

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

VICKI L. SCHELL, on behalf of herself and others similarly situated,)	Case No. 3:15-cv-418
)	
Plaintiff,)	Judge Thomas M. Rose
)	
v.)	
)	
FREDERICK J. HANNA & ASSOCIATES, P.C.,)	
)	
Defendant.)	

**ENTRY AND ORDER GRANTING UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT (DOC. 13)
AND ORDER OF PRELIMINARY APPROVAL OF CLASS ACTION**

WHEREAS, the Court has been advised that the parties to this action, Vicki L. Schell (“Plaintiff” or “Class Representative”), and Frederick J. Hanna & Associates, P.C. (“Defendant”), through their respective counsel, have agreed, subject to Court approval following notice to the Class Members and a hearing, to settle the above-captioned lawsuit (the “Lawsuit”) upon the terms and conditions set forth in the Class Action Settlement Agreement (“Settlement Agreement”), which has been filed with the Court, and the Court deeming that the definitions set forth in the Settlement Agreement are hereby incorporated by reference herein (with capitalized terms as set forth in the Settlement Agreement);

NOW, THEREFORE, based upon the Settlement Agreement and all of the files, records, and proceedings herein, and it appearing to the Court that, upon preliminary examination, the

proposed settlement appears fair, reasonable, and adequate, and that a hearing should and will be held on **July 7, 2016 at 1:30 p.m., in Courtroom #2 before Judge Thomas M. Rose**, after Notice to the Class Members, to confirm that the proposed settlement is fair, reasonable, and adequate, and to determine whether a Final Order and Judgment should be entered in this Lawsuit:

IT IS HEREBY ORDERED:

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

In compliance with the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1332(D), 1453, and 1711-1715, Defendant will cause to be served written Notice of the proposed class settlement on the United States Attorney General and the Attorney General of the State of Ohio.

Pursuant to Fed. R. Civ. P. 23(b)(3), the Lawsuit is hereby preliminarily certified, for settlement purposes only, as a class action on behalf of the following class of plaintiffs (“Class Members”) with respect to the claims asserted in the Lawsuit:

All persons with an Ohio address, to whom Frederick J. Hanna & Associates, P.C. mailed an initial debt collection communication that stated: “[u]nless you notify this office in writing within thirty (30) days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid,” and/or (2) “[i]f you request within thirty (30) days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor,” between November 20, 2014 and November 20, 2015, in connection with the collection of a consumer debt.

Defendant represents that there are 177 Class Members, including Plaintiff.

Pursuant to Fed. R. Civ. P. 23, the Court appoints Plaintiff Vicki L. Schell as the Class

Representative. The Court also appoints Jesse S. Johnson of Greenwald Davidson Radbil PLLC as Class Counsel. *See, e.g., Garza v. Mitchell Rubenstein & Assocs., P.C.*, No. 15- 1571, 2015 WL 9594286, at *1 (D. Md. Dec. 28, 2015) (appointing Greenwald Davidson Radbil PLLC as class counsel); *Prater v. Medicredit, Inc.*, No. 14- 00159, 2015 WL 8331602, at *2 (E.D. Mo. Dec. 7, 2015) (same); *Baldwin v. Glasser & Glasser, P.L.C.*, No. 15- 00490, 2015 WL 7769207, at *1 (E.D. Va. Dec. 1, 2015) (same); *McWilliams v. Advanced Recovery Sys., Inc.*, 301 F.R.D. 337, 340 (S.D. Miss. 2015) (same); *Oaks v. Parker L. Moss, P.C.*, No. 15-00196, 2015 WL 5737595, at *1 (N.D. Ind. Sept. 29, 2015) (same).

The Court preliminarily finds that the Lawsuit satisfies the applicable prerequisites for class action treatment under Fed. R. Civ. P. 23, namely:

- A. The Class Members are so numerous that joinder of all of them in the Lawsuit is impracticable;
- B. There are questions of law and fact common to the Class Members, which predominate over any individual questions;
- C. The claims of the Plaintiff are typical of the claims of the Class Members;
- D. The Plaintiff and Class Counsel have fairly and adequately represented and protected the interests of all of the Class Members; and
- E. Class treatment of these claims will be efficient and manageable, thereby achieving an appreciable measure of judicial economy, and a class action is superior to other available methods for a fair and efficient adjudication of this controversy.

See Green v. Dressman Benzinger Lavelle, PSC, No. 14-00142, 2015 WL 223764 (S.D. Ohio Jan. 16, 2015) (granting final approval of FDCPA class settlement and appointing Greenwald Davidson Radbil PLLC class counsel).

The Court preliminarily finds that the settlement of the Lawsuit, on the terms and conditions set forth in the Settlement Agreement is in all respects fundamentally fair, reasonable, adequate, and in the best interest of the Class Members, especially in light of the benefits to the Class Members; the parties' arm's-length negotiations; the strengths and weaknesses of Plaintiff's case; the informal discovery completed to date, which allowed the parties a clear view of the strength of their respective positions; the anticipated complexity, expense, and duration of continued litigation; the recovery obtained in the context of the limited amount of any potential total recovery for the Class, given the cap on statutory damages for claims brought pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, especially in light of the impending closure of Defendant's business; and the opinion of Class Counsel, who are highly experienced in this area of class action litigation. *See UAW v. Gen. Motors Corp.*, 497 F.3d 615, 631 (6th Cir. 2007).

A third-party class administrator acceptable to the parties will administer the settlement and notification to Class Members. The class administrator will be responsible for mailing the approved class action notice and settlement checks to the Class Members. All costs of administration will be paid by Defendant separate and apart from the Settlement Fund. Upon the recommendation of the parties, the Court hereby appoints the following class administrator: First Class, Inc.

The Court approves the form and substance of the Notice of Class Action Settlement, attached to the Settlement Agreement as Exhibit C. The proposed form and method for notifying the Class Members of the settlement and its terms and conditions meet the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice to all persons and entities entitled to the notice. The Court finds that the proposed notice is clearly designed to advise the Class Members of their rights. In accordance with the Settlement Agreement, the class 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 April 21, 2016**. The class administrator will confirm, and if necessary, update the addresses for the Class Members through standard methodology that the class administrator currently uses to update addresses.

Any Class Member who desires to be excluded from the class must send a written request for exclusion to First Class, Inc. with a postmark date **no later than June 5, 2016** (45 days after the Class Administrator's mailing of the notice of the proposed settlement). 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 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 intends to object to the fairness of this settlement must file a written objection with the Court **no later than June 5, 2016** (45 days after the Class Administrator's mailing of the notice of the proposed settlement). Further, any such Class

Member must, within the same time period, provide a copy of the written objection to Class Counsel, attention: Jesse S. Johnson, Greenwald Davidson Radbil PLLC, 5550 Glades Road, Suite 500, Boca Raton, FL 33431; and counsel for Defendant, William H. Buechner, Jr., Freeman Mathis & Gary, LLP, 100 Galleria Parkway, Suite 1600, Atlanta, GA 30339-5948.

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

- (a) Contain a heading which includes the name of the case and case number;
- (b) Provide the name, address, telephone number and signature of the Class Member filing the objection;
- (c) Be filed with the Clerk of the Court no later than **June 5, 2016** (45 days after the Class Administrator's mailing of the notice of the proposed settlement);
- (d) Be sent to Class Counsel and counsel for Defendant at the addresses designated in the Notice by first-class mail, postmarked no later than **June 5, 2016** (45 days after the Class Administrator's mailing of the notice of the proposed settlement);
- (e) 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 or it must comply with all applicable laws and rules for filing pleadings and documents in the U.S. District Court for the Southern District of Ohio; and
- (f) Contain a statement of the specific factual and legal basis for each objection.

Any Class Member who has timely filed an objection may appear at the Settlement Approval Hearing, in person or by counsel, to be heard to the extent allowed by the Court, applying applicable law, in opposition to the fairness, reasonableness and adequacy of the Settlement, and on the application for an award of attorneys' fees, costs, and expenses.

The class administrator will mail a settlement check to each Class Member who does not exclude himself or herself from the Class. Each Class Member who does not exclude himself or herself will receive a pro-rata portion of the \$1,770.00 common fund, in the amount of approximately \$10.00 per Class Member.

Defendant will pay to the Class Representative the sum of \$1,000.00, as statutory damages pursuant to 15 U.S.C. § 1692k(a)(2)(B)(i). Defendant will also pay to the Class Representative \$500 in recognition of her service to the class.

The Court will conduct a hearing on **July 7, 2016 at 1:30 p.m.** in Courtroom #2 at the United States District Court for the Southern District of Ohio, Federal Building, 200 West Second Street, Dayton, OH 45402, to review and rule upon the following issues:

- A. Whether this action satisfies the applicable prerequisites for class action treatment for settlement purposes under Fed. R. Civ. P. 23;
- B. Whether the proposed settlement is fundamentally fair, reasonable, adequate, and in the best interest of the Class Members and should 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. 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.

Submissions by the Parties, including responses to any objections and petitions for attorney's fees and reimbursement of costs and expenses by Class Counsel, must be filed with the Court no later than 28 days prior to the final approval hearing, *i.e.*, **no later than June 9, 2016**. Opposition briefs to any of the foregoing must be filed no later than 14 days prior to the final approval hearing, *i.e.*, **no later than June 23, 2016**. Reply memoranda in support of the foregoing must be filed with the Court no later than 7 days prior to the final approval hearing, *i.e.*, **no later than June 30, 2016**.

The Settlement Agreement and this Order will be null and void if any of the following occur:

- A. The Settlement Agreement is terminated by any of the Parties for cause, or any specified material condition to the settlement set forth in the Settlement 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 Settlement Agreement, including any amendment thereto approved by the Parties; or
- C. The Court approves the Settlement 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.

If the Settlement Agreement and/or this order are voided, then the Settlement Agreement

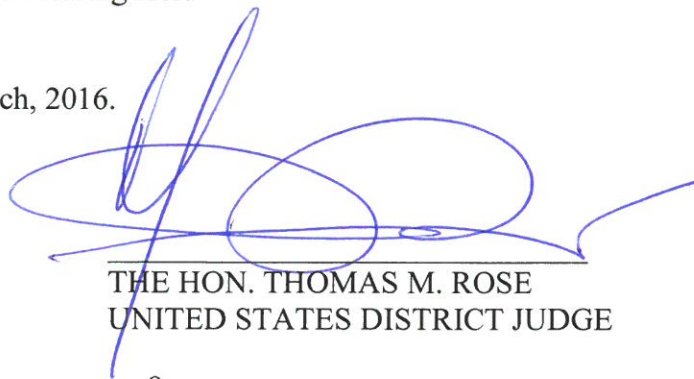
will be of no force and effect and the Parties' rights and defenses will be restored, without prejudice, to their respective positions as if the Settlement Agreement had never been executed and this order never entered.

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>
3/31/16	Preliminary Approval Order Entered
4/21/16	Notice Sent (21 days after entry of Preliminary Approval Order)
6/5/16	Deadline to Send Exclusion or File Objection (45 days after the Class Administrator's mailing of notice)
6/9/16	Motion for Final Approval and Attorney Fees Papers Filed (28 days before Final Approval Hearing)
6/23/16	Opposition to Motion for Final Approval and Attorney Fees Papers (14 days before Final Approval Hearing)
6/30/16	Reply in support of Motion for Final Approval and Attorney Fees Papers (7 days before Final Approval Hearing)
7/7/16 @ 1:30 p.m.	Final Approval Hearing Held

SO ORDERED this 31st day of March, 2016.



THE HON. THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE