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FILED

OCT 18 2017

SAN LUIS OBISPO SUPERIOR COURT
BY [Signature]
W. Hojo, Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO – CIVIL COURT OPERATIONS –
UNLIMITED**

**ROSA MORENO-PERALTA,
INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

**TRS RECOVERY SERVICES,
INC.; AND, DOES 1-20,
INCLUSIVE,**

Defendant.

Case No.: 15CV-0481

~~PROPOSED~~ ORDER GOVERNING
DEADLINES FOR CLASS
PROCEEDINGS AND FINAL
APPROVAL

HON. BARRY T. LABARBERA

On October 12, 2017, this Court granted Plaintiff ROSA MORENO-PERALTA's ("Moreno-Peralta") Motion for Preliminary Approval of Class Action Settlement. In conjunction with this Motion, the Parties; the Parties' counsel; and, the Claims Administrator, Dahl Administration, LLC, are hereby Ordered as follows:

1 The following Scheduling Order shall govern this action for the
 2 remainder of its pendency:

EVENT	DEADLINE	DATE
Notice to be published by Claims Administrator	30 days from date of Preliminary Approval	November 13, 2017
Motion for Attorneys' Fees; Litigation Costs; and, Incentive Award	30 days from date of Preliminary Approval	November 13, 2017
Deadline to Opt Out/Object	90 days from date of Preliminary Approval	January 10, 2018
Motion for Final Approval	120 days from date of Preliminary Approval	February 9, 2018
Hearing on Motions for Attorneys' Fees, Litigation Costs, Incentive Award; and, Final Approval	Subject to Court availability	March 8, 2018 at 9:00 a.m.

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 23 Dated: 10-18-17

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 HON. BARRY T. LABARBERA
 SUPERIOR COURT JUDGE

Rosa Moreno-Peralta v. TRS Recovery Services, Inc., 15CV-0481

Hearing: Motion for Preliminary Approval of Class Action Settlement

Date: October 12, 2017

Rosa Moreno-Peralta (Plaintiff) brings this representative class action against TRS Recovery Services, Inc. (Defendant) for alleged violations of the Rosenthal Fair Debt Collection Practices Act (RFDCPA) by sending written communication in a window envelope that provided access to Plaintiff's personal information. Plaintiff seeks injunctive relief on behalf of the putative class members. The action has been resolved pending preliminary approval of the settlement.

Plaintiff brings this motion for an order: (1) preliminarily approving the proposed class action settlement; (2) appointing the class representative, class counsel, and preliminarily certifying a class for the purposes of settlement; (3) approving the notice to be sent to the class members; (4) appointment of Dahl Administration, LLC as the claims administrator; and (5) setting a hearing for final approval of the settlement.

There are three stages to the Court's settlement approval process: (1) preliminary approval of the proposed settlement at an informal hearing; (2) notice of the settlement to all affected class members; and (3) final approval after a formal hearing. As noted above, the instant motion seeks preliminary approval of the settlement.

The court may approve settlements reached before or after a class has been certified. (Weil and Brown, *Cal. Prac. Guide, Civil Proc. Before Trial* (The Rutter Guide 2011) §14:138.30, citing *Wershba v. Apple Computer, Inc.* (2001) 91Cal.App.4th 224, 240). Here, the class was not certified prior to the settlement. The settlement agreement and proposed notice to class members must be filed with the motion, and the proposed order must be lodged with the motion. [Weil and Brown, *Cal. Prac. Guide, Civil Proc. Before Trial* (2011) §14:138:21; Cal. Rules of Ct. 3:769(c)]. The parties have satisfied these requirements.

The purpose of preliminarily evaluating class action settlements is to determine whether the proposed settlement is within the "range of reasonableness" for possible approval, and whether it is worthwhile to issue notice to the class and schedule a formal hearing. [Cabraser, *Cal. Class Actions and Coordinated Proceedings* (2d ed. 2011) §14.02.] A presumption of fairness applies if there has been arm's length bargaining, investigation, and discovery have been sufficient to allow counsel and the court to act intelligently, class counsel is experienced in similar litigation, and the percentage of class members who object to the settlement is small. (Cabraser, *Cal. Class Actions and Coordinated Proceedings* (2d ed. 2011) §14.02.)

Here, the parties reached the proposed settlement after two years of litigation. Counsel is experienced with this type of litigation and has sufficient discovery and data to make an informed decision. The parties conclude that the requested injunctive relief coupled with the \$35,000 administrative fund is fair, reasonable, and in the best interest of the class.

The preliminary approval hearing is also appropriate for the certification of a settlement class if the class has not yet been certified. Under California law, the two basic requirements to sustain a class action are an ascertainable class and a well-defined community of interest in the questions of law and fact involved. (CCP §382; Weil & Brown, *Cal. Prac. Guide, Civil Proc. Before Trial* (The Rutter Group 2011) §14:11, citing *Vasquez v. Super. Ct. (Karp)* (1971) 4 Cal.3d 800, 809).

The proposed class is defined as approximately 56,918 California residents who from September 3, 2014 through September 3, 2015 were sent one or more collection letters in a windowed envelope through which the addressee's account number was visible and bore a visible Bar Code. This description is sufficiently precise to certify a settlement class to receive notice and for the class members to identify themselves from the notice. Likewise, Plaintiff's claims are typical and representative of the class members' claims.

If the court has certified the action as a class action, notice must be given to the class members and must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement. [Weil and Brown, *Cal. Prac. Guide, Civil Proc. Before Trial* (The Rutter Group 2011) §14:139.11; CRC 3.769(f)].

Here, the proposed notice to be served on the class members defines the members and informs them of the settlement and their respective rights. The notice sets forth the terms of the agreed upon injunctive relief and the \$2,000 to be paid to the class representative and \$13,000 to be paid to Plaintiff's counsel for attorney's fees and costs. The claims administration cost of \$20,000 is to be paid out of the \$35,000 administrative fund.

The parties have satisfied the procedural requirements for preliminary approval of a class action settlement and the settlement appears fair and reasonable.