

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

SHAWN RYAN, *on behalf of himself and
others similarly situated*,

Civil Action No. 3:15-cv-01067-HZ

Plaintiff,

v.

DeVILLE ASSET MANAGEMENT, LTD.,
and **JAY B. LEDFORD**,

**ORDER OF PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Defendants.

WHEREAS, this Court has been advised that the parties to this action, Shawn Ryan (“Plaintiff” or “Class Representative”), and DeVille Asset Management, Ltd. and Jay B. Ledford (together, “Defendants”), through their respective counsel, have agreed, subject to Court approval following notice to the Class Members and a hearing, to settle the above-captioned lawsuit (“Lawsuit”) upon the terms and conditions set forth in the Class Action Settlement Agreement (“Settlement Agreement”), which has been filed with the Court, and the Court deeming that the definitions set forth in the Settlement Agreement are hereby incorporated by reference herein (with capitalized terms as set forth in the Settlement Agreement);

NOW, THEREFORE, based upon the Settlement Agreement and all of the files, records, and proceedings herein, and it appearing to this Court that, upon preliminary examination, the proposed settlement appears fair, reasonable, and adequate, and that a hearing should and will be held on **April 7, 2017 at 10:00 a.m.**, after notice to the Class Members, to confirm that the

proposed settlement is fair, reasonable, and adequate, and to determine whether a Final Order and Judgment should be entered in this Lawsuit:

IT IS HEREBY ORDERED:

This Court has jurisdiction over the subject matter of the Lawsuit and over all settling parties hereto.

In compliance with the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1332(D), 1453, and 1711-1715, Defendants will cause to be served written notice of the proposed class settlement on the United States Attorney General and the Attorney General of the State of Oregon.

Pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure, the Lawsuit is hereby preliminarily certified, for settlement purposes only, as a class action on behalf of the following classes of plaintiffs (“Class Members”) with respect to the claims asserted in the Lawsuit:

All persons (1) with an Oregon address, (2) to whom DeVille Asset Management, Ltd. and Jay B. Ledford sent a written communication, (3) between June 16, 2014 and June 16, 2015, (4) and in connection with the collection of a consumer debt, (5) that indicated a “Balance Due” or an “Account Balance”—or otherwise stated the amount owed on the subject debt—without any statement as to whether interest, late fees, or other charges were accruing.

All persons (1) with an Oregon address, (2) to whom DeVille Asset Management, Ltd. and Jay B. Ledford sent a written communication, (3) between June 16, 2014 and June 16, 2015, (4) and in connection with the collection of a consumer debt older than six years, (5) that offered to settle the debt for less than the full amount, but failed to make any representation as to whether the debt was legally enforceable.

All persons (1) with an Oregon address, (2) to whom DeVille Asset Management, Ltd. and Jay B. Ledford sent an initial debt collection communication, (3) between June 16, 2014 and June 16, 2015, (4) and in connection with the collection of a consumer debt, (5) that failed to state (a) whether interest was accruing on the subject debt, and, if interest was accruing, the amount of interest due as of the date of the initial communication, and/or (b) the effective date as of

which an amount would suffice to pay off the subject debt in full, and/or (c) the date as of which any unpaid accrued interest was calculated, and/or (d) the applicable interest rate.

All persons (1) with an Oregon address, (2) to whom DeVille Asset Management, Ltd. and Jay B. Ledford sent an initial debt collection communication, (3) between June 16, 2014 and June 16, 2015, (4) and in connection with the collection of a consumer debt, (5) that failed to state the name of the creditor to whom the debt was owed.

Defendants represent that there are 40 Class Members, including Plaintiff.

Pursuant to Rule 23, the Court appoints Shawn Ryan as the Class Representative. The Court also appoints Jesse S. Johnson of Greenwald Davidson Radbil PLLC as Class Counsel. *See Bellum v. Law Offices of Frederic I. Weinberg & Assocs., P.C.*, No. 15-2460, 2016 WL 4765767, at *1 (E.D. Pa. Sept. 12, 2016) (appointing Greenwald Davidson Radbil PLLC class counsel); *Schuchardt v. Law Office of Rory W. Clark*, 314 F.R.D. 673, 681 (N.D. Cal. 2016) (same); *Roundtree v. Bush Ross, P.A.*, No. 14-357, 2016 WL 360721, at *2 (M.D. Fla. Jan. 28, 2016) (same); *Prater v. Medicredit, Inc.*, No. 14-00159, 2015 WL 8331602, at *2 (E.D. Mo. Dec. 7, 2015) (same).

The Court preliminarily finds that the Lawsuit satisfies the applicable prerequisites for class action treatment under Rule 23, namely:

- A. The Class Members are so numerous that joinder of all of them in the Lawsuit is impracticable;
- B. There are questions of law and fact common to the Class Members, which predominate over any individual questions;
- C. The claims of the Plaintiff are typical of the claims of the Class Members;
- D. The Plaintiff and Class Counsel have fairly and adequately represented and

protected the interests of all of the Class Members; and

- E. Class treatment of these claims will be efficient and manageable, thereby achieving an appreciable measure of judicial economy, and a class action is superior to other available methods for a fair and efficient adjudication of this controversy.

Schuchardt, 314 F.R.D. at 681 (certifying class alleging claims under the Fair Debt Collection Practices Act).

The Court preliminarily finds that the settlement of the Lawsuit, on the terms and conditions set forth in the Settlement Agreement is in all respects fundamentally fair, reasonable, adequate, and in the best interest of the Class Members, especially in light of (1) the parties' arm's-length settlement negotiations; (2) the benefits to the Class Members; (3) the stage of the proceedings, discovery completed to support the proposed settlement, and the anticipated complexity, duration and expense of additional litigation; (4) the limited amount of any potential total recovery for the Classes, given the cap on statutory damages for claims brought pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*; and (5) the opinion of competent counsel supporting the settlement, who are experienced in consumer protection class litigation such as this. *See Catala v. Resurgent Capital Servs. L.P.*, No. 08-2401, 2010 WL 2524158, at *2 (S.D. Cal. June 22, 2010) (quoting *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982))

A third-party class administrator acceptable to the parties will administer the settlement and notification to Class Members. The class administrator will be responsible for mailing the approved class action notice and settlement checks to the Class Members. All costs of

administration will be paid by Defendants separate and apart from the Settlement Fund. Upon the recommendation of the parties, the Court hereby appoints the following class administrator: First Class, Inc.

The Court approves the form and substance of the Notice of Class Action Settlement, attached to the Settlement Agreement as Exhibit C. The proposed form and method for notifying the Class Members of the settlement and its terms and conditions meet the requirements of Rule 23(c)(2)(B) and due process, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice to all persons and entities entitled to the notice. The Court finds that the proposed notice is clearly designed to advise the Class Members of their rights. In accordance with the Settlement Agreement, the class administrator will mail the notice to the Class Members as expeditiously as possible, but in no event later than 21 days after the Court's entry of this order, *i.e.*, **no later than December 28, 2016**. The class administrator will confirm, and if necessary, update the addresses for the Class Members through standard methodology that the class administrator currently uses to update addresses.

Any Class Member who desires to be excluded from the class must send a written request for exclusion to the class administrator with a postmark date no later than 61 days after the Court's entry of this order, *i.e.*, **no later than February 6, 2017**. To be effective, the written request for exclusion must state the Class Member's full name, address, telephone number, and email address (if available), along with a statement that the Class Member wishes to be excluded. Any Class Member who submits a valid and timely request for exclusion will not be bound by the terms of the Settlement Agreement.

Any Class Member who intends to object to the fairness of this settlement must file a

written objection with the Court within 61 days after the Court's entry of this order, *i.e.*, **no later than February 6, 2017**. Further, any such Class Member must, within the same time period, provide a copy of the written objection to Class Counsel, attention: Jesse S. Johnson, Greenwald Davidson Radbil PLLC, 5550 Glades Road, Suite 500, Boca Raton, FL 33431; and Counsel for Defendant, Sean Mathis, Law Office of L. Sean Mathis, 13155 Noel Road, Suite 900, Dallas, Texas 75240.

To be effective, a notice of intent to object to the settlement must:

- (a) Contain a heading which includes the name of the case and case number;
- (b) Provide the name, address, telephone number, and email address (if available) of the Class Member filing the objection;
- (c) Be filed with the Clerk of the Court no later than 60 days after the Court preliminarily approves the settlement;
- (d) Be sent to Class Counsel and counsel for Defendant at the addresses designated in the Notice by first-class mail, postmarked no later than 60 days after the Court preliminarily approves the settlement;
- (e) Contain the name, address, bar number, and telephone number of the objecting Class Member's counsel, if represented by an attorney. If the Class Member is represented by an attorney, he/she or it must comply with all applicable laws and rules for filing pleadings and documents in the U.S. District Court for the District of Oregon; and
- (f) Contain a statement of the specific basis for each objection.

Any Class Member who has timely filed an objection may appear at the Settlement Approval Hearing, in person or by counsel, to be heard to the extent allowed by the Court, applying applicable law, in opposition to the fairness, reasonableness and adequacy of the Settlement, and on the application for an award of attorneys' fees and costs.

Upon final approval from the Court, the class administrator will mail a settlement check to each Class Member who does not exclude himself or herself from the Classes. Each Class Member will receive a pro-rata portion of the \$4,000.00 settlement fund, in the amount of no less than \$100.00 per Class Member. Additionally, Defendant will pay to the Class Representative the sum of \$1,000.00 as statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k(a)(2)(B)(i).

The Court will conduct a hearing on **Friday, April 7, 2017 at 10:00 a.m.** at the United States District Court for the District of Oregon, Mark O. Hatfield United States Courthouse, 1000 Southwest Third Avenue, Portland, Oregon 97204-2944, Courtroom 14B, to review and rule upon the following issues:

- A. Whether this action satisfies the applicable prerequisites for class action treatment for settlement purposes under Rule 23;
- B. Whether the proposed settlement is fundamentally fair, reasonable, adequate, and in the best interest of the Class Members and should be approved by the Court;
- C. Whether a Final Order and Judgment, as provided under the Settlement Agreement, should be entered, dismissing the Lawsuit with prejudice and releasing the Released Claims against the Released Parties; and
- D. To discuss and review other issues as the Court deems appropriate.

Attendance by Class Members at the Final Approval Hearing is not necessary. Class Members need not appear at the hearing or take any other action to indicate their approval of the proposed class action settlement. Class Members wishing to be heard are, however, required to appear at the Final Approval Hearing. The Final Approval Hearing may be postponed,

adjourned, transferred, or continued without further notice to the Class Members.

Consistent with *In re Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 988 (9th Cir. 2010), submissions by the Parties, including memoranda in support of the proposed settlement, responses to any objections, and petitions for attorneys' fees and reimbursement of costs and expenses by Class Counsel, must be filed within 30 days after the deadline for dissemination of class notice, *i.e.*, **no later than January 27, 2017**. Any opposition to any of the foregoing must be filed with the Court no later than 21 days prior to the Final Approval Hearing, *i.e.*, **no later than March 17, 2017**. Reply memoranda in support of the foregoing must be filed with the Court no later than 14 days prior to the Final Approval Hearing, *i.e.*, **no later than March 24, 2017**.

The Settlement Agreement and this Order will be null and void if any of the following occur:

- A. The Settlement Agreement is terminated by any of the Parties for cause, or any specified material condition to the settlement set forth in the Settlement Agreement is not satisfied and the satisfaction of such condition is not waived in writing by the Parties;
- B. The Court rejects any material component of the Settlement Agreement, including any amendment thereto approved by the Parties; or
- C. The Court approves the Settlement Agreement, including any amendment thereto approved by the Parties, but such approval is reversed on appeal and such reversal becomes final by lapse of time or otherwise.

If the Settlement Agreement and/or this order are voided, then the Settlement Agreement

will be of no force and effect and the Parties' rights and defenses will be restored, without prejudice, to their respective positions as if the Settlement Agreement had never been executed and this order never entered.

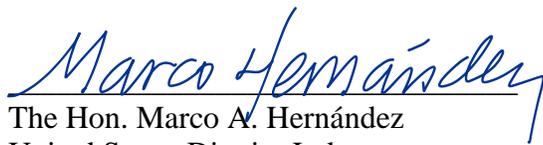
The Court retains continuing and exclusive jurisdiction over the action to consider all further matters arising out of or connected with the settlement, including the administration and enforcement of the Settlement Agreement.

The Court sets the following schedule:

<u>Date</u>	<u>Event</u>
December 7, 2016	Preliminary Approval Order Entered
December 28, 2016	Notice Sent (21 days after entry of Preliminary Approval Order)
January 27, 2017	Motion for Final Approval and Attorney Fees Papers Filed (30 days after deadline for dissemination of class notice)
February 6, 2017	Deadline to Send Exclusion or File Objection (61 days after entry of Preliminary Approval Order)
March 17, 2017	Opposition to Motion for Final Approval and Attorney Fees Award Filed (21 days before Final Approval Hearing)
March 24, 2017	Reply in Support of Motion for Final Approval and Attorney Fees Award Filed (14 days before Final Approval Hearing)
April 7, 2017	Final Approval Hearing Held

IT IS SO ORDERED.

Dated: 12/7/16


 The Hon. Marco A. Hernández
 United States District Judge