

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

PCA ACQUISITIONS V, LLC,

Plaintiff,

v.

TERI R KIMMONSSTRUCK, AND DOES 1-10,

Defendant.

and

TERI R. KIMMONS-STRUCK,

Counter-Plaintiff,

v.

PCA ACQUISITIONS V, LLC,

Counter-Defendant,

and

LIPPMAN RECUPERO, LLC,

Third-Party Defendant.

NO. 22-2-08801-0 SEA

~~[PROPOSED]~~ ORDER GRANTING
COUNTER-PLAINTIFF'S UNOPPOSED
MOTION FOR PRELIMINARY APPROVAL

1 Defendant and Counter-Plaintiff Teri Kimmons-Struck filed an unopposed motion for
2 preliminary approval of a class action settlement with Plaintiff and Counter-Defendant PCA
3 Acquisitions V, LLC, and Third-Party Defendant Lippman Recupero, LLC. The terms of the
4 settlement are set forth in the Settlement Agreement and Release attached as Exhibit 2 to the
5 Declaration of Blythe H. Chandler in Support of Plaintiffs' Motion for Preliminary Approval of
6 Class Action Settlement. The Court has read and considered the Settlement Agreement, the
7 exhibits attached thereto, and the briefing submitted in support of preliminary approval of the
8 settlement and is fully advised.

9 NOW, THEREFORE, IT IS HEREBY ORDERED:

10 1. The Court preliminarily approves the Settlement Agreement and Release.

11 2. The settlement appears to be the product of serious, informed, arms-length, and
12 non-collusive negotiations. The settlement has no obvious deficiencies, does not improperly
13 grant preferential treatment to any class members, and falls within the range of possible
14 judicial approval. *See William B. Rubenstein, Newberg on Class Actions* § 13:10 (5th ed. Dec.
15 2021 update).

16 3. For purposes of settlement only, the Court finds that the Settlement Class
17 satisfies the requirements of CR 23(a) and (b)(3) and grants conditional and preliminary
18 certification of the following Class:

19 All persons (1) from whom Lippman on behalf of PCA collected or
20 attempted to collect, directly or indirectly, at any time since May
21 20, 2018 on a claim underlying a lawsuit initiated in a Washington
22 state court prior to March 3, 2022, or (2) to whom Lippman sent a
23 letter at a Washington address at any time from May 20, 2021 to
24 March 3, 2022 attempting to collect, directly or indirectly, on an
25 alleged claim on behalf of PCA.

26 4. The numerosity requirement is satisfied because there are approximately 94
27 Class Members. *See CR 23(a)(1); Miller v. Farmer Bros. Co.*, 115 Wn. App. 815, 821, 64 P.3d 49
(2003).

1 5. The commonality requirement is satisfied because there are overarching
2 questions of law and fact common to the Class, including whether PCA and Lippman Recupero's
3 collection practices were unfair or deceptive under the CPA. *See Smith v. Behr Process Corp.*,
4 113 Wn. App. 306, 320, 54 P.3d 665 (2002).

5 6. The typicality requirement is satisfied because Ms. Kimmons-Struck's claims arise
6 from the same course of conduct that gives rise to the claims of other Class Members and are
7 based on the same legal theories. *See CR 23(a)(3); Pellino v. Brink's Inc.*, 164 Wn. App. 668, 267
8 P.3d 383, 392 (2011).

9 7. The adequacy requirement is satisfied because Ms. Kimmons-Struck has no
10 interests antagonistic to the other Class Members and is represented by qualified counsel. *See*
11 *Hansen v. Ticket Track, Inc.*, 213 F.R.D. 412, 415 (W.D. Wash. 2003).

12 8. The predominance requirement is satisfied because there is a "common nucleus
13 of operative facts" to each Class Member's claim, and all Class Members were subject to the
14 same conduct by Lippman Recupero and PCA. *See CR 23(b)(3); Chavez v. Our Lady of Lourdes*
15 *Hosp. at Pasco*, 190 Wn.2d 507, 516, 415 P.3d 224 (2018).

16 9. The superiority requirement is satisfied because the resolution of numerous
17 claims in one action is far superior to individual lawsuits and promotes consistency and
18 efficiency of adjudication, particularly in a case like this one with modest damages. *See CR*
19 *23(b)(3); Chavez*, 190 Wn.2d at 518-23.

20 10. For purposes of settlement, the Court appoints Teri Kimmons-Struck as the class
21 representative.

22 11. The Court appoints the Terrell Marshall Law Group PLLC and the Northwest
23 Consumer Law Center as Class Counsel.

24 12. As provided for in the Settlement Agreement, Class Counsel shall disseminate
25 notice to Class Members by mail, establish the Settlement Website and toll-free phone number,
26 process and report on exclusion requests, maintain the Settlement Fund in an attorney trust
27 account, mail Settlement Payment to Settlement Class Members, and perform any additional

1 duties that are called for by the Settlement Agreement or ordered by the Court. Class Counsel
2 are authorized to deduct the notice costs from the Settlement Fund.

3 13. The Court approves the notice program outlined in the Settlement Agreement,
4 including the postcard notice and settlement website attached as Exhibit A to the Settlement
5 Agreement. The notice provides all of the information Class Members need to evaluate and
6 respond to the settlement, including the nature of the litigation, the general terms of the
7 proposed settlement, their rights under the settlement, an explanation of how they can object
8 to or exclude themselves from the settlement, the identity of Class Counsel and that Class
9 Counsel have requested attorneys' fees to be paid separately from the Settlement Fund by
10 Counter Defendants, and the date and time of the Final Approval Hearing.

11 14. The Court also approves the parties' plan for disseminating notice, which will
12 ensure that Class Members receive "the best notice practicable under the circumstances." CR
13 23(c)(2). Issuance of notice substantially in the manner set forth in the Settlement Agreement
14 satisfies the requirements of due process and applicable state and federal law and constitutes
15 due and sufficient notice to all members of the Settlement Class.

16 15. Within 14 days of entry of this Order, Class Counsel shall establish the
17 Settlement Website. Within 30 days of entry of this Order, Class Counsel shall send notice to all
18 Settlement Class Members in accordance with the notice plan described in Section V.2 of the
19 Settlement Agreement. The date Class Counsel distributes notice is the "Settlement Notice
20 Date."

21 16. Any Class Member may exclude himself or herself from the settlement by
22 sending a written request to the Class Administrator through the Settlement Website or by mail
23 postmarked no later than 45 days from the Settlement Notice Date. The exclusion request must
24 be in writing and include the name and address of the individual requesting exclusion.
25 Following final approval of the settlement and the occurrence of the Effective Date, each Class
26 Member who does not submit a timely, valid request for exclusion shall be a Settlement Class
27

1 Member and be bound by all terms of the Settlement Agreement, including the release, and
2 any final judgment entered by the Court in this case.

3 17. Any Class Member may object to the settlement by filing with the Court a
4 written statement objecting to the settlement, along with any supporting documentation the
5 Class Member wishes the Court to consider, no later than 45 days from the Settlement Notice
6 Date. For his or her objection to be considered by the Court, the Class Member should not have
7 excluded himself or herself from the settlement.

8 18. Ms. Kimmons-Struck shall file a motion for final approval of the settlement and
9 response to any objections no later than 14 days before the Final Approval Hearing.

10 19. A Final Approval Hearing shall be held before this Court on ~~[ADD EARLIEST~~
11 ~~AVAILABLE DATE THAT IS AT LEAST 90 DAYS FROM THE DATE OF THE ORDER]~~, ~~at [ADD TIME]~~, in
12 the courtroom of the Honorable Leroy McCullough (Department 32), King County Superior
13 Court, 516 3rd Avenue, Seattle, Washington, 98104. The Court may also authorize that the
14 hearing be conducted over Zoom. At the hearing, the Court will consider whether the
15 requirements for class certification and treatment under CR 23(a) and (b)(3) are satisfied and
16 whether the settlement is fair, reasonable, and adequate, and should be approved by the
17 Court. The Court will also consider Class Counsel's request for attorneys' fees and costs and for
18 service award to the class representatives, and rule on any other matters that the Court deems
19 appropriate.

20 20. Any Settlement Class Members may appear at the final approval hearing to
21 address whether the proposed settlement should or should not be approved as fair,
22 reasonable, and adequate. The Court will consider all properly submitted objections. Any
23 Settlement Class Member who does not appear individually or through counsel and who does
24 not challenge or comment upon the fairness and adequacy of the Settlement Agreement or
25 Class Counsel's request for Class Counsel Fees shall waive and forfeit any and all rights to
26 appear separately or object.

Friday,
July 14
2023
9am

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Amanda N. Martin, WSBA #49581
Email: Amanda@nwclc.org
NORTHWEST CONSUMER LAW CENTER
936 North 34th Street, Suite 300
Seattle, Washington 98103-8869
Telephone: (206) 805-0989

Attorneys for Defendant/Counter-Plaintiff