

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

1		
2		
3	Betty Brown and Margie Furuya, <i>on</i>)	Case No. 5:15-cv-01111-EJD
4	<i>behalf of themselves and others similarly</i>)	
5	<i>situated,</i>)	
6	Plaintiffs,)	[PROPOSED] ORDER FINALLY
7	vs.)	APPROVING CLASS ACTION
8	Hunt & Henriques, Attorneys at Law,)	SETTLEMENT ; JUDGMENT THEREON
9	Defendant.)	
10	_____)	

On January 22, 2016, Betty Brown and Margie Furuya (“Plaintiffs”) and Hunt & Henriques, Attorneys at Law (“Defendant”) reached a settlement agreement as a result of intensive, non-collusive, arms-length negotiations.

On January 28, 2016, Plaintiffs filed their renewed unopposed motion to preliminarily approve the parties’ proposed settlement.

On April 26, 2016, this Court preliminarily approved the parties’ proposed settlement.

On April 29, 2016, Defendant served the Class Action Fairness Act (“CAFA”) notice required by 28 U.S.C. § 1715.

On May 27, 2016, First Class, Inc. distributed notice of the parties’ proposed class settlement, as ordered.

1 On September 29, 2016, Plaintiffs filed their unopposed motion to finally
2 approve the parties' proposed settlement.

3 On November 3, 2016, this Court held a fairness hearing regarding Plaintiffs
4 and Defendant's proposed settlement.

5 Having considered Plaintiffs' unopposed motion, this Court finally approves
6 Plaintiffs and Defendant's proposed settlement.

7 This Court also confirms that it has jurisdiction over this matter and the parties
8 to it.

9 This Court further certifies the following class, for settlement purposes, under
10 Federal Rule of Civil Procedure 23:
11

12 (a) All persons with a California address, (b) to whom Hunt &
13 Henriques, Attorneys at Law, mailed an initial debt collection
14 communication that stated: "If you notify this firm within thirty (30)
15 days after your receipt of this letter, that the debt or any portion thereof,
16 is disputed, we will obtain verification of the debt or a copy of the
17 judgment, if any, and mail a copy of such verification or judgment to
18 you," (c) from March 10, 2014 through March 10, 2015, (d) in
19 connection with the collection of a consumer debt on behalf of Bank of
20 America, N.A.

21 *See Van Bronkhorst v. Safeco Corp.*, 529 F.2d 943, 950 (9th Cir. 1976) ("It hardly
22 seems necessary to point out that there is an overriding public interest in settling and
23 quieting litigation. This is particularly true in class action suits . . ."); *see also Wal-*
24 *Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 116 (2d Cir. 2005) ("We are
mindful of the strong judicial policy in favor of settlements, particularly in the class

1 action context.”); *Cotton v. Hinton*, 559 F.2d 1326, 1331 (5th Cir. 1977)
2 (“Particularly in class action suits, there is an overriding public interest in favor of
3 settlement.”); *Grady v. de Ville Motor Hotel, Inc.*, 415 F.2d 449, 451 (10th Cir. 1969)
4 (“It is well settled, as a matter of sound policy, that the law should favor the
5 settlement of controversies, and should not discourage settlement by subjecting a
6 person who has compromised a claim to the hazard of having the settlement proved
7 in a subsequent trial of another law suit by another person asserting a claim related
8 to the controversy settled.”).

9
10 Excluded from the class is:

- 11
- 12 a. Any person who is already subject to an existing release;
 - 13 b. Any person who is deceased;
 - 14 c. Any person who has filed for bankruptcy protection under Title
15 11 of the United States Code; and
 - 16 d. Any Class Member who timely mails a request for exclusion.

17 The Class Period runs from March 10, 2014 through March 10, 2015.

18 This Court finds that this matter meets the applicable prerequisites for class
19 action treatment under Federal Rule of Civil Procedure 23, namely:

- 20
- 21 1. The class members are so numerous that joinder of all of them is
impracticable;
 - 22 2. There are questions of law and fact common to the class members, which
23 predominate over any individual questions;

- 1 3. Plaintiffs' claims are typical of the class members' claims;
- 2 4. Plaintiffs and class counsel have fairly and adequately represented and
3 protected the interests of all of the class members; and
- 4 5. Class treatment of Plaintiffs' claims will be efficient and manageable,
5 thereby achieving an appreciable measure of judicial economy, and a class
6 action is superior to other available methods for a fair and efficient
adjudication of this controversy.

7 This Court also appoints Betty Brown and Margie Furuya as class
8 representatives, and the following attorney and law firm as class counsel:

9 Aaron D. Radbil
10 Greenwald Davidson Radbil PLLC
11 106 East Sixth Street, Suite 913
Austin, Texas 78701

12 *See Schuchardt v. Law Office of Rory W. Clark*, 314 F.R.D. 673 (N.D. Cal. 2016)
13 (Corley, J.) (appointing Greenwald Davidson Radbil PLLC as class counsel and
14 finally approving a class action settlement under the FDCPA); *Jones v. I.Q. Data*
15 *Int'l Inc.*, No. 1:14-CV-00130-PJK, 2015 WL 2088969, at *2 (D.N.M. Apr. 21,
16 2015) (appointing Greenwald Davidson Radbil PLLC as class counsel and
17 preliminarily approving a class action settlement under the Telephone Consumer
18 Protection Act ("TCPA")); *Ritchie v. Van Ru Credit Corp.*, No. 2:12-CV-01714-
19 PHX-SMM, 2014 WL 3955268, at *1 (D. Ariz. Aug. 13, 2014) (appointing
20 Greenwald Davidson PLLC as class counsel and finally approving a class action
21 settlement under the TCPA).
22
23
24

1 This Court approves the terms of the parties' settlement, the material terms of
2 which include, but are not limited to:

- 3 1. Defendant will pay \$750.00 to Ms. Brown, and \$750.00 to Ms. Furuya,
4 pursuant to 15 U.S.C. § 1692k(a)(2)(B)(i).
- 5 2. Defendant will pay \$10.00 to each of the 713 unnamed class members
6 who did not exclude themselves from this settlement, pursuant to 15
7 U.S.C. § 1692k(a)(2)(B)(ii).
- 8 3. Defendant will pay an incentive award to each of Ms. Brown and Ms.
9 Furuya in the amount of \$500.00.
- 10 4. Defendant will pay an award of \$35,000.00 for class counsel's costs,
11 expenses, and attorneys' fees.

12 This Court additionally finds that the parties' notice of class action settlement,
13 and the distribution thereof, satisfied the requirements of due process under the
14 Constitution and Federal Rule of Civil Procedure 23(e), that it was the best
15 practicable under the circumstances, and that it constitutes due and sufficient notice
16 to all persons entitled to notice of class action settlement. *See Churchville Village,*
17 *L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004) ("Fed. R. Civ. P. 23(c)(2)
18 prescribes the 'best notice practicable under the circumstances.' Notice is
19 satisfactory if it 'generally describes the terms of the settlement in sufficient detail
20 to alert those with adverse viewpoints to investigate and to come forward and be
21 heard.'") (quoting *Mendoza v. Tucson Sch. Dist. No. 1*, 623 F.2d 1338, 1352 (9th
22 Cir.1980)).
23
24

1 This Court similarly finds that the parties' notice of class action settlement
2 was adequate and gave all class members sufficient information to enable them to
3 make informed decisions as to the parties' proposed settlement, and the right to
4 object to, or opt-out of, it.

5
6 This Court additionally finds that Plaintiffs and Defendant's settlement, on
7 the terms and conditions set forth in their class action settlement agreement, is in all
8 respects fundamentally fair, reasonable, adequate, and in the best interests of the
9 class members. *See Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625
10 (9th Cir. 1982) (factors considered in evaluating the fairness of a class action
11 settlement: "the strength of plaintiffs' case; the risk, expense, complexity, and likely
12 duration of further litigation; the risk of maintaining class action status throughout
13 the trial; the amount offered in settlement; the extent of discovery completed, and
14 the stage of the proceedings; the experience and views of counsel; the presence of a
15 governmental participant; and the reaction of the class members to the proposed
16 settlement").
17

18 This Court finds that the class members were given a fair and reasonable
19 opportunity to object to the settlement. No class member objected to the settlement.
20 And the class members who made valid and timely requests for exclusion are
21 excluded from the class and settlement and are not bound by this order. There are
22 three such persons – Lillian Mardikian, Kayin Yau, and Debbie L. Raymond.
23
24

1 This order is binding on all class members, except those individuals who
2 validly and timely excluded themselves from the settlement.

3 This Court approves the individual and class releases set forth in Plaintiffs and
4 Defendant's class action settlement agreement. The released claims are consequently
5 compromised, settled, released, discharged, and dismissed with prejudice by virtue
6 of these proceedings and this order.
7

8 Plaintiffs, the class members, and all of their heirs, executors, administrators,
9 successors, assigns, and any person or entity acting for, on behalf of, or for the
10 benefit of any such persons are hereby permanently enjoined from suing upon,
11 pursuing, or demanding any legal or equitable relief for any of the released claims,
12 save and except for the compensation set forth above.
13

14 This action is dismissed with prejudice as to all other issues and as to all
15 parties and claims.

16 This court retains continuing and exclusive jurisdiction over the parties and
17 all matters relating this matter, including the administration, interpretation,
18 construction, effectuation, enforcement, and consummation of the settlement and
19 Plaintiffs' Motion for Final Approval of Class Action Settlement (Dkt. No. 50) and
20 this order. Motion for Approval of an Award of Attorneys' Fees and Expenses (Dkt. No. 51) are
21 GRANTED. The Clerk shall close this file.

22 IT IS SO ORDERED.

23 Dated: November 18, 2016.
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24


UNITED STATES DISTRICT JUDGE