

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Dorothy R. Konicki, for herself and class members,)	
)	
Plaintiff,)	Case No. 13-cv-1052
)	
v.)	
)	
Dynamic Recovery Solutions, LLC,)	Judge: Gordon J. Quist
)	
Defendant.)	

JOINT MOTION FOR PRELIMINARY APPROVAL

Plaintiff, Dorothy R. Konicki (“Plaintiff”), individually, and as representative of the class of persons defined below in Paragraph 4(a)(“Class”), and Defendant, Dynamic Recovery Solutions, LLC, (“Defendant” or “Dynamic”), request that this Court enter an order which (i) preliminarily approves the Class Settlement Agreement (“Agreement”) attached as Appendix A; (ii) sets dates for Class members to opt out, object, or return a claim form, (iii) schedules a hearing for final approval of the Agreement; (iv) approves the mailing of notice to the Class in the form of Exhibit 1 to Appendix A, and (v) finds that the mailing of such notice satisfies due process. A copy of the proposed preliminary approval order is attached as Exhibit 2 to Appendix A. The parties further state as follows:

1. Plaintiff alleges that Defendant sent letters in the form of Exhibit A to the Complaint to Michigan consumers that failed to disclose the name of the current creditor or owner of the debt and sent Exhibit A to collect debts on which the last payment or activity had occurred more than 6 years prior to the date of the letter.

2. After arms-length discussion, the parties reached a settlement to resolve all claims related to the collection letters at issue or that have been or could have been asserted by Plaintiff

and the Class against Dynamic in the Litigation – except for those in Count II of the Litigation, dealing with claims that Dynamic allegedly used false or unfair means in attempts to collect allegedly time-barred debts contrary to the FDCPA. As to these claims in Count II, defendant denies liability or wrongdoing; however, such claims will not be finally put to rest but, instead, dismissed without prejudice as to members of the Class other than Ms. Konicki.

3. Counsel for the parties have analyzed the legal and factual issues presented in this action, the risks and expense involved in pursuing the Litigation to conclusion, the likelihood of recovering damages in excess of those obtained through this settlement, the protracted nature of the litigation and the likelihood, costs and possible outcomes of one or more procedural and substantive appeals. Based upon counsel's review and analysis, the parties have entered into the Agreement to settle all of Plaintiff's claims and to settle the claims of the class except for those in Count II of the Litigation.

4. The parties desire to settle and compromise the Litigation on the terms and conditions embodied in the Agreement and agree as follows:

a. Class. The class includes all natural persons with Michigan addresses to whom defendant sent a notice in the form represented by Exhibit A to the Complaint, referring to "Bank One" or "First USA" as the "original creditor," between September 25, 2012 and October 15, 2013.

b. Relief to Plaintiff. Defendant agrees to pay \$1,000.00 to Plaintiff.

c. Class Recovery. Defendant will pay \$12,000.00 to the class ("Class Recovery"), which a settlement administrator will distribute *pro rata* to each Class Member who does not exclude him or herself ("Claimants"). Claimants will receive a *pro rata* share of the Class Recovery by check. Checks issued to Claimants will be void after 60 days. If any portion of the Class Recovery remains 30 days after the void date on the Claimants' checks, these remaining funds will be distributed to the Legal Aid of Western Michigan.

d. Attorneys' Fees and Costs. Subject to the Court's approval, Defendant shall pay counsel for Plaintiff and the Settlement Class, \$12,000.00, as attorneys' fees and costs incurred with respect to the Litigation.

e. Class Notice. Within 30 days of entry of the Preliminary Approval Order, Defendant shall cause actual notice, in the form of Exhibit 1 to the Agreement, to be mailed to the last known addresses of the members of the Class, according to Defendant's records. Each notice shall be sent with a request for forwarding addresses. In the event that a notice is returned as undeliverable and a forwarding address is provided, the Class Administrator shall cause any such returned notice to be forwarded to the address provided within four business days of receipt. If final approval is granted, the parties shall retain the class list and a list of class members who opted in or excluded themselves for six months thereafter, and may destroy them after that period.

f. Class Members' Right to Opt Out. Any Class Member may seek to be excluded from the Agreement by opting out within the time period set by this Court. Any Class Member who opts out of the Class and Agreement shall not be bound by any prior Court order or the terms of the Agreement and shall not be entitled to any of the monetary benefits set forth in the Agreement.

5. If no class members opt out or exclude themselves from the settlement, each Claimant will receive about \$17.06.

6. The FDCPA caps a class's recovery at 1% of the debt collector's net worth. Based upon the financial information that Dynamic has provided to Class Counsel and the nature of the claims alleged, they believe that the Agreement is fair and reasonable, would be in the best interest of the Class members, and should be approved by the Court.

7. If this Agreement is not approved by the Court or for any reason does not become effective, it shall be deemed null and void and shall be without prejudice to the rights of the parties hereto and shall not be used in any subsequent proceedings, in this or any other litigation, or in any manner whatsoever.

8. Plaintiff and Defendant request that the Court set the following schedule for the proposed Agreement:

a. Class Notice (Exhibit 1 to Appendix A) is to be mailed within 30 days of entry of the Preliminary Approval Order;

b. Class members shall have until 45 days after the initial mailing of the notice to exclude themselves from or object to the proposed settlement. Any class members desiring to exclude themselves from the action must serve copies of the request on counsel for both Plaintiff and Defendant by that date. Any class members who wish to object to the settlement must submit an objection in writing to the Clerk of the United States District Court for the Western District of Michigan, and serve copies of the objection on counsel for both Plaintiff and Defendant by that date. Any objection must include the name and number of the case and a statement of the reason why the objector believes that the Court should find that proposed settlement is not in the best interests of the class. Objectors who have filed written objections to the settlement must also appear at the hearing and be heard on the fairness of the settlement. The request for exclusion or objection must be postmarked by a date 45 days after the initial mailing of the class notice.

c. A final hearing on the fairness and reasonableness of the Agreement and whether the final approval shall be given to it and the requests for fees and expenses by counsel for the Class will be held before this Court on a date at least ninety (90) days from the entry of the preliminary approval order.

9. In the event that there is any conflict between any provision of this Motion and the Settlement Agreement between the parties, the parties intend for the Agreement to control, subject to Court approval.

10. The parties agree – strictly for settlement purposes, and without making any admissions or concessions – that class certification is appropriate, for

a. there are approximately 703 persons in the class, thus making joinder of all of them impractical (Fed.R.Civ.P. 23(a)(1); see *United Steel Workers v. Kelsey-Hayes Co.*, 290 F.R.D. 77, 80-81 (E.D.Mich. 2013));

b. the class members share a common question of fact and law (whether there was a failure to properly identify the current creditor on a debt, and whether that failure violated the FDCPA), which predominates over any individualized question between class members because the alleged foul, and the remedy for it, are identical for all class members) (Fed.R.Civ.P. 23(a)(2) and 23(b)(3); see *Gradisher v. Check Enforcement Unit Inc.*, 203 F.R.D. 271, 277 (W.D.Mich. 2001));

c. the plaintiff's claims are typical of those held by class members, as she received the same form letter as class members did and thus has the same legal and factual claims as they do (Fed.R.Civ.P. 23(a)(3); see *Gradisher, supra*);

d. plaintiff has retained competent counsel and (as a fellow consumer) has no interests which conflict with class members' interests, making her able to adequately protect those interests (Fed.R.Civ.P. 23(a)(4); see *Miri v. Dillon*, 292 F.R.D. 454, 462-463 (E.D.Mich. 2013)); and

e. resolution of hundreds of claims arising out a single course of conduct is superior to other claim resolution methods (Fed.R.Civ.P. 23(b)(3); see *Powell v. Tosh*, 280 F.R.D. 296, 310 (W.D.Ky. 2012)).

11. Given the fact that the class would recover 88% of the maximum statutory award available to them under the FDCPA (15 U.S.C. §1692k), without the risks associated with pursuing the case to judgment (and the time and expense required to do so), preliminary approval of the settlement is appropriate, for it is within the range of reasonableness for a class settlement. See *Leonhardt v. ArvinMeritor Inc.*, 581 F.Supp.2d 818, 831 (E.D.Mich. 2008).

12. The parties further submit that the class notice (Exhibit 1 to Appendix A) gives fair notice of the claims, the terms of the settlement, and the ways in which class members can participate (or not) in the settlement, thus satisfying the requirements of Fed.R.Civ.P. 23, and of due process.

WHEREFORE, the parties respectfully request that the Court enter an order in the form of Exhibit 2 to the Agreement, which (i) grants preliminary approval of the proposed settlement, (ii) approves and directs the mailing of the notice, in the form of Exhibit 1 to the Agreement and finds that the mailing of such notice satisfies the requirements of due process, (iii) sets dates for Class members to opt-out, object, or return a claim form; (iv) schedules a hearing for final approval under Fed.R.Civ.P. 23(c)(2) and (v) dismisses Count I of the Litigation with prejudice and dismisses Count II of the Litigation without prejudice.

Respectfully submitted,

HINSHAW & CULBERTSON LLP

/s/Thomas Soule

Thomas Soule
One of the attorneys for Dorothy Konicki

Daniel Edelman
Thomas Soule
Edelman, Combs, Lattuner & Goodwin, LLC
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Chicago, IL 60603
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/s/ Jennifer W. Weller

Jennifer W. Weller
One of the attorneys for
Dynamic Recovery Solutions, LLC

David M. Schultz
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Appendix A

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Dorothy R. Konicki, for herself and class members,)	
)	
Plaintiff,)	
)	Case No. 13-cv-1052
)	
)	Judge Gordon J. Quist
Dynamic Recovery Solutions, LLC,)	
)	
Defendant.)	

CLASS SETTLEMENT AGREEMENT

RECITALS

1. **Parties.** Defendant, Dynamic Recovery Solutions, LLC (“Defendant” or “Dynamic”) and Plaintiff, Dorothy R. Konicki (“Plaintiff”) individually, and as representative of the class of persons defined below in ¶8 (the “Class”), enter into this Class Settlement Agreement as to Plaintiff’s and the Class’s claims arising from Defendant’s collection letters (the “Agreement”).

2. **Nature of Litigation.** Plaintiff, individually and on behalf of a class, filed a lawsuit in the United States District Court for the Western District of Michigan, entitled *Dorothy Konicki, for herself and class members v. Dynamic Recovery Solutions, LLC* Case No. 13-cv-1052 (the “Litigation”), alleging that Dynamic violated the Fair Debt Collection Practices Act, (“FDCPA”), 15 U.S.C. §1692 *et. al.* when it sent a letter in the form of Exhibit A to the Complaint to Michigan consumers that failed to disclose the name of the current creditor or owner of the debt (Count I) and by sending Exhibit A to collect debts on which the last payment or activity had occurred over 6 years prior to the date of the letter (Count II).

3. **Denial of Liability.** Defendant denies violating the FDCPA and denies all liability to Plaintiff and the Class. Defendant desires to settle the claims brought solely to avoid

the expense, burden, and uncertainty of further litigation, and to put to rest all claims related to the collection letters at issue or that have been or could have been asserted by Plaintiff and the Class against Dynamic in the Litigation – except for those in Count II of the Litigation, dealing with claims that Dynamic allegedly used false or unfair means in attempts to collect allegedly time-barred debts contrary to the FDCPA. As to these claims, defendant denies liability or wrongdoing; however, such claims will not be finally put to rest but, instead, dismissed without prejudice as to members of the Class other than Ms. Konicki.

4. Plaintiff, individually and on behalf of the Class, desires to settle her claims against Dynamic, having considered through Plaintiff's counsel the risks, delay, and difficulties involved in establishing a right to recovery over that offered by this settlement and the likelihood that the Litigation will be further protracted and expensive.

5. Plaintiff's counsel has investigated the facts and the applicable law. Upon an analysis of the benefits afforded by this Agreement, Plaintiff's counsel considers it to be in the best interest of the Class to enter into this Agreement.

6. In consideration of the foregoing and other valuable consideration, Plaintiff, Plaintiff's counsel and Dynamic agree to settle the claims of the Plaintiff and the Class arising from the collection letter at issue, subject to the Court's approval, on the following terms and conditions.

TERMS

7. **Effective Date.** This Agreement shall become effective (the "Effective Date") upon the occurrence of the following events: (1) the Court enters a final approval order which: (a) approves this Agreement as fair, reasonable, and adequate to the Class; (b) finds that this Agreement is fair and made in good faith; and (c) dismisses Plaintiff and the Class members' claims alleged in the Complaint against Defendant with prejudice; and (2) (a) if the final

approval order is not appealed, the expiration of five days from the date that the final approval order becomes a final, non-appealable order; or (b) if the final approval order is appealed, the expiration of five days after the final disposition of any such appeal, which final disposition affirms the Court's final approval order and orders the consummation of the settlement under the terms and provisions of this Agreement.

8. **Class.** The parties agree to seek certification of the following class:

all natural persons with Michigan addresses to whom defendant sent a notice in the form represented by Exhibit A to the Complaint, referring to "Bank One" or "First USA" as the "original creditor," between September 25, 2012 and October 15, 2013.

There are approximately 703 persons that fall within the above-definition.

9. **Relief to Plaintiff and the Class.** Defendant shall provide the following relief to Plaintiff and the Class.

- a. Defendant will create a class settlement fund of \$12,000.00 ("Class Recovery"), which a settlement administrator will distribute *pro rata* among Class Members who do not exclude themselves ("Claimants"). Claimants will receive a *pro rata* share of the Class Recovery by check. Checks issued to Claimants will be void after 60 days. If any portion of the Class Recovery remains 30 days after the void date on the Claimants' checks, these remaining funds will be distributed as set forth in Paragraph 9(e);
- b. Defendant shall pay \$1,000.00 to Plaintiff;
- c. Defendant shall pay all costs associated with the notice under this class settlement and the costs of administering the class settlement;
- d. Subject to the Court's approval, Defendant shall pay counsel for Plaintiff and the Class, \$12,000.00, as attorneys' fees and costs; and
- e. Any checks that have not been cashed 30 days after the void date will be distributed to Legal Aid of Western Michigan (89 Ionia Avenue NW, Suite 400, Grand Rapids, Michigan 49503).

10. Class members shall have 45 days after mailing of the notice of the proposed settlement to complete and postmark a request to opt out of the proposed settlement or an objection to the proposed settlement.

11. On the Effective Date, Defendant shall distribute all monies set forth in ¶ 9(a), (b), and (d). Each Class member who does not exclude him- or herself will receive a check for that member's *pro rata* share of the settlement fund referred to in ¶ 9(a) above. The checks shall be void after 60 days from the date of issuance. Defendant shall distribute the money described in ¶ 9(b) and ¶ 9(d) under the provisions in ¶ 15. All monies set forth in ¶ 9(b) and ¶ 9(d) shall be distributed to Class Counsel addressed to Edelman, Combs, Lattuner & Goodwin, LLC, 120 S. LaSalle St., 18th Floor, Chicago, IL 60603. The check for the monies described in ¶ 9(b) and 9(d) shall be made out to "Edelman, Combs, Lattuner & Goodwin Client Trust Account."

12. **Release.** Upon the Effective Date, the parties grant the following releases:

- a. Plaintiff, Dorothy Konicki including every one of her respective agents, representatives, attorneys, heirs, assigns, or any other person acting on her behalf or for her benefit, and any person claiming through her (collectively "Releasers"), release and discharge Defendant Dynamic Recovery Solutions, LLC, and (insofar as any of them have acted for Defendant Dynamic Recovery Solutions, LLC) its parent corporations, predecessors and successors in interest and present and former affiliates, subsidiaries, insurers, officers, directors, agents, employees, members, shareholders, general partners, limited partners, beneficiaries, representatives, heirs, attorneys, assigns, or entities for which said Defendant performs collection services (collectively, "Released Parties"), from any and all actual or potential claims, actions, causes of action, suits, counterclaims, cross claims, third party claims, contentions, allegations, and assertions of wrongdoing, and any demands for any and all debts, obligations, liabilities, damages (whether actual, compensatory, treble, punitive, exemplary, statutory, or otherwise), attorneys' fees, costs, expenses, restitution, disgorgement, injunctive relief, any other type of equitable, legal or statutory relief, any other benefits, or any penalties of any type whatever, whether known or unknown, suspected or unsuspected, contingent or noncontingent, or discovered or undiscovered, whether asserted in federal court, state court, arbitration or otherwise, and whether triable before a judge or jury or otherwise, including, without limitation, those based on violation of the FDCPA, FDCPA State Equivalents, FCRA, FCRA State

Equivalents, or any other state, federal, or local law, statute, regulation or common law, that were alleged or could have been alleged in the Litigation.

- b. Each member of the Class who does not opt out releases and discharges the Released Parties from any and all actual or potential claims, actions, causes of action, suits, counterclaims, cross claims, third party claims, contentions, allegations, and assertions of wrongdoing, and any demands for any and all debts, obligations, liabilities, damages (whether actual, compensatory, treble, punitive, exemplary, statutory, or otherwise), attorneys' fees, costs, expenses, restitution, disgorgement, injunctive relief, any other type of equitable, legal or statutory relief, any other benefits, or any penalties of any type whatever, whether known or unknown, suspected or unsuspected, contingent or noncontingent, or discovered or undiscovered, whether asserted in federal court, state court, arbitration or otherwise, and whether triable before a judge or jury or otherwise, including, without limitation, those based on violation of the FDCPA, FDCPA State Equivalents, FCRA, FCRA State Equivalents, or any other state, federal, or local law, statute, regulation or common law, that were alleged or that could have been alleged in Count I of the Litigation. Excluded from this release are claims alleged in Count II of the Litigation.

13. The release is conditioned upon the approval of the Agreement by the Court and Defendant meeting its obligations herein. If this Agreement is not approved by the Court or for any reason does not become effective, it shall be deemed null and void and shall be without prejudice to the rights of the parties hereto and shall not be used in any subsequent proceedings in this or any other litigation, or in any manner whatsoever.

14. **Attorneys' Fees, Notice Costs and Related Matters.** Defendant will pay the costs of notice and settlement administration, as described above in ¶ 9. Defendant will also pay Plaintiff's counsel \$12,000.00, in attorneys' fees and costs. The amount shall be paid by check on the later of the Effective Date or 14 days after the fees and costs are determined by Court order. This amount shall be sent to Edelman, Combs, Lattuner & Goodwin, LLC, 120 S. LaSalle Street, 18th Floor, Chicago, IL 60603, or at any other address that Defendant's counsel in writing is directed to send the monies by Class Counsel.

15. **Notice.** Within 30 days of entry of the Preliminary Approval Order, Defendant shall through the Class Administrator cause actual notice, in the form of Exhibit 1, to be sent to

the last known addresses of the Class members, according to Defendant's records. The Class Administrator shall distribute the notice via any form of U.S. Mail providing address forwarding. Each notice shall be sent with a request for forwarding addresses. If a notice is returned as undeliverable and a forwarding address is provided, the Class Administrator shall cause to be forwarded any such returned notice to the address provided within four days of receipt. Neither the Class Administrator, Defendant, nor Plaintiff must skip trace any letters returned as undeliverable.

16. Defendant shall provide notice of this proposed class settlement to the appropriate state and federal authorities in compliance with the Class Action Fairness Act ("CAFA").

17. **Preliminary Approval.** As soon as practicable after execution of this Agreement, the parties shall apply to the Court for the Preliminary Approval Order, attached as Exhibit 2, which:

- a. Preliminarily approves this Agreement;
- b. Schedules a hearing for final approval of this Agreement;
- c. Approves Exhibit 1 hereto as notice to the Class, to be directed to the last known address of the Class members as shown on Defendant's records; and
- d. Finds that mailing of the Class notice and the other measures specified in ¶ 16 are the only notice required and that such notice satisfies the requirements of due process and Fed.R.Civ.P. 23.

18. The parties agree to request the form of notice attached hereto as Exhibit 1 and propose the form of preliminary approval order attached hereto as Exhibit 2. The fact that the Court may require non-substantive changes in the notice or order does not invalidate this Agreement.

19. **Final Approval.** At the conclusion of, or as soon as practicable after, the close of the hearing on the fairness, reasonableness and adequacy of this Agreement, and the expiration

of 90 days from the preliminary approval of the settlement (as required by CAFA), Plaintiff, Plaintiff's counsel, Defendant's counsel and Defendant shall request that the Court enter a Final Order approving the terms of this Agreement as fair, reasonable and adequate; providing for the implementation of those terms and provisions; finding that the notice given to the Class satisfies the requirements of due process and Rule 23; dismissing the claims of Plaintiff and the Class alleged in the Complaint with prejudice and without costs; directing the entry of a final order; and retaining jurisdiction to enforce the provisions of the final approval order.

20. The parties agree to request the form of final order attached hereto as Exhibit 3. The fact that the Court may require non-substantive changes in the final order does not invalidate this Agreement.

21. **Dismissal of Count II.** Upon presentment of the Joint Motion for Preliminary Approval of Class Action Settlement, Plaintiff will request leave to file an Amended Complaint and will seek dismissal of Count II of the Litigation without prejudice. Should any member of the Class re-file the claims alleged in Count II of the Litigation within 28 days after the entry of an order disposing of the appeal in *Esther Buchanan v. Northland Group, Inc.*, Case No. 13-2523 pending before the Sixth Circuit Court of Appeals, Defendant agrees not to raise the statute of limitations as a defense to those claims. The parties agree that Defendant retains all other defenses to any Class member's claims. Should any member of the Class re-file the claims alleged in Count II of the Litigation over 28 days after the entry of an order disposing of the appeal in *Buchanan*, Defendant may raise any defense to such Class member's claims including the statute of limitations.

22. **Release of Attorneys' Lien.** In consideration of this Agreement, Plaintiff's counsel hereby discharges and releases the "Released Parties," as defined in ¶ 13(a) above, of

and from any and all claims for attorneys' fees, by lien or otherwise, other than the amount of fees and costs determined under ¶15, for legal services rendered by Plaintiff's counsel.

23. **Miscellaneous Provisions.** The parties and their attorneys agree to cooperate fully with one another in seeking approval of this Agreement, and to use their best efforts to effect the consummation of this Agreement and the settlement provided for herein. Whether or not this Agreement is consummated, this Agreement shall in no event be construed as, or be deemed, evidence of an admission on the part of Defendant of any liability or wrongdoing whatsoever.

24. Notices and objections related to this Agreement shall be sent to the following attorneys:

Thomas E. Soule
Edelman, Combs, Lattuner & Goodwin, LLC
120 S. LaSalle Street, 18th Floor
Chicago, Illinois 60603

Jennifer Weller
Hinshaw & Culbertson LLP
222 N. LaSalle Street, Suite 300
Chicago, Illinois 60601

The persons and addresses designated in this paragraph may be changed by any signatory hereto by written notice to the other signatories hereto.

25. The foregoing constitutes the entire agreement between the parties and may not be modified or amended except in writing, signed by all parties hereto, and approved by the Court.

26. This Agreement may be executed in counterparts, in which case the various counterparts shall constitute one instrument for all purposes. The several signature pages may be collected and annexed to one or more documents to form a complete counterpart. Photocopies of executed copies of this Agreement may be treated as originals.

27. Every term of this Agreement shall be binding upon and inure to the benefit of the Plaintiff, the Class, and their successors and personal representatives, and shall bind and shall inure to the benefit of the Released Parties, all of which persons and entities are intended to be beneficiaries of this Agreement.

28. This Agreement shall be governed by and interpreted under the laws of Michigan.

29. If final approval is granted, the parties shall retain the class list and a list of class members who opted in or excluded themselves for six months from final approval, and may destroy them after that period.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto, acting through their respective counsel of record, have so agreed, on APRIL 14, 2014.

Individually and as Class Representative:

Dorothy R. Konicki
Dorothy Konicki

Approved as to form:

Attorneys for Dorothy Konicki
Edelman, Combs, Laiturter & Goodwin, LLC

Dynamic Recovery Solutions, LLC

BY:

Its duly authorized representative

Approved as to form:

Attorneys for Dynamic Recovery Solutions, LLC

Hinshaw & Culbertson LLP

IN WITNESS WHEREOF, the parties hereto, acting through their respective counsel of record, have so agreed, on _____, 2014.

Individually and as Class Representative:

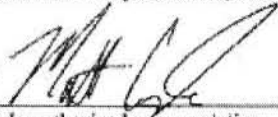
Dorothy Konicki

Approved as to form:

Attorneys for Dorothy Konicki

Edelman, Combs, Lattimer & Goodwin, LLC

Dynamic Recovery Solutions, LLC

BY: 

Its duly authorized representative

Approved as to form:

Attorneys for Dynamic Recovery Solutions, LLC



Hinshaw & Culbertson LLP

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN

Dorothy Konicki v. Dynamic Recovery Solutions LLC (Case No. 1:13CV1052)

If Dynamic Recovery Solutions LLC sent you a collection letter, on a Bank One or First USA account, you may benefit from this class action settlement.

A Federal Court authorized this notice. This is not a solicitation from a lawyer.

**THIS IS A NOTICE OF A SETTLEMENT OF A CLASS ACTION LAWSUIT.
THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

DO NOTHING, STAY IN THE CLASS, AND RECEIVE A CHECK	By doing nothing, you will be bound by the settlement, and any order the Court issues. You will be entitled to receive a payment from the settlement fund.
EXCLUDE YOURSELF	You will receive no benefits, but will retain your legal claims against the Defendant.
OBJECT	You can write to the Court to explain why you don't like the settlement. You may also appear at the fairness hearing.
GO TO A HEARING	You can ask to speak in Court about the settlement.

1. Why did I get this notice?

You are receiving this notice because you were identified as a person to whom Dynamic Recovery Solutions LLC ("Dynamic") sent a collection letter in Michigan, which referred to "Bank One" or "First USA" as the "original creditor."

2. What is lawsuit about?

Dorothy Konicki claims that Dynamic violated the Fair Debt Collection Practices Act ("FDCPA") when it sent a debt collection letter to her, for two reasons. Dynamic denies any liability, wrongdoing or violation of the FDCPA.

In Count One of the complaint, Ms. Konicki claims that the letter failed to disclose the name of the current creditor or owner of the debt. The parties have agreed to settle the claims in Count One. The terms of that settlement are described in this notice, and will finally resolve any claim that Dynamic failed to properly disclose the name of the creditor in a collection letter it sent to you.

Count Two of the complaint alleges that Dynamic sent the letter to collect on a debt on which a lawsuit to collect the debt would have been outside of the Michigan statute of limitations and did not disclose that such lawsuit would have been barred by the statute of limitations. The parties have agreed to dismiss the claims made in Count Two, without prejudice. This settlement does not affect any claims you might have against Dynamic on the grounds alleged in Count Two. You therefore have the right to bring your own claim against Dynamic on that ground, if you wish, subject to limitations on your right to bring such a claim. Further details as to claims in Count Two can be

found in the settlement agreement in this matter, which is available online at www.edcombs.com/xxxxxx.

3. Why is this a class action?

In a class action, one or more people called Class Representatives (here, Ms. Konicki), sue for a “Class” of people who have similar claims. The members of the class here (including you) have the same potential claims under the FDCPA, regarding the collection letters allegedly used by Defendant to attempt collection of a debt.

4. Why is there a settlement?

To avoid the cost, risk, and delay of litigation, the parties have agreed to settle the claims of Ms. Konicki and the Class.

5. How do I know if I am a part of the settlement?

For settlement purposes only, the parties have agreed to certification of a class including all natural persons with Michigan addresses to whom defendant sent a notice in the form represented by Exhibit A to the Complaint, referring to “Bank One” or “First USA” as the “original creditor, between September 25, 2012 and October 15, 2013. Dynamic estimates there are about 703 people in the Class. According to Dynamic’s records, you are a class member.

YOUR BENEFITS UNDER THE SETTLEMENT

6. What can I get from the settlement?

If you do not timely request exclusion from the settlement, you will be entitled to a *pro rata* share of the Class Recovery. The Class Recovery will be \$12,000. If all 703 class members remain in the class, you will be entitled to a check for \$17.06. No class member may receive more than one check.

7. When will I receive these benefits?

You will receive your check about 30 to 45 days after the Court enters a Final Approval Order, if one is entered, and if that order is not appealed.

8. I want to be a part of the settlement and receive these benefits. What do I do?

Nothing. If you do not exclude yourself, you will remain in the class, and you will be entitled to a *pro rata* share of the Class Recovery.

9. What am I giving up to receive these benefits?

By staying in the class, all of the Court’s orders will apply to you, and you will “release” Defendant to the claims in Count One of the Litigation. A release means you cannot sue, or be part of any other suit against Dynamic about the claims or issues in Count One of the Complaint.

10. How much will the Class Representative receive?

Ms. Konicki will receive \$1,000, subject to Court approval.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to receive the benefits of the settlement, but you want to keep your legal claims against the Defendant, then you must request exclusion from this settlement.

11. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a letter by mail stating you want to be excluded from *Dorothy Konicki v. Dynamic Recovery Solutions, LLC*, Case No. 1:13CV1052 (W.D.Mich.) Please include your name, address, telephone number, and your signature. You must mail your exclusion request, so that it is postmarked **no later than _____, 2014**, to:

Thomas Soule
Edelman, Combs, Lattuner & Goodwin, LLC
120 S. LaSalle St., 18th Floor
Chicago, IL 60603

Jennifer W. Weller
Hinshaw & Culbertson LLP
222 N. LaSalle St., Suite 300
Chicago, IL 60601

12. If I exclude myself, do I still receive benefits from this settlement?

No, you will receive nothing from the settlement, but you will have the right to sue Dynamic over the claims raised in the Litigation, either on your own or as a part of a different lawsuit. If you exclude yourself, the time in which to file your own lawsuit (called the “statute of limitations”) will begin to run again. You will have the same amount of time to sue that you had when this case was filed on September 25, 2013.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court has named the law firm of Edelman, Combs, Lattuner & Goodwin, LLC as Class Counsel. You will not be charged for these lawyers; however, they will receive a payment from Dynamic. If you want to be represented by your own lawyer, you may hire one at your own expense. If you hire your own lawyer, he or she must file an appearance by _____, **2014**.

14. How will the lawyers be paid?

Subject to the Court’s approval, Dynamic will pay Class Counsel \$12,000, as attorneys’ fees and costs incurred regarding the claims of the Class.

CLASS COUNSEL'S VIEWS ABOUT THE SETTLEMENT

15. Is this a fair settlement?

Class Counsel believes this settlement is fair. The claims asserted for the class against Dynamic are under the FDCPA. The FDCPA is a federal statute which provides for both individual actions and class actions. In an individual action, the person suing may recover (A) any actual damages suffered; and (B) statutory damages of between \$0 and \$1,000. (Plaintiff's complaint did not allege actual damages.) In a class action, the maximum possible recovery is (1) any actual damages suffered by the class members and (2) the lesser of 1% of the Defendant's net worth or \$500,000. The Court, in its discretion, may award anything up to the maximum amount to a prevailing party. In either an individual or class action, the person suing can also recover attorneys' fees and the expenses of prosecuting the suit, if it succeeds.

Dynamic has agreed to pay \$12,000 (an amount that is approximately 88% of the maximum statutory class damages) to settle the Litigation. The \$12,000 settlement amount will be divided between class members who do not exclude themselves. Should all 703 class members remain in the class, each will receive approximately \$17.06. Class Counsel believes this is a fair and reasonable settlement.

16. What are the Defendants' views of this settlement?

By settling this lawsuit, Dynamic is not admitting it did anything wrong. Dynamic expressly denies the claims asserted by Ms. Konicki, and denies all allegations of wrongdoing and liability.

OBJECTING TO THE SETTLEMENT

You can tell the Court you do not agree with the settlement, or some part of it.

17. How do I tell the Court that I do not like the Settlement?

If you are a class member, you can object to the settlement. To object to the settlement or any part of the settlement, you must send a letter (or legal brief) stating that you object, and the reasons you think the Court should not approve the settlement. You must include the name and number of the case: *Dorothy Konicki v. Dynamic Recovery Solutions, LLC*, Case No. 1:13CV1052 (W.D.Mich.), your name, address, telephone number, and signature. If you are objecting, you may also appear at the fairness hearing (explained below in answer to question no. 18). You must mail your objection so it is postmarked no later than _____, 2014 to:

United States District Court for the Western District of Michigan
482 Federal Building (← clerk's office, or judge's chambers?)
110 Michigan St. NW
Grand Rapids, MI 49503

You must also send a copy of your objection to **both**:

Thomas Soule
Edelman, Combs, Latturner & Goodwin, LLC
120 S. LaSalle St., 18th Floor
Chicago, IL 60603

Jennifer W. Weller
Hinshaw & Culbertson LLP
222 N. LaSalle St., Suite 300
Chicago, IL 60601

THE FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend if you wish, but you are not required to do so.

18. Where and when is the fairness hearing?

The Court will hold a fairness hearing on _____, **2014** at _____ **a.m.** in the courtroom of Judge Gordon J. Quist, 482 Federal Building, 110 Michigan St. NW, Grand Rapids, MI 49503. At the hearing, the Court will determine whether the proposed settlement is fair, reasonable and adequate and in the best interests of the class, and the appropriate compensation for Class Counsel. The Court will also hear any objections and arguments concerning the fairness of the proposed settlement.

YOU ARE **NOT** REQUIRED TO ATTEND THIS HEARING TO BENEFIT FROM THIS SETTLEMENT. The hearing may be postponed to a later date without notice. YOU SHOULD **NOT** CONTACT THE COURT, OR THE JUDGE, REGARDING THE SETTLEMENT. They cannot provide any information to you. If you have questions, please contact Class Counsel, at this address:

Thomas Soule
Edelman, Combs, Latturner & Goodwin, LLC
120 S. LaSalle St., Suite 300
Chicago, IL 60603
(312)739-4200

2014 (30 days after entry of the preliminary approval order). Defendant will have the notice sent by any form of U.S. Mail providing forwarding addresses.

4. The Court finds that mailing of class notice is the only notice required and that such notice satisfies the requirements of due process and Fed.R.Civ.P.23(c)(2)(B).

5. Class members shall have until _____, 2014 [the first business day after the 45th day after the initial mailing of the class notice] to exclude themselves from or object to the proposed settlement. Any class members desiring to exclude themselves from the action must serve their request for exclusion on counsel for both Plaintiff and Defendant by that date. Any class members who wish to object to the settlement must submit an objection in writing to the Clerk of the United States District Court for the Western District of Michigan, and serve copies of the objection on counsel for both Plaintiff and Defendant by that date. Any objection must include the name and number of the case and a statement of the reason why the objector believes that the Court should find that the proposed settlement is not in the best interests of the class. Objectors who have filed written objections to the settlement must also appear at the hearing and be heard on the fairness of a settlement. To be effective, the request for exclusion or objection must be postmarked by _____, 2014.

6. A final hearing on the fairness and reasonableness of the Agreement and whether the final approval shall be given to it and the requests for fees and expenses by counsel for the Class will be held on _____, 2014 at _____ a.m.

7. Plaintiff's motion for leave to file an Amended Complaint [Dkt # ____] is granted.
Count II of the Litigation is dismissed without prejudice.

ENTERED: _____

DATE: _____

2014 (30 days after entry of the preliminary approval order). Defendant will have the notice sent by any form of U.S. Mail providing forwarding addresses.

4. The Court finds that mailing of class notice is the only notice required and that such notice satisfies the requirements of due process and Fed.R.Civ.P.23(c)(2)(B).

5. Class members shall have until _____, 2014 [the first business day after the 45th day after the initial mailing of the class notice] to exclude themselves from or object to the proposed settlement. Any class members desiring to exclude themselves from the action must serve their request for exclusion on counsel for both Plaintiff and Defendant by that date. Any class members who wish to object to the settlement must submit an objection in writing to the Clerk of the United States District Court for the Western District of Michigan, and serve copies of the objection on counsel for both Plaintiff and Defendant by that date. Any objection must include the name and number of the case and a statement of the reason why the objector believes that the Court should find that the proposed settlement is not in the best interests of the class. Objectors who have filed written objections to the settlement must also appear at the hearing and be heard on the fairness of a settlement. To be effective, the request for exclusion or objection must be postmarked by _____, 2014.

6. A final hearing on the fairness and reasonableness of the Agreement and whether the final approval shall be given to it and the requests for fees and expenses by counsel for the Class will be held on _____, 2014 at _____ a.m.

7. Plaintiff's motion for leave to file an Amended Complaint [Dkt # ____] is granted.
Count II of the Litigation is dismissed without prejudice.

ENTERED: _____

DATE: _____