

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Peter Blasi, Jr., *et al.*,

Plaintiffs,

v.

United Debt Services, LLC, *et al.*,

Defendants.

Case No.: 2:14-cv-0083

Judge George C. Smith

Magistrate Judge Vascura

**ORDER CONDITIONALLY CERTIFYING SETTLEMENT CLASS,
AND PRELIMINARILY APPROVING PROPOSED SETTLEMENT**

Upon review and consideration of the Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, filed on April 23, 2019, and the exhibits thereto, including the Settlement Agreement, which have been filed with the Court (*see* Doc. 294), and having been fully advised, it is hereby **ORDERED, ADJUDGED and DECREED** as follows:

1. The Settlement Agreement is hereby incorporated by reference in this Order and all terms defined in the Settlement Agreement will have the same meanings in this Order.
2. The Court has jurisdiction over this Action and over each of the Parties and Settlement Class Members.
3. The terms of the Settlement Agreement, including the exhibits, are preliminarily approved, subject to further consideration at the Final Settlement Approval Hearing provided for below. The Court finds that the settlement terms embodied in the Settlement Agreement fall within the range of reasonableness to warrant approval, such that notice of the Settlement (in the form presented to the Court as exhibits to the Motion) should be disseminated to Settlement Class Members as provided for in this Order.

4. For purposes of determining whether the terms of the Settlement Agreement should be finally approved as fair, reasonable and adequate, the following Settlement Class is conditionally certified for settlement purposes only:

- (a) Ohio citizens whose consumer reports were used and/or obtained by UDS via prescreened marketing lists provided by AMG Lead Source from June 1, 2011 through June 30, 2014.
- (b) Excluded from the class are Defendant UDS and all Persons who are or were during the class period directors, officers, employees, partners, principals, shareholders, or agents of Defendant UDS and the immediate family of all such persons; any currently sitting member of the Federal judiciary and the immediate family of all such persons; and Plaintiffs' counsel, Defendant's counsel of record, and the immediate families of all such persons.

5. Specifically, the Court finds that the Settlement Class satisfies the requirements of numerosity, commonality, typicality, and adequacy pursuant to Fed. R. Civ. P. 23(a), and the predominance and superiority requirements of Fed. R. Civ. P. 23(b)(3).

6. Plaintiffs Peter Blasi, Jr., Jordan Brodsky, and Michael Cassone are preliminarily appointed as representatives of the Settlement Class ("Class Representatives"), and the following attorneys for Plaintiffs are preliminarily appointed as counsel for the Settlement Class ("Class Counsel"):

Mark Lewis, Esq.
Kitrick Lewis & Harris Co., L.P.A.
445 Hutchinson Ave., Suite 100
Columbus, Ohio 43235

Jeremiah E. Heck, Esq.
Luftman, Heck & Associates LLP
6253 Riverside Drive, Suite 200
Dublin, Ohio 43017

Brian M. Garvine, Esq.
The Law Office of Brian M. Garvine
5 East Long Street, Suite 100

Columbus, Ohio 43215

Robert J. Wagoner, Esq.
Robert J. Wagoner Co., LLC
445 Hutchinson Ave., Suite 100
Columbus, Ohio 43235

7. If final approval of the Settlement Agreement is not granted, this Order, including the above description of the Settlement Class and the preliminary appointment of the Settlement Class Representative and Settlement Class Counsel, shall be automatically vacated. If the Settlement Agreement is terminated or is disapproved in whole or in part by this Court, any appellate court and / or any other court of review, the Settlement Agreement and the fact that it was entered into shall not be offered, received or construed as an admission or as evidence for any purpose, including the “certifiability” of any class.

8. Pending a final determination whether the Settlement Agreement should be approved as fair, reasonable, and adequate, neither Plaintiffs nor any potential Settlement Class Member, whether directly, indirectly, representatively or in any other capacity, shall start, join, continue, litigate or participate in or accept any benefit or relief from any other lawsuit, arbitration, or administrative or regulatory proceeding against UDS that is based on, relates to, or involves any of the claims, facts, circumstances, or subject matter of this Action or the Settlement Agreement.

9. The Court finds that the Mailed Postcard Notice, which is included as an Exhibit 2 to the Motion for Preliminary Approval, provides appropriate notice to the Settlement Class. It provides members of the Settlement Class with sufficient information to make informed decisions regarding their options in this action and the effect of the Settlement on their rights, and constitutes the best practicable notice under the circumstances. The Court therefore approves the Mailed Postcard Notice as proposed.

10. As soon as practicable after the entry of this Order, UDS shall provide the names and last known addresses of each potential Settlement Class Member, as agreed upon and indicated in the Settlement Agreement. As stated in the Settlement Agreement, UDS has already searched its database and collected the names and addresses of those potential members. The Claims Administrator shall send a copy of the Postcard Notice by first-class mail to each potential Settlement Class Member. UDS and the Claims Administrator shall use their best efforts to complete the mailing of the Individual Notice and Claim Form to potential Settlement Class Members **within sixty (60) days** after the entry of this Order.

11. If any Individual Postcard Notice mailed to any potential Settlement Class Member is returned to the Claims Administrator as undeliverable, then the Claims Administrator shall, to the extent it is reasonably able to locate a current address for the potential Settlement Class Member, re-send the returned notice to the potential Settlement Class Member by first-class mail. The Claims Administrator will promptly log notice that is returned as undeliverable and provide copies of the log to UDS and Class Counsel as requested.

12. The Claims Administrator shall establish a website and post the Settlement Agreement and Postcard Notice on the website. The Claims Administrator shall also establish an automated toll-free telephone number to answer frequently asked questions.

13. Upon request, UDS and the Claims Administrator shall provide Class Counsel with such reasonable access to the notice process as they need to monitor compliance with this Order.

14. All Notice and Administrative Expenses, which include the costs of providing the dissemination of the Postcard Notice and establishment of the website, shall be paid from the Settlement Amount as set forth in the Settlement Agreement.

15. Class Members are entitled to a cash payment upon submission of a timely, valid,

and accurate claim form on the Postcard Notice affirming, to the best of the Claimants' knowledge, that he/she received mail via U.S. Postal Service at the address listed between June 1, 2011 and June 30, 2014.

16. Settlement Class Members who wish to exclude themselves from the Settlement Class must submit written requests for exclusion complying with the provisions of and containing the information requested by the Individual Notice and the Settlement Agreement. To be effective, such a request must be sent by first-class mail to the Claims Administrator at the address provided in the Postcard Notice and postmarked **no later than forty-five (45) days** following the Final Approval Hearing.

17. The Claims Administrator shall promptly log each Request for Exclusion that it receives and provide copies of the log and all such Requests for Exclusion to UDS and Class Counsel as requested.

18. Settlement Class Members who submit timely and valid requests for exclusion shall be excluded from the Settlement Class. Such persons shall have no rights under the Settlement Agreement, shall not share in any distribution of funds under the Settlement Agreement, and shall not be bound by the Settlement Agreement or by any Final Order and Judgment approving the Settlement Agreement.

19. All members of the Settlement Class who do not request exclusion in the manner set forth in the Postcard Notice shall be bound by any Final Order and Judgment entered pursuant to the Settlement Agreement, and shall be barred and enjoined, now and in the future, from asserting any of the Released Claims, as defined in the Settlement Agreement, against any Released Parties, as defined in the Settlement Agreement. Upon entry of a Final Order and Judgment approving the Settlement Agreement, all members of the Settlement Class shall be conclusively

deemed to have fully and finally released all of the Released Parties from any and all Released Claims.

20. Settlement Class Members who do not request exclusion from the Settlement Class may object to the Proposed Settlement. A Settlement Class Member who chooses to object to the Proposed Settlement (“Objector”) must file a written notice of intent to object. To be effective, a notice of intent to object to the Proposed Settlement must:

- (a) Contain a heading that includes the name of the case and case number;
- (b) Provide the name, address, telephone number, and signature of the Settlement Class Member filing the objection;
- (c) Provide evidence that the Objector is a Settlement Class Member;
- (d) Indicate the specific reasons why the Settlement Class Member objects to the Proposed Settlement;
- (e) Be filed with the Clerk of the Court no later than sixty (60) days after the Notice Date;
- (f) Be served on Class Counsel by first-class mail, postmarked **no later than thirty (30) days before** the Final Approval Hearing;
- (g) Contain the name, address, bar number, and telephone number of the objecting Settlement Class Member’s counsel, if represented by an attorney. If the Settlement Class Member is represented by an attorney, he or she must comply with all applicable laws and rules for filing pleadings and documents in the United States District Court for the Southern District of Ohio, Eastern Division; and
- (h) State whether the Objector intends to appear at the Final Settlement Approval Hearing, either in person or through counsel.

21. The right to object to the Proposed Settlement must be exercised individually by an individual Settlement Class Member, not as a member of a group or subclass and, except in the case of a deceased, minor or incapacitated Settlement Class Member, not by the act of another person acting or purporting to act in a representative capacity.

22. Any Settlement Class Member may appear at the Settlement Approval Hearing, in person or by counsel, and be heard to the extent allowed by the Court, applying applicable law, in opposition to the fairness, reasonableness, and adequacy of the Proposed Settlement, and on the application for an award of attorneys' fees and costs. In addition to the above information, a notice of intent to object must contain the following additional information, if the Settlement Class Member or his or her attorney requests permission to speak at the Settlement Approval Hearing:

- (a) A detailed statement of the specific legal and factual basis for each and every objection;
- (b) A list of any and all witnesses whom the Objector may call at the Final Settlement Approval Hearing, with the address of each witness and a summary of his or her proposed testimony; and
- (c) A detailed description of any and all evidence the Objector may offer at the Final Settlement Approval Hearing, including photocopies of any and all exhibits which the Objector may introduce at the Final Fairness Hearing.

23. Class Counsel will file a motion with the Court prior to the Final Settlement Approval Hearing requesting an award of attorneys' fees, costs, and expenses payable to Class Counsel in a total amount not to exceed One-Hundred and Fifty-Thousand dollars (\$150,000). At the Final Settlement Approval Hearing, Class Counsel will ask the Court to issue an order awarding attorneys' fees, costs, and expenses up to, but not exceeding this amount.

24. Class Counsel will file a motion with the Court prior to the Final Settlement Approval Hearing requesting an incentive payment to the named Plaintiffs in an amount of Three-Thousand

Dollars (\$3,000.00) each, in addition to their Settlement Distribution Payments. UDS will not object to such an incentive payment so long as the amount awarded does not exceed Nine-Thousand Dollars (\$9,000.00).

25. The Court will hold a Final Settlement Approval Hearing to consider the fairness, reasonableness, and adequacy of the Settlement Agreement at **2:00 p.m., on Wednesday, August 28, 2019, in Courtroom 4 (Judge Smith's Courtroom)** of the United States District Court for the Southern District of Ohio, Eastern Division, 85 Marconi Boulevard, Columbus, Ohio 43215. During the Final Settlement Approval Hearing, the Court will consider whether the Settlement Agreement, including the proposed award of attorneys' fees, costs, and expenses to Class Counsel and the proposed incentive award to the Class Representatives, should be approved as fair, reasonable, and adequate, and whether the Court should enter the proposed Final Order and Judgment approving the Settlement Agreement and dismissing this Action, as to UDS, on the merits, with prejudice, and without leave to amend. Upon a showing of good cause, the Settlement Approval Hearing may be postponed, adjourned or rescheduled by order of the Court without further notice to the members of the Settlement Class.

26. The Settlement Agreement as outlined in the Motion for Preliminary Approval is hereby preliminarily approved as fair, reasonable, adequate, and in the best interest of the Settlement Class Members. However, it is not to be deemed an admission of liability or fault by UDS or by any other person, or a finding of the validity of any claims asserted in the litigation, of any wrongdoing or of any violation of law by UDS, or an admission that the Action is or should be certified as a class. The Settlement Agreement and any documents, attachments or other materials submitted to the Court in furtherance of the Proposed Settlement described in the Settlement Agreement, shall not be offered or received in evidence in any action or proceeding in any court,

administrative panel or proceeding, or other tribunal, as an admission or concession of liability or wrongdoing of any nature on the part of UDS. In the event the Settlement Agreement is not finally approved for any reason, UDS shall retain the right to object to the maintenance of the Action and/or any other case as a class action and to contest the Action and/or any other case on any grounds.

27. Upon a showing of good cause, the Court may extend any of the deadlines set forth in this Order without further notice to the Settlement Class.

28. It is hereby ordered that this Action shall be stayed pending further proceedings in connection with the effectuation of the Proposed Settlement as described in the Settlement Agreement.

IT IS SO ORDERED.

s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT