

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2018-042450-CA-01

SECTION: CA11

JUDGE: Spencer Eig

CITY OF MIAMI GARDENS

Plaintiff(s)

vs.

CITY OF NORTH MIAMI BEACH

Defendant(s)

AGREED ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT

THIS CAUSE came before the Court on Plaintiff's Agreed Motion for Preliminary Approval of Class Action Settlement [DE 62] (the "Motion"). Having reviewed the court file, and being otherwise fully advised in the premises, the Court hereby determines as follows.

A. Preliminary Approval of the Settlement

1. Based upon the Court's review of Plaintiffs' Motion for Preliminary Approval and the exhibits filed in connection therewith, the Court grants preliminary approval of the settlement memorialized in the Settlement Agreement entered into by the City of Miami Gardens on behalf of itself and on behalf of the Class of Miami Gardens consumers and the City of North Miami Beach.
2. What Plaintiffs seek here – preliminary approval of a proposed settlement – is the first step in the approval process. It allows Class Counsel to send notice of the settlement to the Class and gives Class Members the opportunity to object to the settlement if they are so inclined. Following the specified notice period, the Court will then be able to evaluate the settlement with the benefit of the Class Members' input. *See* Florida Rule of Civil Procedure 1.220.
3. On a request for preliminary approval, the Court must make an initial evaluation of the fairness of the proposed settlement on the basis of written submissions. The request for preliminary approval should be granted if the proposed settlement is determined to be within the range of reasonableness such preliminary approval is warranted." *Holt v. HHH Motors, LLP*, 2015 Fla. Cir. LEXIS 4898, *2 (Fla. 4th Jud. Cir. April 13, 2015); *Fresco v. Auto Data Direct, Inc.*, 2007 WL 2330895, at *4 (S.D. Fla. May 14, 2007) ("within the range of possible approval' or, in other words, [if] there is 'probable cause' to notify the class of the

proposed settlement.”) (citation omitted). These requirements are met where “the proposed settlement is the result of the parties’ good faith negotiations, there are no obvious deficiencies[,] and the settlement falls within the range of reason.” *In re Checking Account Overdraft Litig.*, 275 F.R.D. 654, 661 (S.D. Fla. 2011) (citations omitted).

4. Here, the proposed Settlement calls for the City of North Miami Beach to pay a total of \$9 million – which is represented to be approximately 92% of the Class’ claimed compensatory damages – in full satisfaction of the claims asserted against the City of North Miami Beach. The Court concludes that the Settlement appears to be within the range of outcomes indicating fairness and reasonableness, and that the proposed Notice adequately advises the Class of its terms. The Court finds that the Settlement was reached in the absence of collusion and is the product of informed, good-faith, arm’s-length negotiations between the Parties and their capable and experienced counsel. The Court further finds that the Settlement, including the exhibits thereto, is within the range of reasonableness and possible judicial approval, such that: (a) a presumption of fairness is appropriate for the purposes of preliminary settlement approval; and (b) it is appropriate to effectuate notice to the Settlement Class, as set forth below and in the Settlement, and schedule a Final Approval Hearing to assist the Court in determining whether to grant Final Approval to the Settlement and enter a Final Approval Order.
5. The Court finds that the Settlement came after years of litigation consisting of multiple appellate briefs, multiple hearings at the trial court level, discovery, and extensive negotiations including formal mediation sessions, with the assistance of an experienced, neutral mediator, Bruce Greer, Esq. The parties, thus, had ample time and information to properly evaluate the merits of the case and weigh the benefits of the proposed Settlement against proceeding to trial.
6. The Court further finds that the Settlement has no obvious deficiencies, does not improperly grant preferential treatment to the Class Representatives, and is well within the range of reason.

B. Approval of the Proposed Notice of Settlement and Method of Delivery

7. The Court approves the proposed Notice of Settlement in Class Action and Hearing (the “Settlement Notice”). The form and content of the Settlement Notice fully comply with due process and Florida Rule of Civil Procedure 1.220. The Court further finds that the Class Notice program described in the Settlement is the best practicable notice under the circumstances. The Class Notice program is reasonably calculated under the circumstances to inform the Settlement Class of the pendency of the Action, certification of a Settlement Class, the terms of the Settlement, Class Counsel’s attorney’s fees application and the request for Service Award for Plaintiff, and their rights to opt-out of the Settlement Class or object to the Settlement. The Class notices and Class Notice program constitute sufficient notice to all persons entitled to notice. The Class notices and Class Notice program satisfy all applicable requirements of law, including, but not limited to, Florida Rule of Civil Procedure 1.220 and the Constitutional requirement of Due Process.

8. The Court further approves Class Counsel's proposed method of delivery and directs the distribution of the Settlement Notice to the Class via first class mail to the addresses appearing on the water bills that served the basis for the litigation, and through advertisements in publications suitable to reach as many potential claimants as possible.

C. Approval of City National Bank of Florida as Escrow Agent

9. The Settlement Agreement calls for Class Counsel, City of North Miami Beach, and a banking institution approved to serve as Escrow Agent to enter into an Escrow Agreement pursuant to which an Escrow Account will be established as a "qualified settlement fund" to receive and maintain the Settlement Amount and any interest earned thereon for the benefit of the Class. The Agreement also requires those funds to be maintained exclusively in instruments or accounts backed by the full faith and credit of the U.S. Government or fully insured by the U.S. Government or an agency thereof, such as the Federal Deposit Insurance Corporation ("FDIC").
10. The Court approves City National Bank of Florida to serve as Escrow Agent and maintain the Escrow Account in which the settlement proceeds will be held, in accordance with the proposal submitted by City National Bank of Florida and filed with the Court.

D. Approval of the Claims Process

11. Settlement Services, Inc. shall serve as the Administrator.
12. The Administrator shall implement the Class notice program, as set forth below and in the Settlement agreement, using the Class notices substantially in the forms attached to the Motion for Preliminary Approval of the Settlement and approved by this Preliminary Approval Order. Notice shall be provided to the members of the Settlement Class as specified in the Settlement and approved by this Preliminary Approval Order. The notice program shall include, to the extent necessary, mail and advertisements as set forth in the Settlement and below.
13. The Administrator shall issue notice as set forth in the Settlement. The notice shall be completed no later than 30 days prior to the Final Approval Hearing.
14. The Administrator shall establish a Settlement Website as a means for the Class members to obtain notice of, and information about, the Settlement. The Settlement Website shall be established as soon as practicable following Preliminary Approval, but no later than before commencement of the Class notice program. The Settlement Website shall include the Settlement, the Notice, the Preliminary Approval Order, and other such documents as Class Counsel and counsel for Defendant agrees to include. These documents shall remain on the Settlement Website until at least 60 days following the Claim Deadline.
15. The Administrator is directed to perform all substantive responsibilities with respect to implementing and executing the Class notice program, as set forth in the Settlement.

E. Timetable and Procedure for Final Approval of the Settlement

16. The Court adopts the following timetable and procedure for final approval of the proposed Settlement and related matters:

- (a) Within 30 days after this Court's Order preliminarily approving the Settlement, Class Counsel shall send the Settlement Notice to all Class Members;
- (b) Within 30 days after this Court's Order preliminarily approving the Settlement, Class Counsel shall file a motion for final approval of the Settlement along with an application for attorneys' fees, reimbursement of costs, and incentive awards for the Class Representatives;
- (c) Objections to the settlement and/or the application for attorneys' fees, costs, and incentive awards shall be due 30 days prior to the final approval hearing;
- (d) Class Counsel's responses to objections, if any, shall be filed at least 7 days prior to the final approval hearing;
- (e) Class Counsel shall also cause affidavits or declarations to be filed by the person(s) under whose general direction the mailing of the Settlement Notice was made at least 7 days prior to the final approval hearing; and
- (f) The final approval hearing shall be held on **December 12, 2024 at 3:00 p.m.**, for purposes of determining whether the proposed Settlement and plan of allocation is fair, reasonable, and adequate, and should be approved, and, if so, the sums which Class Counsel should be granted in attorneys' fees and costs, and what the Class Representatives should receive as incentive awards. The final approval hearing will take place before the Honorable Spencer Eig, 73 West Flagler Street, Courtroom DCC 414, Miami, FL 33130.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 2nd day of October, 2024.

2018-042450-CA-01 10-02-2024 4:03 PM

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Hon. Spencer Eig

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

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