

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPHINE T. BELLUM & KAREN A.	:	
BISTREK, on behalf of themselves and others	:	CIVIL ACTION
similarly situated,	:	NO. 15-2460
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
	:	
THE LAW OFFICES OF FREDERIC I.	:	
WEINBERG & ASSOCIATES, P.C.,	:	
Defendant.	:	

**ORDER**

WHEREAS, this Court has been advised that the parties to this action, Josephine T. Bellum and Karen A. Bistrek (“Plaintiffs” or “Class Representatives”), and The Law Offices of Frederic I. Weinberg & Associates, P.C. (“Defendant”), 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 **July 21, 2016**, 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:

1. **Jurisdiction.** This Court has jurisdiction over the subject matter of the Lawsuit and over all settling parties hereto.
2. **Settlement Class.** Pursuant to Fed. R. Civ. P. 23(b)(3), the Lawsuit is hereby preliminarily certified, for settlement purposes only, as a class action on behalf of the following class of plaintiffs (hereinafter referred to as the “Class Members”) with respect to the claims

asserted in the Lawsuit:

All persons with a Pennsylvania address to whom The Law Offices of Frederic I. Weinberg & Associates, P.C. mailed an initial debt collection communication that stated: “If you notify this firm within thirty (30) days after your receipt of this letter, that the debt or any portion thereof, is disputed, we will obtain verification of the debt or a copy of the judgment, if any, and mail a copy of such verification or judgment to you,” between May 4, 2014 and May 4, 2015, in connection with the collection of a consumer debt on behalf of Bank of America, N.A.

Defendant represents that there are 971 Class Members, including Plaintiffs.

3. **Federal Rule of Civil Procedure 23.** The Court preliminarily finds that the Lawsuit satisfies the applicable prerequisites for class action treatment under Fed. R. Civ. P. 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 Plaintiffs are typical of the claims of the Class Members;
- D. The Plaintiffs 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.

*Harlan v. Transworld Sys., Inc.*, 302 F.R.D. 319 (E.D. Pa. 2014) (preliminarily approving FDCPA class settlement); *McCall v. Drive Fin. Servs., L.P.*, 236 F.R.D. 246 (E.D. Pa. 2006) (certifying FDCPA class).

4. **Class Representatives.** Pursuant to Fed. R. Civ. P. 23, the Court appoints Plaintiffs Josephine T. Bellum and Karen A. Bistrek as the Class Representatives.

5. **Class Counsel.** The Court also appoints Jesse S. Johnson of Greenwald Davidson Radbil PLLC as Class Counsel.<sup>1</sup>

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<sup>1</sup> See also *Chamberlin v. Mullooly, Jeffrey, Rooney & Flynn, LLP*, No. 15-02361, ECF No. 36 (D.N.J. Feb. 9, 2016) (appointing Greenwald Davidson Radbil PLLC class counsel); *Roundtree v. Bush Ross, P.A.*, 2016 WL 360721, at \*2 (M.D. Fla. 2016) (same); *Garza v. Mitchell*

6. ***Girsh v. Jepson.*** 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, pursuant to *Girsh v. Jepson*, 521 F.2d 153, 156 (3d Cir. 1975), especially in light of (1) the parties' arm's-length settlement negotiations; (2) the stage of the proceedings and discovery completed to support the proposed settlement; and (3) the opinion of competent counsel supporting the settlement, who are experienced in consumer protection class litigation such as this.

7. **Class Administrator.** 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 Defendant separate and apart from the Settlement Fund. Upon the recommendation of the parties, the Court hereby appoints the following class administrator: First Class, Inc.

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

9. **Notice to the Class Members.** The Court approves the form and substance of the Notice of Class Action Settlement, docketed at Docket Number 29-2, Exhibit A to the Settlement Agreement. The proposed form and method for notifying the Class Members of the settlement and its terms and conditions meet the requirements of Fed. Civ. P. 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 **March 30, 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

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*Rubenstein & Assocs., P.C.*, 2015 WL 9594286, at \*1 (D. Md. 2015) (same); *Prater v. Mediacredit, Inc.*, No. 2015 WL 8331602, at \*2 (E.D. Mo. 2015) (same); *McWilliams v. Advanced Recovery Sys., Inc.*, 310 F.R.D. 337, 340 (S.D. Miss. 2015) (same).

update addresses.

Class Counsel shall file with the Court one or more affidavits or declarations showing timely compliance with the foregoing notice requirements by **April 7, 2016**.

10. **Class Member Exclusion.** Any Class Member who desires to be excluded from the class must send a written request for exclusion to Class Counsel with a postmark date no later than **May 9, 2016**. 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.

11. **Class Member Objections.** Any Class Member who intends to object to the fairness of this settlement must file a written objection **no later than May 9, 2016**. 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, Gregory W. Fox, Marshall Dennehey Warner Coleman & Goggin, P.C., 2000 Market St., 24<sup>th</sup> Floor, Philadelphia, PA 19103.

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 signature of the Class Member filing the objection;
- (c) Be filed with the Clerk of the Court no later than May 9, 2016;
- (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 May 9, 2016;
- (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 Eastern District of Pennsylvania; 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.

12. **Pro Rata Share.** The class administrator will mail a settlement check to each Class Member who does not exclude himself or herself from the Class. Each Class Member will receive a pro-rata portion of the \$9,710.00 common fund, in the amount of no less than \$10.00 per Class Member.

13. **Payment to Class Representatives.** Defendant will pay to the Class Representatives the sum of \$1,000 each as statutory damages pursuant to the FDCPA.

14. **Final Settlement Fairness Hearing.** The Court will conduct a hearing on **July 21, 2016 at 9:30 AM** in the United States District Court for the Eastern District of Pennsylvania, James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106, to review and rule upon the following issues:

- A. Whether this action satisfies the applicable prerequisites for class action treatment for settlement purposes under Fed. R. Civ. P. 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, substantially in the form of the Settlement Agreement docketed at Docket Number 29-2, should be entered, dismissing the Lawsuit with prejudice and releasing the Released Claims against the Released Parties;
- D. Whether the Lead Plaintiff's should be finally certified as Class Representatives for the Settlement Class; and whether the law firm of Greenwald Davidson Radbil PLLC should be finally appointed Class Counsel for the Settlement Class;
- E. 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.

15. **Submissions in Support of Final Settlement Approval.**

- a. 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 no later than **June 10, 2016**.
- b. Opposition briefs to any of the foregoing must be filed no later than **June 24, 2016**.
- c. Reply memoranda in support of the foregoing must be filed with the Court no later than **July 8, 2016**.

16. **Voiding of Settlement Agreement.** 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.

17. **Case Management Schedule.** The Court sets the following schedule:

- a. Preliminary Approval Order entered on March 10, 2016;
- b. The Class Administrator shall send the approved Notice to the Class

- Members by March 30, 2016;
- c. Class Member shall send exclusions or file objections by May 9, 2016;
- d. The parties shall file any Motions for Final Approval and Attorneys' Fees by June 10, 2016;
- e. Any Opposition to Motions for Final Approval and Attorneys' Fees shall be filed by June 24, 2016;
- f. Any Replies in support of Motions for Final Approval and Attorneys' Fees shall be filed by July 8, 2016.
- g. Final Approval Hearing shall be held on July 21, 2016 at 9:30am.

**18. Case Remains Stayed.** All proceedings in this Action shall remain stayed until further Order of this Court, except as may be necessary to implement the Settlement or comply with the terms of the Settlement Agreement and this Order.

SO ORDERED, on this 16th day of March, 2016.

BY THE COURT:

/s/ C. Darnell Jones, II

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C. Darnell Jones, II J.