

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

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|---|---|--|
| ALLECIA SINKFIELD, on behalf of herself and others similarly situated, | : | Civil Action No.: 9:21-cv-80338-RKA |
| | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | |
| | : | |
| PERSOLVE RECOVERIES, LLC, | : | |
| | : | |
| Defendant. | : | |
| | : | |

Class Action Settlement Agreement

This class action settlement agreement (“Agreement”) is entered into between Allecia Sinkfield (“Plaintiff” or “Settlement Class Representative”), individually and on behalf of the “Class Members” (as defined below), and Persolve Recoveries, LLC (“Defendant”). Plaintiff and Defendant, on behalf of themselves and the Class Members (as defined below) (collectively, the “Parties”), intend this Agreement to fully, finally, and forever resolve, discharge, and settle the “Released Claims” (as defined below), upon and subject to the terms and conditions contained herein.

RECITALS

On February 16, 2021, Plaintiff filed a class action complaint against Defendant in the United States District Court, Southern District of Florida, Case No. 9:21-cv-80338-RKA (the “Lawsuit”), asserting putative class claims arising under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*

Plaintiff alleges that Defendant violated the FDCPA regarding certain of its debt collection efforts with respect to Plaintiff and the Class Members.

Defendant expressly denies any liability whatsoever to Plaintiff or the Class Members, or that it violated the FDCPA.

The Parties desire and intend to settle and resolve all the claims asserted in the Lawsuit.

The Parties wish to avoid the expense and uncertainty of continued litigation.

The Parties believe that settlement by way of this Agreement is in their best interests.

Plaintiff's counsel have conducted an evaluation of the claims to determine how best to serve the interests of the Class Members.

Plaintiff's counsel believe—in view of the costs, risks, and delays of continued litigation and appeals, including the amount of money potentially available to the Class Members in light of Defendant's net worth and the cap on damages set forth in the FDCPA, balanced against the benefits of settlement to the Class Members—that the class settlement as provided in this Agreement is in the best interests of the Class Members and is a fair, reasonable, and adequate resolution of the Lawsuit.

Prior to entering into this Agreement, counsel for the Parties engaged in written discovery, a deposition of Defendant's corporate representative, and extensive motion practice.

The Parties desire and intend to seek Court approval of the settlement of the Lawsuit as set forth in this Agreement and, upon Court approval, to seek entry of a Final Approval Order dismissing with prejudice the claims of the Class Members as set forth herein.

The Parties and their counsel agree to recommend approval of this Agreement to the Court and to any regulatory authority responding to the proposed settlement pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. §§ 1332(d), 1453, and 1711-1715.

The Parties agree to undertake all steps necessary to effectuate the terms and purposes of this Agreement, to secure the Court's approval of same, and contemplate that they will oppose any

objections to the proposed settlement, including objections by any regulatory authority after CAFA notices are issued, and may oppose any appeals from any orders of final approval not taken by the Parties.

In consideration of the promises, representations, and warranties set forth, the Parties agree as follows:

1. DEFINITIONS – The following definitions apply to this Agreement:

A. “Effective Date” means the first date after the “Final Order Day” (as defined below) and after Defendant completes the performance of the requirements under ¶ 10 of this Agreement.

B. “Final Order Day” means the day upon which the Final Approval Order becomes “Final.” The Final Approval Order becomes “Final” upon the expiration of any available appeal period following entry of the Final Approval Order. If any appeal is filed from the Final Approval Order, then the Final Order Day will be the first date after the conclusion of all appeals, so long as the Final Approval Order is not reversed or vacated.

C. “Class Member” means any person who meets the following definition:

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.

D. “Participating Class Member” means a Class Member who submits a timely and valid claim form.

E. “Released Claims” means all claims under FDCPA and the Florida Consumer Collection Practices Act (“FCCPA”), §§ 559.551 *et seq.*, Fla. Stat., accruing prior to the Final Order Day including, without limitation: (i) claims arising out of the Released Parties’ (as defined below) actual or alleged failure to register as a “consumer collection agency” as that term is used in the FCCPA, Fla. Stat., § 559.55(3); (ii) any and all FDCPA-based or FCCPA-based

claims concerning the collection of debts during the class period; (iii) any and all FDCPA-based or FCCPA-based claims asserted, or that could have been asserted, in the Lawsuit, known or unknown, arising from or related to the acts, omissions, facts or events alleged in the Lawsuit; (iv) any and all claims in connection with, based upon, arising out of, or relating to the Agreement but excluding claims to enforce the terms of the Agreement; and (v) any and all claims based upon, arising out of, or relating to the liability of the Released Parties to the Plaintiff or the Class Members set forth in any of the preceding subsections (i) through (iv).

F. Plaintiff and the Class Members cannot pursue any affirmative claim based on the Released Claims, including any counterclaim, against any of the Released Parties.

G. “Released Parties” means Persolve Recoveries, LLC and each of its past, present, and future owners, agents, attorneys, successors, assigns, directors, officers, employees, partners, principals, clients, insurers, co-insurers, re-insurers, shareholders, and any related or affiliated company, including any parent, subsidiary, predecessor, or successor company.

2. CLASS CERTIFICATION – As soon as practicable following the complete execution of this Agreement by the Parties, Plaintiff, on behalf of the class defined above in ¶ 1(C), will file a motion (“Preliminary Motion”) in the Lawsuit for an order substantially in the form attached as **Exhibit A**, including the exhibits thereto (the “Preliminary Approval Order”). Plaintiff and Defendant shall request that a preliminary hearing to consider the settlement in the Lawsuit be held as soon as practicable.

3. SETTLEMENT CLASS REPRESENTATIVE AND CLASS COUNSEL APPOINTMENT – The Parties agree that Plaintiff should be appointed as the Settlement Class Representative for the Class Members and that James L. Davidson of Greenwald Davidson Radbil PLLC should be appointed as counsel for the Class Members (“Class Counsel”).

4. FINAL APPROVAL ORDER AND JUDGMENT – On or after the date set by the Court for the hearing to consider final approval of the Settlement (the “Fairness Hearing”), Plaintiff shall file an unopposed motion requesting that the Court: a) enter a Final Approval Order and Judgment in substantially the same form attached as **Exhibit B**; (b) determine whether the distribution of the Settlement Fund as provided in the plan of allocation should be approved; and (iii) determine what legal fees, compensation and further expenses should be awarded or reserved for award to Class Counsel for Settlement Class Representative as contemplated by Section 10 of this Agreement.

5. ADMINISTRATION – Upon appointment by the Court, Class-Settlement.com—a third-party class administrator jointly selected by and agreeable to the parties (“Class Administrator”)—will administer the settlement and notification of the settlement to the Class Members. The costs and expenses for the administration of the settlement and class notice, including all work necessary to identify current contact information for the Class Members, will be paid by Defendant separate and apart from the Settlement Fund (defined below). The Class Administrator will be responsible for mailing the approved class action notice to the Class Members and settlement checks to the Participating Class Members. Any and all agreements with the Class Administrator shall be in writing and be subject to the approval of Defendant and Class Counsel. Further, all actions of the Class Administrator shall be subject to the oversight of the Parties.

6. NOTIFICATION PROCESS – The Class Administrator will, as expeditiously as possible but not to exceed 21 days from the Court’s entry of the Order of Preliminary Approval of Class Action Settlement, provide notice of the settlement to the Class Members on the date and in the manner set by the Court in its Preliminary Approval Order, and in accordance with the following:

A. Written Class Notice – The Class Administrator will send via U.S. mail written notice of the settlement to each Class Member at his or her last known valid address, address correction requested, as provided by Defendant. Before sending the written notice, the Class Administrator will confirm and, if necessary, update the addresses for the Class Members through the standard methodology it currently uses to update addresses. If any notice is returned with a new address, the Class Administrator will re-mail the notice to the new address and will update the Class Member address list with all forwarding addresses. If any notice is returned undeliverable without a new address, the Class Administrator will run a skip trace to attempt to locate an updated address and will re-mail the notice to the new address if a new address can be located. The written notice (“Class Notice”) mailed to the Class Members will be in substantially the same form attached as **Exhibit C**, with a long-form notice to be posted on Class Counsel’s website in substantially the same form attached as **Exhibit D**, subject to Court approval. Defendant will provide the names and last-known addresses of all Class Members to the Class Administrator, in a Microsoft Excel spreadsheet or some other editable format, within five days of the filing of Plaintiff’s unopposed motion for preliminary approval of the class action settlement.

B. CAFA Notice – The Class Administrator will serve the CAFA notice required by 28 U.S.C. § 1715 within 10 days of the filing of Plaintiff’s unopposed motion for preliminary approval of the class action settlement.

7. CLAIMS, REQUESTS FOR EXCLUSION AND OBJECTIONS

A. Any Class Member who desires to receive his or her pro-rata portion of the Settlement Fund (defined below) must submit, pursuant to and in the form attached as Exhibit C, a timely and valid claim to the Class Administrator with a postmark date no later than 60 days after the court’s entry of the Order of Preliminary Approval of Class Action Settlement. Such

Participating Class Member must confirm that he or she was sued by Defendant in Florida between February 16, 2020 and February 9, 2021, and that said lawsuit concerned a debt incurred primarily for personal, family, or household (rather than commercial or business) purposes.

B. Any Class Member who desires to be excluded from the class must send a written request for exclusion to the Class Administrator with a postmark date no later than 60 days after the Court's entry of the Order of Preliminary Approval of Class Action Settlement. After that deadline passes, the Class Administrator will provide to Class Counsel and Defendant's counsel a list of the names of each Class Member who submitted a timely exclusion. A copy of this list will be provided to the Court in connection with Plaintiff's Unopposed Motion for Final Approval of Class Action Settlement.

C. In the written request for exclusion, the Class Member—subject to the Court's approval—must set forth his or her full name, address, telephone number, and email address (if available), along with a statement that he or she wishes to be excluded, and must sign said request for exclusion. No Class Member, or any person acting on behalf of or in concert or participation 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.

D. Any Class Member who submits a valid and timely request for exclusion will not be bound by the terms of this Agreement. Any Class Member who fails to submit a valid and timely request for exclusion will be bound by the terms of this Agreement. The Class Administrator will administer the receipt of any and all requests for exclusion.

E. Any Class Member who intends to object to the fairness of this settlement must file a written objection with the Court within 60 days from the Court's entry of the Order of Preliminary Approval of Class Action Settlement. Further, any such Class Member must, within the same time period, provide a copy of the written objection to Class Counsel and Counsel for Defendant via U.S. Mail.

F. In the written objection, the Class Member—subject to the Court's approval—must: state his or her full name, address, telephone number, and email address (if available); state the reasons for his or her objection; state the name, address, bar number and telephone number of the objecting Class Member's counsel, if represented by an attorney; include a statement of the specific basis for each objection; identify all documents which the objector desires the Court to consider, including a list of any legal authority the objector will present at the settlement approval hearing; attach documents establishing, or provide information sufficient to allow the Parties to confirm, that the objector is a Class Member; and state whether he or she intends to appear at the settlement approval hearing on his or her own behalf or through counsel.

G. Any Class Member who does not file a valid and timely objection to the settlement will be barred from seeking review of the settlement by appeal or otherwise.

H. Any Class Member who submits both an objection and an exclusion will be treated as having submitted an exclusion and will be excluded from the class.

I. When responding to any inquiry from a Class Member, Plaintiff and Class Counsel will confirm that they believe the settlement is fair and reasonable.

J. Subject to approval by the Court, a Fairness Hearing will be conducted regarding the settlement within 90 to 120 days from the Court's entry of the Order of Preliminary Approval of Class Action Settlement. Under Rule 23(c)(2)(B)(iv) of the Federal Rules of Civil Procedure,

the Class Members will be notified that they may enter an appearance through an attorney at their own expense if the member so desires.

8. It is an essential element to Defendant's participation in the settlement that the Released Parties obtain the fullest possible release from further liability relating to the Released Claims, as set forth below, and it is the intention of the Parties that the settlement eliminate all further risk and liability of Defendant relating to the Released Claims, as set forth below. Accordingly, the Parties agree that they will request the Court include the following in the Approval Order:

Plaintiff and each Class Member are permanently barred from bringing the Released Claims against the Released Parties, including, but not limited to any claim for contribution or indemnification (whether contractual or otherwise), and any Class Member receiving notice of the Class Notice, or having actual knowledge of the Class Notice, or having actual knowledge of sufficient facts that would cause such person to be charged with constructive notice of the Class Notice shall be permanently enjoined from bringing, either derivatively or on behalf of themselves, or through any person purporting to act on their behalf or purporting to assert a claim under or through them, any of the Released Claims against the Released Parties in any forum, action or proceeding of any kind.

9. RELEASES –

A. Release by Plaintiff. As of the Effective Date, Plaintiff absolutely and unconditionally releases and forever discharges the Released Parties from any and all causes of action, suits, debts, dues, damages, including compensatory and punitive damages, medical payment benefits, sums of money, accounts, reckonings, bonds, bills, covenants, contracts, controversies, agreements, promises, claims and demands of whatsoever kind or nature, in law or in equity, whether asserted or unasserted, actual or contingent, anticipated or unanticipated, known or unknown, which Plaintiff ever had or now has against the Released Parties from the beginning of time through the entry of the Final Approval Order.

B. Release by the Class. Each Class Member who did not timely exclude himself or herself releases and forever discharges, as of the Effective Date, the Released Parties from the Released Claims.

10. SETTLEMENT CONSIDERATION – In consideration for the foregoing releases, the Parties agree to the following:

A. Settlement Fund – Defendant, in consultation with the Class Administrator, will cause to be established a non-reversionary settlement fund of \$20,000.00 (“Settlement Fund”) within 7 days of the Final Order Day. Each Participating Class Member will receive a pro-rata portion of the Settlement Fund.

Within 21 days of the Final Order Day, the Class Administrator will send via U.S. mail a settlement check for a pro-rata portion of the Settlement Fund to each Participating Class Member. Defendant’s obligations pursuant to this paragraph will be considered fulfilled upon the mailing of the settlement checks, regardless of whether any settlement check that is mailed by the Class Administrator is received, returned, or cashed, except that the Class Administrator will be obligated to take reasonable steps to forward all settlement checks returned with a forwarding address, to such forwarding addresses. 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), such funds will be paid to the Legal Aid Service of Palm Beach County, Inc. as a *cy pres* recipient.

B. Payment to Plaintiff – Separate and apart from the Settlement Fund, Defendant will pay \$1,000.00 to Plaintiff within 7 days of the Final Order Day for her “additional” damages pursuant to 15 U.S.C. § 1692k(a)(2)(B)(i) and an additional \$1,500.00 for the general release she is providing (“Payment to Plaintiff”).

C. Attorneys' Fees, Expenses, and Costs of Class Counsel – Plaintiff is the prevailing party under Fed. R. Civ. P. 23(h) and 15 U.S.C. § 1692k(a)(3). Plaintiff will seek, and Defendant will not oppose, an award of attorneys' fees and expenses to Plaintiff of no more than \$70,000.00. Any attorneys' fees, expenses, and costs awarded to Plaintiff by the Court (the "Attorneys' Fees, Expenses, and Costs of Class Counsel") will be paid by Defendant separate and apart from the Settlement Fund, Costs of Settlement Administration, and Payment to Plaintiff.

Defendant will forward to Class Counsel the Attorneys' Fees, Expenses, and Costs of Class Counsel no later than 7 days after the date that the order approving such fees, costs, and expenses becomes final. The order awarding Class Counsel its reasonable attorneys' fees, costs, and expenses becomes final upon the expiration of any available appeal period following entry of said order. Upon payment of the Attorneys' Fees, Expenses, and Costs of Class Counsel, the Released Parties will have no further obligation with respect to Class Counsel's fees, costs, and expenses, or the fees, costs, or expenses of any other attorney on behalf of Plaintiff or any Participating Class Member.

D. Costs of Settlement Administration – Separate from the Settlement Fund, Payment to Plaintiff, and the Attorneys' Fees, Expenses, and Costs of Class Counsel, Defendant will be responsible for paying all costs of notice and administration of the settlement ("Costs of Settlement Administration").

11. COVENANT NOT TO SUE – Each Class Member will be deemed to have agreed and covenanted not to sue any of the Released Parties with respect to any of the Released Claims.

12. TERMINATION – In the event the Preliminary or Final Approval Orders are not entered by the Court or in the event either of those orders do not become final, or if the Parties determine that there are more than 1,900 Class Members, the Parties shall negotiate in good faith in order to

modify the terms of the Agreement in order to revive the settlement. In the event that such negotiations are unsuccessful and following seven calendar days from the date that one of the Parties declares the negotiations to be at an impasse, either of the Parties may serve written notice of termination upon the other party and thereupon the following will occur:

A. The Settlement Fund, plus any interest at the rate of the escrow account, minus the amount already reasonably applied to costs of the settlement as permitted the Agreement, shall be immediately returned to Defendant, less a reserve sufficient to meet the income tax liability, if any, of the Settlement Fund with respect to any earnings, with the custodian of the Settlement Funds, and/or Class Administrator, being liable for any failure to return this amount;

B. Defendant will not be deemed to have consented to the certification of any class, and the agreements and stipulations in this Agreement concerning the class definition or class certification shall not be used as evidence or argument to support class certification or class definition, and Defendant will retain all rights to oppose class certification, including certification of a class identical to that provided for in this Agreement for any other purpose; and

C. The settlement and this Agreement, including but not limited to the releases and orders therein, shall become null and void and of no further force and effect, the Parties shall be deemed to have reverted to their respective status and positions as of the date immediately before the date of execution of the Agreement, and the Parties shall proceed in all respects as if this Agreement had not been executed.

13. MISCELLANEOUS PROVISIONS – Any exhibits to this Agreement are an integral part of the settlement and are expressly incorporated herein as part of this Agreement.

14. The Parties agree that the Agreement is a compromise of disputed claims, and that nothing in this Agreement shall be an admission of, or constitute a finding of, wrongdoing by or liability

of Defendant in the Lawsuit or any other proceeding. This Agreement shall not be offered or received in evidence in any other action for any purpose other than enforcement of the Agreement.

15. Except for attorney notes, pleadings, other court submissions and transcripts of depositions and exhibits thereto, Plaintiff agrees destroy or to return to Defendant, at Defendant's option, all discovery obtained from Defendant within thirty (30) days after entry of the Final Approval Order provided that Defendant requesting the return of such materials shall reimburse Plaintiff for the costs of shipping such materials.

16. The Parties and each of them, represent and warrant: that they are voluntarily entering into this Agreement as a result of arm's-length negotiations among their counsel; that in executing this Agreement they are relying solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent and duration of their rights and claims and regarding all matters which relate in any way to the subject matter hereof, and that, except as provided herein, they have not been influenced to any extent whatsoever in executing this Agreement by any representations, statements or omissions pertaining to any of the foregoing matters by any party or by any person representing any party to this Agreement. Each of the Parties assumes the risk of mistake as to facts or law; and that they have carefully read the contents of this Agreement, and this Agreement is signed freely by each person executing this Agreement on behalf of each of the Parties. The Parties, and each of them, further represent and warrant to each other that he, she or it has made such investigation of the facts pertaining to the settlement this Agreement and all of the matters pertaining thereto, as he, she or it deems necessary.

17. The Parties agree, without further consideration, and as part of finalizing the settlement, that they will in good faith execute and deliver such other documents and take such other actions

as may be necessary to consummate and effectuate the subject matter and purpose of this Agreement.

18. All representations, warranties and covenants set forth in this Agreement shall be deemed continuing and shall survive the expiration of this Agreement except in the event the Agreement is terminated pursuant to Section 12 in which case the provisions of such section shall govern.

19. This Agreement is for settlement purposes only. Though Defendant is now registered with the Office of Financial Regulation of the Florida Financial Services Commission as a consumer collection agency, the Parties acknowledge that this Agreement is not an admission of wrongdoing or liability by Defendant or any of the Released Parties. Defendant expressly denies any liability whatsoever to Plaintiff or the Class Members.

20. No representations, warranties, or inducements have been made to any of the Parties, other than those representations, warranties, and covenants contained in this Agreement.

21. This Agreement contains the entire agreement between the Parties and supersedes any and all other agreements between the Parties. The terms of this Agreement are contractual.

22. This Agreement is to be interpreted in accordance with Florida law.

23. Any dispute, challenge, or question relating to this Agreement is to be heard only by this Court.

24. The Parties agree that this Court has subject matter jurisdiction over the claims at issue and will request that the Court retain continuing and exclusive jurisdiction over the Parties to this Agreement, and over the administration and enforcement of this Agreement.

25. This Agreement will be binding upon and inure to the benefit of the Parties and their representatives, heirs, successors, and assigns.

26. In the event that any material provisions of this Agreement are held invalid or unenforceable for any reason, such invalidity or unenforceability will not affect other provisions of this Agreement, if Plaintiff and Defendant mutually elect to proceed as if the invalid or unenforceable provision had never been included in the Agreement.

27. This Agreement is deemed to have been drafted jointly by the Parties and, in construing and interpreting this Agreement, no provision of this Agreement will be construed or interpreted against any party because such provision, or this Agreement as a whole, was purportedly prepared or requested by such party.

28. This Agreement may be signed in counterparts, and by scanned and/or facsimile signatures. The separate signature pages executed by the Parties and their counsel may be combined to create a document binding on all the Parties and together constitutes one and the same instrument.

29. The Parties understand that this Agreement is a public document that will be filed with the Court for its review and approval.

30. Notices/Communications – All notices, requests, demands, claims and other communications hereunder must be: (a) in writing; (b) delivered by U.S. Mail and email; (c) deemed to have been duly given on the latest date of receipt of U.S. Mail and email; and (d) addressed to the intended recipients as set forth below:

If to Plaintiff or the Class:

James L. Davidson
Greenwald Davidson Radbil PLLC
5550 Glades Road, Suite 500
Boca Raton, FL 33431
j davidson@gdrllawfirm.com


If to Defendant:

Michael A. Gold
Walters Levine Parisi & DeGrave
601 Bayshore Boulevard, Suite 720
Tampa, FL 33606


mgold@walterslevine.com

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties and their duly authorized attorneys have caused this Agreement to be executed:


Allecia Sinkfield (Apr 5, 2022 16:44 EDT)
Allecia Sinkfield

Dated: April 5, 2022


James L. Davidson (Apr 5, 2022 16:47 EDT)
James L. Davidson
Greenwald Davidson Radbil PLLC
5550 Glades Road, Suite 500
Boca Raton, FL 33431
Proposed Class Counsel

Dated: April 5, 2022


Persolve Recoveries, LLC
Persolve Recoveries, LLC

Dated: April 5, 2022


Michael A. Gold
Michael A. Gold
Walters Levine Parisi & DeGrave
601 Bayshore Boulevard, Suite 720
Tampa, FL 33606
mgold@walterslevine.com

Dated: April 5, 2022

Counsel for Persolve Recoveries, LLC