

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-cv-80338-ALTMAN/Brannon

ALLECIA SINKFIELD,
on behalf of herself and others
similarly situated,

Plaintiff,

v.

PERSOLVE RECOVERIES, LLC,

Defendant.

ORDER

THIS MATTER comes before the Court on the Plaintiff's Renewed Unopposed Motion for Preliminary Approval of Class Action Settlement [ECF No. 77] (the "Motion").

The parties—the Plaintiff, Allecia Sinkfield, and the Defendant, Persolve Recoveries, LLC—through their respective counsel, and subject to the Court's approval, have agreed to resolve this lawsuit via a class action settlement. Following notice to the Class Members and a hearing, the parties seek to resolve this lawsuit (the "Lawsuit") on the terms and conditions set forth in the Class Action Settlement Agreement, which has been filed with the Court. *See* Exhibit 1 to [ECF No. 77-1] (the "Settlement Agreement"). After careful review, the Court hereby **ORDERS AND ADJUDGES** that the Motion [ECF No. 77] is **GRANTED** as follows:

This Court has jurisdiction over the subject matter of the Lawsuit and over all settling parties.

In compliance with the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1332(d), 1453, and 1711–1715 ("CAFA"), the Class Administrator appointed by this Court will cause to be served written notice of the proposed class settlement on any appropriate federal and state officials.

Pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure, the Lawsuit is hereby preliminarily certified, for settlement purposes only, as a class action on behalf of the following class (hereinafter referred to as the “Class Members”) with respect to the claims asserted in the Lawsuit:

All persons (a) with a Florida address, (b) against whom Persolve Recoveries, LLC, filed a complaint in a Florida court, (c) in connection with the collection of a consumer debt, (d) between February 16, 2020 and February 9, 2021.

Pursuant to Rule 23, the Court appoints Allecia Sinkfield as the Class Representative. The Court also appoints James L. Davidson of Greenwald Davidson Radbil PLLC as Class Counsel. *See, e.g., Claxton v. Alliance CAS, LLC*, No. 19-61002, 2020 WL 2759826 (S.D. Fla. May 27, 2020) (Altman, J.) (appointing Greenwald Davidson Radbil PLLC as Class Counsel); *Sullivan v. Marinosci Law Grp., P.C., P.A.*, No. 9:18-cv-81368, 2019 WL 3940256 (S.D. Fla. Aug. 19, 2019) (Middlebrooks, J.) (same).

The Court preliminarily finds that the Settlement Agreement is in all respects fundamentally fair, reasonable, adequate, and in the best interests of the Class Members, especially given the benefits to the Class Members; the strength of the Plaintiff’s case; the complexity, expense, and probable duration of further litigation; the risk and delay inherent in possible appeals; and the limited amount of any potential total recovery for the class given the net worth of the Defendant and the cap on damages imposed by the Fair Debt Collection Practices Act. *See Leverso v. SouthTrust Bank of AL, N.A.*, 18 F.3d 1527, 1530 (11th Cir. 1994).

A third-party settlement administrator acceptable to the parties will administer the settlement, will prepare the CAFA notification described above, and will serve that notification on all Class Members. The Settlement Administrator will be responsible for mailing the approved class action notice to all Class Members and settlement checks to the Participating Class Members. All reasonable costs of notice and administration will be paid by the Defendant, separate and apart from the Settlement Fund. Upon the recommendation of the parties, the Court appoints the following administrator: Class-Settlement.com.

The Court approves the form and substance of the written notices of the class action settlement, which are attached to the Settlement Agreement as Exhibits C and D. The proposed form for notifying Class Members satisfies the requirements of Rule 23(c)(2)(B) and due process, constitutes the best notice practicable under the circumstances, and provides due and sufficient notice to all persons and entities entitled to notice in this case. *See Decoben v. Abbasi, LLC*, 299 F.R.D. 469, 479 (D. Md. 2014) (“Under the circumstances of this case, when all class members are known in advance, the Court finds that the method of direct mail notice to each class member’s last known address—and a second notice if the first was returned as undeliverable—was the best practicable notice.”). The Court finds that the proposed notices are clearly designed to advise the Class Members of their rights. In accordance with the Settlement Agreement, the Settlement Administrator will mail the notice to the Class Members as expeditiously as possible, but in no event later than 21 days after the Court’s entry of this order, *i.e.*, **no later than November 7, 2022**. The Settlement Administrator will confirm and, if necessary, update the Class Members’ addresses through the standard methodology the Settlement Administrator currently uses to update addresses.

Any Class Member who wishes to receive a pro-rata portion of the Settlement Fund must send a valid, timely claim form to the Class Administrator with a postmark date no later than 60 days after the Court’s entry of this order, *i.e.*, **no later than December 16, 2022**.

Any Class Member who wants to be excluded from the Class must send a written request for exclusion to the Settlement Administrator with a postmark date no later than 60 days after the Court’s entry of this order, *i.e.*, **no later than December 16, 2022**. 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 such exclusion request must also be signed by the Class Member. Any Class Member who submits a valid and timely request for exclusion will not be bound by the terms of the Settlement Agreement. Any Class Member

who fails to submit a valid and timely request for exclusion will be bound by the terms of the Settlement Agreement. No Class Member, or any person acting on behalf of (or in concert with) any Class Member, may exclude any other Class Member from the class. A Class Member may opt out on an individual basis only. “Mass” or “class” opt-outs, whether submitted by third parties on behalf of a “mass” or “class” of Class Members or multiple Class Members, where no personal statement has been signed by each individual Class Member, are not allowed.

Any Class Member who intends to object to the fairness of this settlement must file a written objection with the Court within 60 days after the Court’s entry of this Order, *i.e.*, **no later than December 16, 2022**. Any such Class Member must, within the same time period, provide a copy of the written objection to (1) Class Counsel, James L. Davidson, Greenwald Davidson Radbil PLLC, 5550 Glades Road, Suite 500, Boca Raton, FL 33431; and (2) Counsel for the Defendant, Michael Gold, Walters Levine Lozano & DeGrave, 601 Bayshore Boulevard, Suite 720, Tampa, FL 33606.

To be effective, a notice of intent to object to the Settlement Agreement must:

- (a) Contain a heading that includes the name of the case and case number;
- (b) Provide the name, address, telephone number, and email address (if available) of the Class Member filing the objection;
- (c) Be filed with the Clerk of the Court no later than 60 days after the Court preliminarily approves the settlement;
- (d) Attach documents establishing, or provide information sufficient to allow the Parties to confirm, that the objector is a Class Member;
- (e) Be sent to Class Counsel and counsel for Defendant at the addresses above by first-class mail, postmarked no later than 60 days after the Court preliminarily approves the settlement;
- (f) 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 must comply with all applicable laws and rules for filing pleadings and documents in the United States District Court for the Southern District of Florida;
- (g) Contain a statement of the specific basis for each objection;

- (h) Identify any documents any such objector desires the Court to consider, including all legal authorities the objector will present at the settlement approval hearing; and
- (i) State whether the objector intends to appear at the settlement approval hearing on his or her own behalf or through counsel.

Any Class Member who has timely filed an objection may appear at the settlement approval hearing, in person or by counsel, to be heard. Any such objector must present the applicable law in opposition to the fairness, reasonableness, and adequacy of the proposed settlement and may argue, based on the law, against any award of attorneys' fees and costs. Any objection that includes a request for exclusion will be treated as an exclusion.

If the Court grants final approval of the Settlement Agreement, the Settlement Administrator will mail a settlement check to each participating Class Member. Each participating Class Member will receive a pro-rata portion of the \$20,000.00 Settlement Fund.

The Court will conduct a hearing ("Final Approval Hearing") on **February 6, 2023**, at 11:00 AM, at the United States District Court for the Southern District of Florida, U.S. Federal Building and Courthouse, 299 East Broward Boulevard, Courtroom 207A Fort Lauderdale, FL 33301, to review and rule upon the following issues:

- A. Whether this action satisfies the prerequisites for class action treatment under Rule 23;
- B. Whether the proposed settlement is fundamentally fair, reasonable, adequate, and in the best interests of the Class Members and should be approved by the Court;
- C. Whether a Final Order and Judgment, as provided under the Agreement, should be entered, dismissing the Lawsuit with prejudice and releasing the Released Claims against the Released Parties; and
- D. 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.

Memoranda in support of the proposed settlement must be filed with the Court no later than 28 days before the Final Approval Hearing *i.e.*, **no later than January 9, 2023**. Opposition briefs to any of the foregoing must be filed no later than 14 days before the Final Approval Hearing, *i.e.*, **no later than January 23, 2023**. Reply memoranda in support of the foregoing must be filed with the Court no later than 7 days before the Final Approval Hearing, *i.e.*, **no later than January 30, 2023**.

Memoranda in support of any petitions for attorneys' fees and reimbursement of costs and expenses by Class Counsel, must be filed with the Court no later than 7 days after this Court's order preliminarily approving the settlement, *i.e.*, **no later than October 24, 2022**, and before class notice is disseminated.

The Settlement Agreement and this Order will be null and void if either of the Parties terminates the Settlement Agreement for any of the following reasons:

- A. Any specified material condition to the settlement set forth in the 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 Agreement, including any amendment thereto approved by the Parties; or
- C. The Court approves the 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.

The events described above, however, provide grounds for terminating the Agreement only after the Parties have attempted and completed good-faith negotiations to salvage the settlement but were

unable to do so.

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. If the Settlement Agreement is terminated or ultimately not approved, the Court will modify any existing scheduling order to ensure that the parties will have sufficient time to prepare for the resumption of litigation.

The Court retains continuing and exclusive jurisdiction over the action to consider all further matters arising out of or connected with the settlement, including the administration and enforcement of the Settlement Agreement.

The Court sets the following schedule:

<u>Date</u>	<u>Event</u>
October 17, 2022	Preliminary Approval Order Entered
October 24, 2022	Attorneys' Fees Petition Filed (7 days after entry Preliminary Approval Order)
November 7, 2022	Notice Sent (21 days after entry of Preliminary Approval Order)
December 16, 2022	Deadline to Send Claim, Exclusion or File Objection (60 days after entry of Preliminary Approval Order)
January 9, 2023	Motion for Final Approval Filed (28 days before final approval hearing)
January 23, 2023	Opposition to Motion for Final Approval Due (14 days before final approval hearing)
January 30, 2023	Reply in support of Motion for Final Approval (7 days before final approval hearing)
February 6, 2023	Final Approval Hearing Held

DONE AND ORDERED in the Southern District of Florida, this 17th day of October
2022.

A handwritten signature in black ink, appearing to read 'Roy K. Altman', written in a cursive style. The signature is positioned above a horizontal line.

ROY K. ALTMAN
UNITED STATES DISTRICT JUDGE

cc: counsel of record