

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHARON M. WHITFORD, on behalf of herself)	
and others similarly situated,)	
)	
Plaintiff,)	
)	Civil Action No. 1:15-cv-400
v.)	Honorable Janet T. Neff
)	
WEBER & OLCESE, P.L.C.,)	
)	
Defendant.)	
_____)	

ORDER OF PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Sharon M. Whitford (“Plaintiff”) and Weber & Olcese, P.L.C. (“Defendant”) have reached a proposed settlement, and accordingly seek preliminary approval of their proposed settlement.

Having considered Plaintiff’s unopposed motion for preliminary approval of the class action settlement (Dkt 22), this Court preliminarily approves Plaintiff’s and Defendant’s proposed settlement.

The Court also preliminarily finds that this matter meets the requirements for class certification under Federal Rule of Civil Procedure 23. *See Date v. Sony Electronics, Inc.*, No. 07-15474, 2013 WL 3945981, at *3 (E.D. Mich. July 31, 2013) (approving class action settlement).

This Court further finds that it may finally approve the parties’ proposed settlement, as it is fair, adequate, and reasonable, and because the parties reached their proposed agreement as a result of intensive, non-collusive, arm’s-length negotiations *See UAW v. General Motors Corp.*, 497 F.3d 615, 631-32 (6th Cir. 2007).

This Court will hold a fairness hearing on January 11, 2016, at 11:00 a.m. before the Honorable Janet T. Neff, 401 Federal Building, 110 Michigan, N.W., Grand Rapids, Michigan, to determine whether this Court should finally approve the parties' proposed settlement, and to resolve all related matters.

This Court approves, as to form and content, the parties' proposed notice of class action settlement, a copy of which was filed with Plaintiff's unopposed motion for preliminary approval.

This Court orders that the notice of class action settlement must be distributed as follows: Not later than fourteen days following the preliminary approval date, First Class, Inc. will mail the class notice to each class member at the most current addresses reflected in Defendant's records for each class member. The envelopes in which First Class, Inc. mails the class notice to the class members must include a notation requesting address correction. If any notice is returned with a new address, First Class, Inc. must resend the class notice to the new address. For any class member whose notice is returned without a forwarding address First Class, Inc. must run the class member's name through a national change of address database in an effort to obtain a good address. If First Class, Inc. obtains a new address by doing so, First Class, Inc. must send class notice to the new address. First Class, Inc. is not responsible for the postal service's failure to timely deliver the class notice to a particular class member, and First Class, Inc. will not have any obligation to resend a notice that is not returned by the postal service before the final fairness hearing.

This Court finds that the parties' proposed notice of class action settlement, and the ordered distribution thereof, meets the requirements of due process under the Constitution and Federal

Rule of Civil Procedure 23(e), that it is the best practicable under the circumstances, and that it constitutes due and sufficient notice to all persons entitled to notice of class action settlement.

This Court finds that the parties' proposed notice of class action settlement is adequate and will give all class members sufficient information to enable them to make informed decisions as to the parties' proposed settlement, and the right to object to, or opt-out of, it. *See* Fed. R. Civ. P. 23(c)(2).

For purposes of effectuating the parties' proposed settlement, this Court preliminarily certifies the following settlement class:

All persons with Michigan addresses to whom Weber & Olcese, P.L.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 April 15, 2014 and August 26, 2015, in connection with the collection of a consumer debt on behalf of Bank of America, N.A.

Excluded from the class is:

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

The Class Period runs from April 15, 2014 through August 26, 2015.

For purposes of effectuating the parties' proposed settlement, this Court appoints Sharon M. Whitford as class representative, and the following attorney and law firm as class counsel:

Michael L. Greenwald
Greenwald Davidson Radbil PLLC

5550 Glades Road, Suite 500
Boca Raton, Florida 33431

See, e.g., Jones v. I.Q. Data Int'l, Inc., Case 1:14-cv-00130-PJK-GBW, 2015 WL 2088969, at *2 (D.N.M. Apr. 21, 2015) (appointing Greenwald Davidson Radbil PLLC as class counsel); *Rhodes v. Olson Associates, P.C.*, No. 14-CV-00919-CMA-MJW, 2015 WL 1136176, at *14 (D. Colo. Mar. 13, 2015) (appointing Greenwald Davidson Radbil PLLC as class counsel and certifying a class under the Fair Debt Collection Practices Act (“FDCPA”)); *Roundtree v. Bush Ross, P.A.*, 304 F.R.D. 644 (M.D. Fla. 2015) (appointing Greenwald Davidson Radbil PLLC as class counsel and certifying three classes under the FDCPA), *reconsideration denied sub nom. Roundtree v. Bush Ross, P.A.*, No. 8:14-CV-357-T-27AEP, 2015 WL 1931103 (M.D. Fla. Apr. 28, 2015); *Donnelly v. EquityExperts.org, LLC*, No. 4:13-CV-10017-TGB, 2015 WL 249522, at *2 (E.D. Mich. Jan. 14, 2015).

Any class member who wishes to exclude himself or herself from the class action settlement embodied by the parties’ agreement must mail a written request for exclusion to the class administrator—First Class, Inc.—no more than sixty days after the preliminary approval date. Through his or her request, a class member must include the case name and case number, along with his or her (a) full name, (b) address, (c) telephone number, and (d) a statement that he or she wishes to be excluded from the class action settlement. Any class member who submits a valid request for exclusion will neither be bound by the terms of the parties proposed settlement, nor receive any of the benefits of the settlement.

Any class member who wishes to object to the class action settlement embodied by the parties’ agreement must file a written objection with the Court within sixty days after the Court’s

entry of this order, and send a copy of the written objection to class counsel and to counsel for Defendant. Through his or her notice, a class member must include the case name and case number, along with his or her (a) full name, (b) address, (c) telephone number, (d) a statement of each objection, (e) a description of the facts and law underlying each objection, and (f) a statement noting whether the class member intends to appear at the fairness hearing.

Unless otherwise agreed by both class counsel and counsel for Defendant, class members or other persons who fail to properly or timely file their objections with this Court, or fail to timely serve their objections on class counsel and counsel for Defendant, will not be heard during the fairness hearing, and this Court will not consider their objections.

Until the fairness hearing, class members are preliminarily enjoined and ordered not to file any claim against Defendant that is currently the subject of this matter.

If the parties' settlement agreement is terminated pursuant to its terms, or if this Court does not finally approve the parties' proposed settlement, Plaintiff and Defendant will be returned to the position they were in prior to execution of their settlement agreement, with the same *status quo* rights and interests as they had prior to execution their settlement agreement.

IT IS SO ORDERED.

Dated: September 21, 2015

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge