

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

TERESA M. JOHNSTON,

Plaintiff,

v.

CASE NO. 8:16-cv-3390-T-23AEP

KASS SHULER, P.A.,

Defendant.

_____ /

ORDER

The plaintiff's unopposed motion (Doc. 22) for preliminary approval of the proposed settlement agreement, approval of the proposed notice of settlement, appointment of plaintiff's counsel as class counsel, appointment of the plaintiff as class representative, and approval of the class action settlement procedure is

GRANTED.

I. Preliminary Approval of the Settlement

1. Based on a review of the motion for preliminary approval and all other papers submitted in connection with the motion, the settlement memorialized in the settlement agreement (Doc. 22-1 at 6) is preliminarily approved.

2. The proposed settlement is within the range of possible final settlement approval, and the notice to the class is adequate.

3. The parties agree that the settlement is the result of good-faith, arm's-length negotiation by attorneys well-versed in the prosecution of a Fair Debt Collection Practices Act (FDCPA) action.

II. Conditional Certification of the Proposed Rule 23 Settlement Class

4. For settlement purposes only, the Settlement Class comprises “[a]ll persons (a) with a Florida address, (b) from whom Kass Shuler, P.A., (c) between December 12, 2015 and December 12, 2016, (d) attempted to collect interest at a rate that was greater than the statutory rate, on a judgment that provided for interest to accrue at the statutory rate.” (Doc. 22-1 at 8)

5. For settlement purposes only, the Settlement Class meets the requirements for class certification under Rules 23(a) and (b)(3), Federal Rules of Civil Procedure.

6. The Settlement Class satisfies Rule 23(a)(1) because the joinder of 122 class members is impracticable.

7. The Settlement Class satisfies Rule 23(a)(2) because the class members share common issues of fact and law.

8. The Settlement Class satisfies Rule 23(a)(3) because the plaintiff's claim is typical of the Settlement Class, concerns the same alleged practices of the defendant, arises from the same legal theories, and alleges the same types of harm and entitlement to relief.

9. Rule 23(a)(4) is satisfied because no conflict of interest exists between the plaintiff and the Settlement Class, and the plaintiff has retained competent counsel to

represent him and the Settlement Class. The plaintiff's counsel, Jesse S. Johnson of Greenwald Davidson Radbil PLLC, regularly engages in FDCPA lawsuits and other litigation similar to this action and has dedicated substantial resources to the prosecution of this action. Further, the plaintiff and the plaintiff's counsel have adequately represented the Settlement Class members' interests in this action. Therefore, the plaintiff and the plaintiff's counsel meet the adequacy requirement of Rule 23(a)(4).

10. Rule 23(b)(3) is satisfied because common legal and factual issues predominate over individualized issues. The resolution of the common issues for 122 members of the Settlement Class in a single, coordinated proceeding is superior to 122 individual lawsuits addressing the same legal and factual issues.

III. Appointment of the Plaintiff's Counsel as Class Counsel and Class Representation

11. Under Rule 23(g) and for settlement purposes only, Jesse S. Johnson is appointed as Class Counsel for the settlement class.

12. Class Counsel performed substantial work identifying, investigating, prosecuting, and settling the plaintiff's and the class members' claims.

13. Teresa M. Johnston is appointed Class Representative.

IV. Notice

14. The proposed notice of settlement (Notice), which is attached as Exhibit C to the plaintiff's "Unopposed Motion for Preliminary Approval of Class

Action Settlement,” (Doc. 22) is approved. Class counsel must send the Notice via mail.

15. The content of the notice complies with due process and Rule 23(c)(2)(B).

16. The notice adequately describes the settlement, informs the class about the allocation of the attorney’s fee, and specifies the date, time, and place of the final approval hearing.

V. Class Action Settlement Procedure

17. The following class action settlement procedure is adopted:
- a. No later than twenty-one days after entry of this order, Class Counsel must mail the notice to each class member.
 - b. The class members have sixty days after the day the Notice is sent to “opt out” of, or to object to, the settlement.
 - c. No later than fifteen days before the final fairness hearing, the plaintiffs must file a motion for final approval of the settlement.
 - d. The final fairness hearing is scheduled for **JULY 17, 2017**, at 8:30 a.m. at the United States District Court for the Middle District of Florida, 801 North Florida Avenue, Tampa, Florida 33602, in Courtroom 15A before Judge Steven D. Merryday.
 - e. If the plaintiffs’ motion for final approval of the settlement is granted, the judge will enter a final order and judgment. If no party appeals the final order and judgment, the “Effective Date” of the settlement is the day after the expiration of the time for appeal.
 - f. If a party seeks rehearing, reconsideration, or appellate review, the “Effective Date” of the settlement is the day after

all motions and appeals are finally resolved (including receipt of a mandate from the court of appeals) in favor of final approval.

- g. No later than seven days after the “Effective Date,” the defendant must pay Class Counsel the approved attorney’s fee, expenses, and costs. No later than seven days after the “Effective Date,” the defendant must pay the settlement administrator an amount sufficient to pay valid claims. No later than seven days after the “Effective Date,” the defendant must pay the plaintiff “additional” statutory damages and the approved incentive award.
- h. No later than twenty-one days after receipt of funds, the class administrator must disburse settlement checks to class members.

ORDERED in Tampa, Florida, on March 29, 2017.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE