

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 19-61002-CIV-ALTMAN/Hunt

DAPHNE CLAXTON, *on behalf
of herself and others similarly situated*,

Plaintiff,

v.

**ALLIANCE CAS, LLC and
SET 333, LLC**,

Defendants.

_____ /

OMNIBUS ORDER

THIS MATTER comes before the Court on the Unopposed Motion for Settlement [ECF No. 34].

In this class action, the Plaintiff, Daphne Claxton as Class Representative, and the Defendants, Alliance CAS, LLC and SET 333, LLC, (collectively “the Defendants”), have agreed to a proposed class settlement, the terms and conditions of which are set forth in an executed Settlement Agreement, which they submitted to the Court for final approval (the “Settlement Agreement”).

On January 8, 2020, the Parties reached the Settlement Agreement through arm’s-length negotiations, including a mediation. The Settlement Agreement, with its exhibits, including the proposed Class Notice Forms, was filed with Class Counsel’s motion for preliminary approval. [ECF No. 31]. On January 16, 2020, the Court, after due and careful consideration, granted preliminary approval of the Settlement and the Parties’ plan for disseminating the Class Notice [ECF No. 32]. Additionally, the Court preliminarily approved both the certification of the Settlement Class, as defined in the Settlement Agreement, and the appointment of Daphne Claxton

as the Class Representative, James Davidson of Greenwald Davidson Radbil PLLC as Class Counsel, and First Class, Inc., as Class Administrator. [ECF No. 32].

The Plaintiffs then submitted their Unopposed Motion for Final Approval of Class Settlement [ECF No. 34]. The Class Notice of the Settlement was properly disseminated in accordance with the notice plan the Court approved. The Court has received *no* objections from any of the 353 class members. And only two class members opted out of the settlement.

On May 20, 2020, the Court conducted the Final Approval Hearing to determine: (a) whether this action satisfies the applicable prerequisites for class action treatment, *see* Fed R. Civ. P. 23; (b) whether the proposed Settlement was fair, reasonable, adequate, and in the best interest of the Class Members (and whether it should thus 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) the proper amount of attorney's fees and costs.

The Court, having considered the Motion for Final Approval, the Record, and the governing law, hereby

ORDERS AND ADJUDGES as follows:

1. The Court has personal jurisdiction over all Class Members and Defendants, and the Court has subject-matter jurisdiction to approve the Settlement under 28 U.S.C. § 1331, and the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.
2. Under Fed. R. Civ. P. 23(b)(3), the Lawsuit is hereby certified, for settlement purposes only, as a class action on behalf of the following class of plaintiffs (the "Class Members" with respect to the claims asserted in the lawsuit:

All persons (a) with a Florida address, (b) to whom Alliance CAS, LLC or SET 333, LLC mailed an

initial written communication not returned as undeliverable, (c) in connection with the collection of a consumer debt, (d) between April 19, 2018 and April 19, 2019, (e) which stated that the debt “must be paid within 30 days” of receipt of the communication.

3. The Defendants have identified a total of 353 Class Members.
4. Venue is proper in this District.
5. The prerequisites for a class action under Fed. R. Civ. P. 23 have been satisfied as follows:
 - a. Numerosity: This class consists of 353 members. Accordingly, the number of members of the Settlement Class is so numerous that joinder of all class members would be impracticable;
 - b. Commonality: Each class member received the same debt collection letter. Accordingly, there are questions of law and fact that are common to the Settlement Class;
 - c. Typicality: The Plaintiff received the same debt collection letter as the rest of the class. Accordingly, the Plaintiff’s claims are typical of the Class’ claims;
 - d. Adequacy: For the reasons stated below regarding the adequacy of the settlement, the Plaintiff and Class Counsel have and will continue to fairly and adequately represent the interests of the Settlement Class; and
 - e. Predominance: Common questions of law and fact predominate over individual questions.

6. The Court finds that, in negotiating, entering into, and implementing the Settlement, the Plaintiffs and Class Counsel have adequately represented and protected the interests of the Class.
7. The proposed settlement is fundamentally fair, reasonable, adequate, and in the best interest of the Class Members. The settlement was reached in the absence of collusion and is the product of informed, good-faith, arm's-length negotiations between the Parties and their capable and experienced counsel, having adequate knowledge of the strengths and weaknesses of their claims and the defenses and the risks of proceeding with the litigation through a motion for class certification, trial, and appeal. Under the FDCPA, plaintiffs may receive up to \$1,000 in statutory damages. In an FDCPA class action, the lead plaintiff may receive up to \$1,000, and the Class may receive up to the lesser of \$500,000 or 1% of the defendants' net worth. Here, the Settlement provides that the lead Plaintiff will receive \$1,000, the Class will receive \$5,532, which is *above* 1% of the combined net worth of the Defendants, and the Defendants have agreed to stop using the form letter at issue—a form of injunctive relief not available under the statute. The Class thus will receive more under the Settlement than it would be statutorily entitled to receive, both in money damages and in injunctive relief. For these reasons, the proposed Settlement is fundamentally fair, reasonable, adequate, and in the best interest of the Class Members.
8. The Court appoints Daphne Claxton as the Class Representative and James L. Davidson of Greenwald Davidson Radbil PLLC as Class Counsel.

9. Pursuant to the Court's Preliminary Approval Order, the approved class action notices were mailed. The form and method for notifying the Class Members of the settlement and its terms and conditions were in conformity with this Court's Preliminary Approval Order and satisfied the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process, and constituted the best notice practicable under the circumstances. The Court finds that the notice was clearly designed to advise the Class Members of their rights.
10. The parties and their counsel are ordered to implement and to consummate the Settlement Agreement, according to its terms and provisions. These terms include, but are not limited to:
 - a. SET will establish a \$5,532 settlement fund (the "Settlement Fund").
 - b. Each Class Member who has not excluded himself or herself from the Class with a postmark date no later than 60 days after the Court's entry of the Order of Preliminary Approval of Class Action Settlement will receive a pro rata share of the Settlement Fund. Each settlement check will be void 90 days after mailing. To the extent that any funds remain in the Settlement Fund after the void date (from uncashed checks or otherwise), these funds will be distributed to Legal Aid Service of Broward County as the *cy pres* recipient.
 - c. The Class Representative will receive from SET the sum of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(B)(i) and for her work on behalf of the Class Members ("Statutory Award to Plaintiff"). This payment will be

separate and apart from the Settlement Fund and her pro-rata share of the same.

- d. Defendants will pay Class Counsel the total sum of \$38,500.00 for their reasonable attorneys' fees, costs, and expenses ("Attorneys' Fees, Expenses, and Costs of Class Counsel"), separate and apart from the Settlement Fund, the Statutory Award to Plaintiff, and any Settlement Administration Costs; and
- e. Separate from the Settlement Fund, the Statutory Award to Plaintiff, and the Attorneys' Fees, Expenses, and Costs of Class Counsel, SET is responsible for paying all costs of notice and administration of the settlement ("Settlement Administration Costs"), which will be completed by First Class, Inc.

11. The Class Members were given an opportunity to object to the settlement. No Class Members objected to the Settlement. Two Class Members excluded themselves from the Settlement. The names of the Class Members who excluded themselves from the Settlement are Jadwiga Morys and John Gregor. This Order is binding on all Class Members who did not exclude themselves from the Settlement.

12. This Court shall maintain continuing jurisdiction over the administration and consummation of the Settlement to assure the effectuation thereof, without affecting the finality of this Final Approval Order and the accompanying Final Judgment. The Court retains exclusive jurisdiction of, and the Parties and all Settlement Class Members are hereby deemed to have submitted to the exclusive jurisdiction of this Court for, any suit, action, proceeding or dispute arising out of

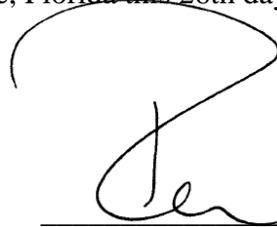
or relating to this Final Approval Order and the accompanying Final Judgment, the Settlement Agreement and its terms, or the applicability of the Settlement Agreement.

13. This Order is not, and shall not be construed as, an admission by the Defendants of any liability or wrongdoing in this or in any other proceeding. The Plaintiff, the Class Members, and their successors and assigns are permanently barred and enjoined from instituting, prosecuting, intervening in or participating in, either individually or as a class, or in any other capacity, any of the Released Claims against any of the Released Parties, as set forth in the Agreement. Pursuant to the release contained in the Agreement, the Released Claims are compromised, settled, released, discharged, by virtue of these proceedings and this order.

14. The Lawsuit is hereby dismissed with prejudice in all respects.

15. All other pending motions are **DISMISSED** as **MOOT**.

DONE AND ORDERED in Fort Lauderdale, Florida this 26th day of May 2020.

A handwritten signature in black ink, appearing to read 'Roy K. Altman', written over a horizontal line.

ROY K. ALTMAN
UNITED STATES DISTRICT JUDGE

cc: counsel of record