

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

DONNA K. SOUTTER,
For herself and on behalf of all
similarly situated individuals,

Plaintiff,

v.

Civil Action No. 3:10-cv-00514-HEH

TRANS UNION, LLC,

Defendant.

PRELIMINARY APPROVAL ORDER

WHEREAS, Plaintiff has moved the court (the “Motion”), pursuant to Federal Rule of Civil Procedure 23, for an order preliminarily approving a settlement of the above-captioned action (the “Action”) in accordance with the Stipulation and Agreement of Settlement filed with this Court on December 4, 2013 (the “Agreement”), which, together with the Exhibits attached thereto, sets forth the terms and conditions for a proposed settlement of the Action and its dismissal with prejudice; and

WHEREAS, as a condition of the Agreement, Plaintiff, on behalf of herself individually and on behalf of the Settlement Class, has agreed to release all claims arising under federal, state or common law as specified in Section 6.1 of the Agreement in exchange for the benefits provided under the Agreement, subject to the Court’s approval; and

WHEREAS, this Court having read and considered Plaintiff’s Motion, the Agreement and Exhibits attached thereto, as well as all arguments and submissions from the Parties; and

WHEREAS, all defined terms shall have the same meaning as set forth in the Agreement.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. For purposes of this Action, this Court has subject matter jurisdiction and, for purposes of the Settlement only, this Court has personal jurisdiction over the Parties, including the Settlement Class.

2. For purposes of this Settlement only, this Court preliminarily certifies the following Settlement Class:

All consumers in the United States who, between July 26, 2008, and the date of preliminary approval of the Settlement, had a hard inquiry on their TransUnion File resulting in the delivery of a TransUnion consumer report that reflected an unsatisfied Virginia General District Court or Virginia Circuit Court civil judgment, if at least 31 days prior to delivery of the consumer report, and on the date of delivery of the consumer report, such judgment had been satisfied, vacated or dismissed, as shown by the VSC Master File.

The Settlement Class preliminarily is certified pursuant to Federal Rule of Civil Procedure 23(b)(3), and all individuals in the Settlement Class shall have the right to exclude themselves by way of the opt-out procedure set forth below in Paragraph 13.

3. This Court preliminarily finds, solely for purposes of the Settlement, that the Action may be maintained as a class action on behalf of the Settlement Class because: (a) the Settlement Class is so numerous that joinder of all individuals in the Settlement Class in the Action is impracticable; (b) there are questions of law and fact common to the Settlement Class that predominate over any individual questions; (c) Plaintiff's claims are typical of the claims of the Settlement Class; (d) Plaintiff and Class Counsel have fairly and adequately represented and protected the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

4. This Court preliminarily approves the Agreement as being fair, reasonable and adequate and within the range of possible approval, subject to further consideration at the Final Fairness Hearing as set forth below in Paragraph 7.

5. This Court preliminarily finds that Plaintiff fairly and adequately represents the interests of the Settlement Class and therefore designates Plaintiff as the representative of the Settlement Class.

6. Pursuant to Federal Rule of Civil Procedure 23(g), and after consideration of the factors described therein and oral and written arguments, this Court designates as Class Counsel, only for purposes of the Settlement, Leonard A. Bennett, Matthew Erausquin and Susan M. Rotkis of the law firm Consumer Litigation Associates, P.C. This Court preliminarily finds that, based on the work Class Counsel have done in identifying, investigating and prosecuting the claims in the action, Class Counsel's experience in handling class actions, other complex litigation and claims of the type asserted in this action, Class Counsel's knowledge of the applicable law and the resources Class Counsel have and will commit to representing the class, Class Counsel have and will fairly and adequately represent the interests of the Settlement Class. Plaintiff and Class Counsel, on behalf of the Settlement Class, are authorized to take all appropriate action required or permitted to be taken by the Settlement Class pursuant to the Agreement to effectuate its terms.

7. The Final Fairness Hearing shall take place before the Honorable Henry E. Hudson on March 19, 2014 at 2:30 p.m. at the United States District Court, Eastern District of Virginia, Spottswood W. Robinson III and Robert R. Merhige, Jr., Federal Courthouse, 701 East Broad Street, Richmond, VA 23219, to determine: whether the proposed Settlement of the Action on the terms and conditions provided for in the Agreement is fair, reasonable and

adequate as to the Settlement Class Members and should be approved; whether the Judgment, as provided for in the Agreement, should be entered; and the amount of any fees and costs that may be awarded to Class Counsel, and the amount of any service award that may be awarded to Plaintiff, as provided for in the Agreement. The Court will also hear and consider any properly lodged objections at that time.

8. This Court finds that Class Notice, as set forth in Section 7.3 of the Agreement fully satisfies the requirements of Due Process, the Federal Rules of Civil Procedure and any other applicable laws, and constitutes the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto. This Court approves the form and content of the Summary Mailed Notice and Long-form Notice attached as Exhibits A and B to the Agreement.

9. This Court approves the form and content of the Claim Form, Opt-Out Form and Reservation of Rights Form attached as Exhibits C, D and E to the Agreement.

10. This Court approves McGladrey LLP as Settlement Administrator.

11. The Court approves the claims procedures set forth in Section 7 of the Agreement. To be treated as valid, Claim Forms must be submitted electronically or postmarked by March 3, 2014.

12. All individuals within the Settlement Class who do not request exclusion (“opt-out”) from the Settlement Class certified pursuant to Federal Rule of Civil Procedure 23(b)(3), pursuant to the procedure set forth below, shall be bound by all determinations and judgments in this Action concerning the Settlement, including, but not limited to, the validity, binding nature and effectiveness of the releases set forth in Section 6.1 of the Agreement.

13. The Settlement Class shall be given the opportunity to opt out of the Settlement Class. All requests by the individuals within the Settlement Class to be excluded must be in writing, sent to the Settlement Administrator and postmarked not later than March 3, 2014. To be valid, a request for exclusion must be personally signed and must include: (i) name, address and telephone number; (ii) a sentence stating that he or she is in the Settlement Class; and (iii) the following statement: “I request to be excluded from the class settlement in Donna K. Soutter v. TransUnion, LLC, United States District Court, Eastern District of Virginia, Case No. 3:10-cv-514-HEH.” No person within the Settlement Class, or any person acting on behalf of or in concert or participation with that person, may exclude any other person within the Settlement Class from the Settlement Class.

14. Any individual within the Settlement Class, who has not previously opted-out in accordance with the terms of Paragraph 13 above, may appear at the Final Fairness Hearing to argue that the proposed Settlement should not be approved and/or to oppose the application of Class Counsel for an award of attorneys’ fees and costs and the service award to Plaintiff; provided, however, that no individual within the Settlement Class shall be heard, and no objection may be considered, unless the individual files with this Court a written statement of the objection postmarked no later than March 3, 2014. Copies of all objection papers also must be served electronically via the Court’s ECF system or mailed, postmarked no later than March 3, 2014, to each of the following: Class Counsel, Leonard Anthony Bennett, Consumer Litigation Associates, P.C., 763 J. Clyde Morris Boulevard, Suite 1-A, Newport News, VA 23601 and TransUnion’s Counsel, Stephen J. Newman, Esq., Stroock & Stroock & Lavan LLP, 2029 Century Park East, 16th Floor, Los Angeles, California 90067. All objections must include: (i) the objector’s name, address and telephone number; (ii) a sentence stating that to the best of his

or her knowledge he or she is a member of the Settlement Class; (iii) the factual basis and legal grounds for the objection to the Settlement; (iv) the identity of witnesses whom the objector may call to testify at the Final Fairness Hearing; and (v) copies of exhibits the objector may seek to offer into evidence at the Final Fairness Hearing.

15. The costs of notice and settlement administration shall be paid from the Settlement Fund as described in Section 7.1 of the Agreement.

16. All proceedings in this Action are stayed pending final approval of the Settlement, except as may be necessary to implement the Settlement or comply with the terms of the Agreement.

17. Pending final determination of whether the Settlement should be approved, Plaintiff, all Settlement Class Members and any person or entity allegedly acting on behalf of Settlement Class Members, either directly, representatively or in any other capacity, are preliminarily enjoined from commencing or prosecuting against the Released Parties any action or proceeding in any court or tribunal asserting any of the Released Claims; provided, however, that this injunction shall not apply to individual claims of anyone who timely excludes themselves from the Settlement in a manner that complies with Paragraph 13 above. This injunction is necessary to protect and effectuate the Settlement, this Order, and this Court's flexibility and authority to effectuate the Settlement and to enter Judgment when appropriate, and is ordered in aid of this Court's jurisdiction and to protect its judgments pursuant to 28 U.S.C. § 1651(a).

18. This Court reserves the right to adjourn or continue the date of the Final Fairness Hearing without further notice to the Settlement Class, and retains jurisdiction to consider all

further applications arising out of or connected with the Settlement. This Court may approve or modify the Settlement without further notice to the Settlement Class.

IT IS SO ORDERED.

Dated: Dec 19 2013
Richmond, VA

Heur /s/
Henry E. Hudson
United States District Judge