chasing a settlement.

The hearing, which was scheduled to include arguments from at least eight speakers for and against the proposal, ended in just less than 20 minutes.

Douglas Wigdor, a prominent New York lawyer who represented six of Weinstein’s accusers and vehemently opposed the settlement, quickly praised the ruling in a statement on Tuesday and vowed to continue “pursuing justice against Harvey Weinstein and his many enablers.”

“We have been saying for over a year-and-a-half that the settlement terms and conditions were unfair and should never be imposed on sexual assault survivors. We were surprised that class counsel and the New York Attorney General did not recognize this fact but are pleased that Judge Hellerstein swiftly rejected the one-sided proposal,” he said in a joint statement with attorneys Kevin Mintzer and Bryan Arbeit.

“We will review the decision and determine next steps,” said a statement from James’ office. “Our office has been fighting tirelessly to provide these brave women with the justice they are owed and will continue to do so.”

Thomas Giuffra, who represents Weinstein victim Alexandra Canosa, said in a statement that Hellerstein’s ruling “recognized all of the flaws of the agreement and class,” and he would continue to litigate his client’s claims in court.

“The Attorney General of New York should be ashamed of herself for putting her support behind such an unfair and punitive agreement,” Giuffra said.

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