

Notice of Proposed Class Action Settlement and Fairness Hearing Regarding Consultative Examinations by a Certain Doctor in Social Security Disability Claims

This proposed settlement may affect your rights if you were examined by Dr. Frank Chen between January 1, 2007, and December 31, 2013, in connection with your claim for Social Security Disability Insurance or Supplemental Security Income. You must have received an unfavorable or partially favorable decision on that claim, or had a continuing disability review where benefits were stopped.

What Is The Lawsuit About?

The lawsuit is called *Hart v. Colvin*, Civil Action No. 3:15-cv-00623-JST (N.D. Cal.). Plaintiffs said that the Social Security Administration should not have relied on consultative examination reports from this doctor when it denied disability claims or stopped benefits. This doctor examined people in the San Francisco Bay Area and in counties along the coast as far south as San Luis Obispo. Social Security denies any wrongdoing or liability. The parties are proposing to settle the lawsuit.

What Are The Terms Of The Proposed Settlement?

This notice contains only a summary of the proposed settlement. To fully understand the proposed settlement, you should read the entire proposed settlement agreement. The proposed settlement provides that:

1. If you are a class member with a closed disability claim or continuing disability review who was examined by this doctor between January 1, 2011, and December 31, 2013, you can have your case decided again if you were not receiving disability benefits as of October 14, 2015. If Social Security finds you disabled for the period covered by your original application or continuing disability review, Social Security will also give you the opportunity to show that you continued to be disabled after that period
2. If you are a class member with a closed disability claim or continuing disability review who was examined by this doctor between January 1, 2007, and December 31, 2010, and you are not receiving disability benefits as of October 14, 2015, you may be able to have your case decided again. To have your case decided again, you first have to file a new claim for current disability benefits and be found disabled and eligible for current disability benefits. If Social Security decides your case again and finds you disabled for the period covered by your original application or continuing disability review, Social Security will not give you the opportunity to show that you continued to be disabled after that period. You will not be able to appeal the decision that Social Security makes when it looks at your case again.
3. If you are a class member with an open claim or continuing disability review, you will have the chance to decide whether you want Social Security to consider this doctor's report when it makes a decision on your open claim or review.
4. Social Security will also provide other relief. This relief includes guidance to administrative law judges and Appeals Council adjudicators and a study of the processes through which Social Security monitors the California Disability

Determination Service Division's consultative examination provider process, under which Dr. Chen performed examinations.

5. As part of the settlement, lead counsel for class plaintiffs—Morrison & Foerster LLP—agreed to waive its fees for work done on this lawsuit. Morrison & Foerster's co-counsel, not-for-profit organizations called Justice in Aging and Legal Aid Society of San Mateo County, will be paid fees of \$490,000 for work done on this lawsuit.

How Will The Court Decide Whether To Approve The Proposed Settlement?

The Court will need to approve the proposed settlement before it becomes final.

The Court will hold a public hearing, called a fairness hearing, to decide if the proposed settlement is fair. The hearing will be held on March 16, 2017 at 2:00pm, at the following address:

United States District Court
Northern District of California
450 Golden Gate Avenue, Courtroom 9 -19th Floor
San Francisco, California 94102.

What Can You Do If You Object To The Settlement Or Have Other Comments?

You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a larger or different settlement; the Court can only approve or deny the settlement. If the Court denies approval, no relief will be awarded to the class and the lawsuit will continue. If that is what you want to happen, you must object.

You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number (*Hart v. Colvin*, Case Number 3:15-cv-00623-JST), (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, or by filing them in person at any location of the United States District Court for the Northern District of California, and (c) be filed or postmarked on or before February 10, 2017.

What Can You Do If You Have Questions?

If you have any questions about this lawsuit or about the proposed settlement, or want a copy of the proposed settlement, please contact the lawyers who brought the lawsuit at:

Hart Class Counsel
Justice in Aging
1330 Broadway, Suite 525
Oakland, CA 94612

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