

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MEENA ARTHUR DATTA,
Plaintiff,
v.
ASSET RECOVERY SOLUTIONS, LLC,
Defendant.

Case No. 15-CV-00188-LHK
**ORDER GRANTING RENEWED JOINT
MOTION FOR PRELIMINARY
APPROVAL**
Re: Dkt. No. 110

Plaintiff Meena Arthur Datta (“Plaintiff”) brings this action against Defendant Asset Recovery Solutions, LLC (“Defendant”).¹ Before the Court is the parties’ Renewed Joint Motion for Preliminary Approval of Class Action Settlement. ECF No. 128 (“Mot.”); ECF No. 128-2 (“Settlement Agreement”). Along with the renewed joint motion for preliminary approval, the parties filed a proposed Notice to be distributed to Class Members. ECF No. 128-3. The Court held a Preliminary Approval Hearing on January 12, 2017. During the Preliminary Approval Hearing, the Court proposed a number of suggested changes to the proposed Notice, to which the

¹ Plaintiff filed her initial complaint against Asset Recovery Solutions, LLC and Oliphant Financial, LLC. Oliphant Financial, LLC was dismissed from this action pursuant to a stipulation of dismissal on March 9, 2015. ECF No. 22.

1 parties agreed. Accordingly, these changes have been incorporated into the amended long-form
2 notice and amended postcard notice accompanying this Order (collectively, “Amended Notice”).
3 ECF No. 133-1 (red-lined copy of Amended Long-Form Notice); ECF No. 133-2 (red-lined copy
4 of Amended Postcard Notice); ECF No. 133-3 (clean copy of Amended Long-Form Notice); ECF
5 No. 133-4 (clean copy of Amended Postcard Notice).

6 Having considered the renewed joint motion for preliminary approval, the record in this
7 case, and the statements made at the Preliminary Approval Hearing,

8 **IT IS HEREBY ORDERED** as follows:

9 1. On March 18, 2016, this Court certified the following Settlement Class pursuant to Fed.
10 R. Civ. P. 23(b)(3): (i) all persons with addresses in California, (ii) to whom Defendant sent, or
11 caused to be sent, a collection letter in the form of Exhibit “1” in an envelope in the form of
12 Exhibit “2,” (iii) in an attempt to collect an alleged debt originally owed to HSBC Bank Nevada,
13 N.A., (iv) which was incurred primarily for personal, family, or household purposes, (v) which
14 were not returned as undeliverable by the U.S. Post Office, (vi) during the period one year prior to
15 the date of filing this action through the date of class certification. ECF No. 66.

16 2. The Court previously found: (A) the class as defined is sufficiently numerous such that
17 joinder is impracticable; (B) common questions of law and fact predominate over any questions
18 affecting only individual Class Members, and include whether or not Defendant violated the Fair
19 Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (“FDCPA”) and the Rosenthal Fair Debt
20 Collection Practices Act, (“RFDCPA”), Cal. Civil Code § 1788.17 as alleged in the Complaint;
21 (C) the claims of Plaintiff are typical of the Class Members’ claims; (D) Plaintiff is an appropriate
22 and adequate representative of the Class and her attorneys were appointed as Class Counsel; and
23 (E) a class action is the superior method for the fair and efficient adjudication of the claims of the
24 Class Members.

25 3. The Court finds that the proposed settlement is within the range of fairness and
26 reasonableness and grants preliminary approval. In the event that the proposed settlement is not
27 finally approved for any reason, Defendant shall, pursuant to the Settlement Agreement, retain its

1 right to contest the claims of the Class.

2 4. The Court proposed revisions to the Notice at the Preliminary Approval Hearing, to
3 which the parties agreed. The Court approves the Amended Notice, and directs that the Amended
4 Notice be disseminated in accordance with the Settlement Agreement. *See* ECF No. 133-1 (red-
5 lined copy of Amended Long-Form Notice); ECF No. 133-2 (red-lined copy of Amended Postcard
6 Notice); ECF No. 133-3 (clean copy of Amended Long-Form Notice); ECF No. 133-4 (clean copy
7 of Amended Postcard Notice).

8 5. The Court finds that Amended Notice is the only notice to the Class Members that is
9 required and further finds that such notice satisfies the requirements of due process and Fed. R.
10 Civ. P. 23.

11 6. Class Members shall have seventy-five (75) days from the date of this Order to opt out
12 or object to the proposed Settlement Agreement.

13 7. Any Class Member who excludes himself or herself from the Class shall not be bound
14 by the Settlement Agreement and shall not be entitled to any of its benefits. To be timely, a
15 request for exclusion must be sent to the Class Administrator, IYLM Group, Inc. (address for
16 which will be provided by notice to the class) within seventy-five (75) days from the date of this
17 Order.

18 8. The request for exclusion must contain the excluded Class Member's name, address,
19 telephone number, and signature.

20 9. Any Class Member who objects to the settlement shall have a right to appear and be
21 heard at the Final Approval Hearing provided that such Class Member mails to the Class
22 Administrator a written objection postmarked no later than seventy-five (75) days from the date of
23 this Order. Class Counsel and Defendant's counsel shall respond to the objections, if any, by
24 means of a memorandum of law no later than seven (7) days prior to the Final Approval Hearing.

25 10. A Final Approval Hearing on the fairness and reasonableness of the Settlement
26 Agreement will be held before this Court on April 27, 2017 at 1:30 p.m.

27 11. The schedule by which the events referenced above shall occur as follows:

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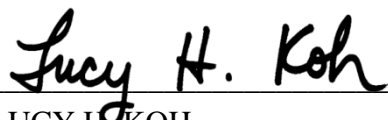
Event	Date
Notice Disseminated to Class Members	February 9, 2017
Motion for Attorney's Fees and Costs and Service Awards; Motion for Final Approval	March 11, 2017
Deadline to Object or Opt Out	March 28, 2017
Replies in Support of Motion for Attorney's Fees and Costs and Service Awards; Claims Administrator Affidavit of Compliance with Notice Requirements	April 20, 2017
Final Approval Hearing	April 27, 2017, at 1:30 p.m.

12. All parties are ordered to comply with the terms of the Amended Settlement Agreement.

13. Jurisdiction by this Court is retained over this litigation and the parties to this litigation, and each of the Class Members for all matters relating to this litigation, the Amended Settlement Agreement, including (without limitation) all matters relating to the administration, interpretation, effectuation, and/or enforcement of the Amended Settlement Agreement and this Order.

IT IS SO ORDERED.

Dated: January 13, 2017



LUCY H. KOH
United States District Judge