

JUL 27 1999

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

LUTHER D. THOMAS, CLERK
By: *[Signature]* DEPUTY CLERK

**JOSEPH J. DROLET,
AMAZIAH V. COHEN,
ROSAMOND DORSETT CROWE,
ROBERT H. MCMICHAEL,
NELLIE L. SOUTHERN,
HOWELL R. TRAMMELL, and
WINSTON E. PARKER, on behalf
of themselves and all other retired Fulton
County Employees similarly situated,
Plaintiffs,**

v.

**CIVIL ACTION NO.
1: 95 -CV- 2296-JMF
COMPLAINT-CLASS
ACTION**

**FULTON COUNTY, GEORGIA,
Defendant.**

CONSENT ORDER

This is a class action lawsuit, and the Defendant and the named Plaintiffs, both individually and as representatives of their respective subclasses of retired Fulton County employees, desire to settle all outstanding issues in this litigation. This action arose from the Defendant's provision of health benefits to the group of individuals, previously certified as a class, who were employed by Fulton County in 1991 or preceding years, and who retired or will retire in the future.

This Consent Order expressly covers all Fulton County employees who worked in 1991 and prior years and who retired or will retire in the future (hereinafter referred to as the retirees). This Consent Order does not cover employees of Fulton County whose first date of employment with Fulton County was January 2, 1992 and years thereafter.

I. SEGREGATION OF RETIREES

For a period of two years beginning January 1, 1999, the parties in this litigation agree, and this court orders that Fulton County shall place all the retirees and active employees in the same risk pool for purposes of determining health rates to be assigned to each retiree and active employee so as to reasonably cause retiree individual health rates not to be inflated as the result of decreasing the number of retirees that are found in respective risk pools.

Beginning January 1, 1999, health rates for the retirees shall not be increased as the result of segregation of retirees from active employees, in any direct or indirect manner, in the creation of health insurance risk pools or other similar groupings, regardless of the term used by Fulton County.

The retirees shall have the right to obtain all information in the possession of Fulton County, its agents, insurance carriers, or consultants to

monitor the provisions of this subsection of the Consent Order and to assist in insuring that this Consent Order is complied with by Fulton County, at no cost to the retirees. Upon written request to the Fulton County Finance Director, retirees, individually or through the Fulton County Retired Employees Association, shall be provided all information relevant to compliance by Fulton County with this subsection of the Consent Order. The information requested shall be provided within thirty days following the request. If the request of the retirees is not satisfied within the time specified above or if it appears that Fulton County is failing to comply with this Consent Order, the retirees, individually or as a group, shall have the right to request relief from this court. The above right to information on compliance shall be in addition to any other existing rights to information under the Georgia Open Records Act, the Freedom of Information Act, or any other similar law.

II. OVERCHARGES AND REDUCTION IN BENEFITS

1. For those retirees who retired since January 1, 1991, were under 65 years of age, and had Travelers low option indemnity insurance immediately prior to retirement, such retirees will receive a sum of \$1,000 for each of the years 1992, 1993, 1994 and 1995 that the retiree was less than 65

years of age. (A retiree will be considered to have had Travelers low option indemnity insurance immediately prior to retirement if said retiree would have otherwise qualified for payment under this subsection (subsection 1) but said retiree's retirement date was postponed, past January 1, 1992, by action of the retiree's department head, postponing said retirement up to June 30, 1992 by said retiree's department head filing of certification that the services of the retiree were essential for the efficient operation of the employer, under section 4.7 of the Retirement Act)

2. For those retirees who retired since January 1, 1991 and had indemnity health insurance immediately prior to retirement and are over 65 years of age, such retirees shall receive \$200 for each year beginning in 1992 to and through 1998 that such retiree was eligible for medicare.
3. For those retirees, who retired prior to January 1, 1991, had indemnity health insurance immediately prior to their retirement and are over 65 years of age, such retirees shall receive a lump sum not to exceed \$300.
4. The residual funds after payment to the above categories, and after payment of attorneys fees and litigation expenses, will be distributed to those retirees who had indemnity health insurance immediately prior to

retirement and are not included in the categories above (subsections 1, 2, and 3). The term retiree, for purposes of this subsection (subsection 4 only), shall include the qualifying surviving spouse of any retiree who, had the retiree survived, would have been eligible for reimbursement under subsections 1 or 2 above.

5. Incorporated in this Consent Order are all the terms of the Consent Order filed in this case on August 27, 1998, which order guaranteed that retirees who are medicare eligible will continue in 1999 and future years to receive the same or greater health insurance coverage as such retirees had immediately prior to retirement at no greater percentage of the total costs as was paid by the retiree immediately prior to retirement. Fulton County indemnity health insurance will cover all medical expense amounts not paid by medicare.
6. Incorporated in this Consent Order are all the terms and declaratory rights in the order of Judge Richard Freeman on June 5, 1997 (filed June 6, 1997) in this case, which order ruled that persons who retired since the effective date of the "1991 Amendment" to Fulton County's pension law are constitutionally entitled now and in future years to the same or greater health insurance coverage they had immediately prior to retirement at no

greater percentage of cost than such individual was paying immediately prior to retirement and that such rights continue, regardless of the age of the retiree.

Fulton County shall not cause to reduce in any manner its existing financial obligations to the retiree class in order to fund this obligation.

The retirees shall have the right to obtain all information in the possession of Fulton County, its agents, insurance carriers, or consultants to monitor the provisions of this subsection of the Consent Order and to assist in insuring that this Consent Order is complied with by Fulton County, at no cost to the retirees. Upon written request to the Fulton County Finance Director, retirees, individually or through the Fulton County Retired Employees Association, shall be provided all information relevant to compliance by Fulton County with this subsection of the Consent Order. The information requested shall be provided within thirty days following the request. If the request of the retirees is not satisfied within the time specified above or if it appears that Fulton County is failing to comply with this Consent Order, the retirees, individually or as a group, shall have the right to request relief from this court. The above right to information on compliance shall be in addition to any other existing rights to information under the

Georgia Open Records Act, the Freedom of Information Act, or any other similar law.

III. PRESCRIPTION DRUGS

The parties agree and this court orders that any retirees who retired after January 1, 1991 shall be entitled in 1999 and future years to the same or greater prescription drug coverage as they had immediately prior to their retirement and shall not be required to pay a greater percentage of costs for prescription drugs than the retiree was required to pay immediately prior to his or her retirement.

IV. MENTAL HEALTH

The parties agree, and this court orders all retirees who retired after January 1, 1991 and for whom mental health coverage (service by providers such as psychologists, psychiatrists, counselors) was part of their health insurance benefits immediately prior to retirement, shall be entitled in 1999 and future years to the same or greater mental health coverage as they had immediately prior to their retirement at no greater percentage of cost to the retiree as the retiree paid immediately prior to his or her retirement as part of the retiree's health insurance coverage. For those who retired on or after January 2, 1992, they shall be entitled in 1999 and future years to the same

or greater mental health coverage as the mental health “carve-out” program put into effect in 1992, known as the Employees Assistance Program (EAP), or such other mental health coverage as may have been in effect immediately prior to the retirement of any such retiree or future retirees covered by this order.

V. LITIGATION COSTS INCURRED BY RETIREE CLASS

The retiree class has incurred out of pocket expenses for filing fees, copy costs, postage, deposition fees, and expert witness fees in connection with the prosecution of this action. Fulton County agrees, and this court orders that such costs shall be reimbursed by Fulton County.

The expenses of litigation, including cost of notice to the class, shall be paid out of the settlement to the Fulton County Retired Employees Association for those amounts it paid for expenses in this litigation. Expenses of litigation, including cost of notice to the class, shall be paid out of the settlement to the Class counsel for those amounts he incurred as expenses in this litigation.

VI. ATTORNEY’S FEES FOR CLASS COUNSEL

The Defendant agrees that the Plaintiffs, both named and as a certified class, are the prevailing parties in this litigation. The Plaintiffs prevailed by

obtaining a declaratory judgment dated June 5, 1997 in their favor enforcing the 1991 Amendment to the Fulton County pension law, which also held that the 1992 Amendment to the Fulton County pension law was unconstitutional as to those retirees falling under the terms of the 1991 Amendment. This order established that all retirees of Fulton County who retired since January 1, 1991 (the effective date of the "1991 Amendment") shall be entitled, on constitutional grounds, to receive, as a pension benefit, the same or greater health insurance coverage that each retiree had immediately prior to retirement at no greater percentage of cost than was being paid by the retiree immediately prior to retirement. Thereafter, the Plaintiffs and the Defendant entered into a consent order dated August 7, 1998, resolving contested issues that existed between the parties in favor of the Plaintiffs, whereby all retirees over the age of 65 years, regardless of the date of their retirement, were entitled to 100% coverage by Fulton County of the gap between the amount paid by medicare and the amount remaining unpaid on the respective medical bill after deducting the medicare payment. In addition, immediately after this action was initiated by the Plaintiffs, Fulton County began complying in some respects with the 1991 Amendment to the Fulton County

pension laws which resulted in substantial benefits to the Plaintiffs and the class of retirees.

Subsequent to the above events, the Plaintiffs have settled remaining issues of damages with Fulton County in exchange for a payment of one million three hundred fifty thousand dollars for reimbursement of health benefit overcharges and reduction of health benefits for the years 1992 through and including 1998, attorney's fees and the costs of litigation, expert fees, and costs of notice to the class. The Plaintiffs and the Defendants agree that Fulton County's compliance in the future with the orders entered in this matter concerning the rights of retirees in the class to certain health benefits will be of a significant monetary value to the class, which is another reason that the retirees class are the prevailing parties in this action. Therefore, it is made an order of this court Fulton County and Plaintiffs' agreement to pay to counsel for Plaintiffs the sum of three hundred thirty seven thousand five hundred dollars for attorney's fees incurred in the representation of the Plaintiffs in this case. This sum represents twenty five percent of the total recovery that was the agreed amount of attorney's fees pursuant to the fee agreement dated August 1, 1995 between class counsel and the named Plaintiffs. The attorney's fees will be paid out of the one million three

hundred fifty thousand dollars previously paid by Fulton County to Plaintiffs.

Class counsel shall be authorized to pay from the attorney's fees, in the discretion of class counsel, fees for reimbursement for legal services on *this lawsuit provided by Plaintiff Joseph Drolet, who performed services as an attorney assisting the retirees and class counsel leading up to and during the litigation.*

VII. DISCLOSURE

The retirees shall have the right to obtain all information in the possession of Fulton County, its agents, insurance carriers, or consultants to determine if the provisions of all orders in this action, or any part thereof, including this order, are complied with by Fulton County, at no cost to the retirees. Upon written request to the Fulton County Finance Director, retirees, individually or through the Fulton County Retired Employees Association, shall be provided all information relevant to compliance by Fulton County with all orders entered in this case. The information requested shall be provided within thirty days following the request. If the request of the retirees is not satisfied within the time specified above or if it appears that Fulton County is failing to comply with this Consent Order, the retirees,

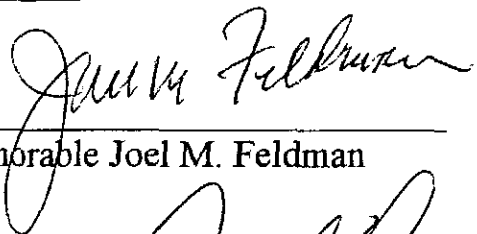
individually or as a group, shall have the right to request relief from this court. The above right to information on compliance shall be in addition to any other existing rights to information under the Georgia Open Records Act, the Freedom of Information Act, or any other similar law.

VIII. COLLATERAL MATTERS AND DUTY TO COOPERATE

The parties agree, and this court orders that both parties will make all information of any kind available to each other that is required to be exchanged or shared in order to effectuate the terms of this Consent Order as well as the previous consent orders in this case and the order of June 5, 1997, or to determine whether the terms of this Consent Order or such other orders have been fulfilled. All information will be provided or made available to the requesting party within thirty days of a written request that describes the reason for the request pursuant to this Consent Order.

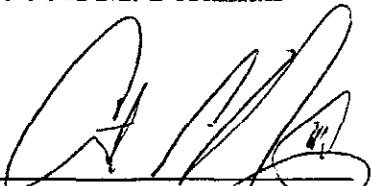
The class counsel shall submit such orders as are needed to this court to effectuate the disbursement of funds from the registry of the court in conformance with the provisions of this Consent Order.

This the 27th day of July, 1999.



Honorable Joel M. Feldman

Consented to by:

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