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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DIANE ADOMA,

NO. CIV. S-10-0059 LKK/GGH

Plaintiff,

v.

O R D E R

THE UNIVERSITY OF PHOENIX,  
INC., et al.,

Defendants.

\_\_\_\_\_ /

The parties have filed a Joint Motion for Final Approval of the Settlement Class, scheduled for hearing on November 5, 2012. (ECF no. 139.)

Previously, by order dated June 19, 2012, the court granted preliminary approval of a class action settlement and conditionally certified the settlement classes herein. (ECF no. 137.)

The Class Action Fairness Act of 2005, Pub. L. 109-2, 199 Stat. 4-14 ("CAFA") sets forth the following notice requirements when settlement is reached in certain class action cases:

Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve

1 [notice of the proposed settlement] upon the appropriate  
2 State official of each State in which a class member  
resides and the appropriate Federal official....

3 28 U.S.C. § 1715(b).<sup>1</sup> The statute provides detailed requirements  
4 for the contents of such a notice. Id.

5 Under 28 U.S.C. § 1715(d), the court is precluded from  
6 granting final approval of a class action settlement until the  
7 notice requirement is met. Specifically:

8 An order giving final approval of a proposed settlement  
9 may not be issued earlier than 90 days after the later  
10 of the dates on which the appropriate Federal official  
and the appropriate State official are served with the  
notice required under [28 U.S.C. § 1715(b)].

11 According to a leading treatise, "The purpose of these new  
12 requirements appears to be to expand the protection afforded class  
13 members by encouraging appropriate scrutiny by relevant  
14 governmental officials before class-action settlements are  
15 finalized." Charles Alan Wright & Arthur R. Miller, Federal  
16 Practice and Procedure § 1797.6 (3d ed. 2012).

17 The court has examined the parties' filings beginning with the  
18 notice of settlement filed on February 27, 2012 (ECF no. 123), and  
19 has found neither a statement of compliance with the CAFA notice  
20 requirements nor an explanation of why this action is not subject  
21 to those requirements.

22 The court finds determination of this issue to be necessary  
23 before it can rule on the pending joint motion.

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25 <sup>1</sup> "Appropriate Federal official" and "appropriate State  
26 official" are respectively defined by 28 U.S.C. § 1715(a),  
subdivisions (1) and (2).

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Accordingly, the court orders as follows:

[1] The hearing on the Joint Motion for Final Approval of the Settlement Class is CONTINUED to December 17, 2012 at 10:00 a.m.

[2] No later than November 5, 2012, the parties shall jointly FILE a brief and/or declarations that address whether the settlement in this action is subject to the notice requirements set forth in 28 U.S.C. § 1715(b), and if so, whether the requirements have been met. If the requirements have been satisfied, the parties are to provide (a) details of their compliance with the requirements, including the dates on which notices were served, the parties noticed, and any responses received, and (b) documentation evidencing compliance. If the notice requirements have not been satisfied, the parties are to advise the court on how they intend to proceed to remedy this omission.

IT IS SO ORDERED.

DATED: October 25, 2012.

  
LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT