

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES GINZKEY, RICHARD
FITZGERALD, CHARLES CERF, BARRY
DONNER, and on behalf of the class
members described below,

Plaintiffs,

v.

NATIONAL SECURITIES
CORPORATION, a Washington Corporation

Defendant.

Case No.: 2:18-cv-1773-RSM

**FINAL JUDGMENT AND ORDER OF
DISMISSAL WITH PREJUDICE**

THIS MATTER came before the Court for hearing pursuant to the Preliminary Approval Order dated June 7, 2022, on the application of the Parties for approval of the Settlement set forth in the Settlement Agreement of Settlement dated June 2, 2022 (the “Settlement Agreement”).

WHEREAS, this Order of Dismissal is “with prejudice”;

WHEREAS, due and adequate notice has been given to the Class as required in the Preliminary Approval Order;

WHEREAS, the Court conducted a hearing on November 3, 2022 to consider, among other things: (i) whether the terms and conditions of the Settlement are fair, reasonable, and

1 adequate, and should therefore be approved, and (ii) whether a judgment should be entered
2 dismissing the Action with prejudice as against the Defendants;

3 WHEREAS, consistent with the Preliminary Approval Order, all Class Members had
4 the opportunity to exclude themselves from the proposed Class; to object to the proposed
5 Settlement; and to be heard with regard to the proposed Settlement, including by appearing
6 and speaking at the hearing held on November 3, 2022; and
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8 WHEREAS, the Court has considered all papers filed and proceedings held herein and
9 otherwise is fully informed in the premises, and good cause appearing;

10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

11 1. This Final Judgment and Order of Dismissal with Prejudice (“Order and Final
12 Judgment”) incorporates by reference the definitions in the Settlement Agreement, and all
13 terms used herein shall have the same meanings as set forth in the Settlement Agreement,
14 unless otherwise set forth herein.
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16 2. This Court has jurisdiction over the subject matter of the Action and over all
17 Parties to the Action, including all Class Members.

18 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby
19 approves the Settlement set forth in the Settlement Agreement and finds that the Settlement is,
20 in all respects, fair, reasonable, and adequate to the Class, and that the Settlement set forth in
21 the Settlement Agreement is hereby finally approved in all respects, and the Parties are hereby
22 directed to perform its terms.
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24 4. Accordingly, the Court authorizes and directs implementation of the terms and
25 provisions of the Settlement Agreement, as well as the terms and provisions hereof. The Court
26 hereby dismisses with prejudice and without costs, the Action and all claims contained
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1 8. The Notice given to the Class: (a) was implemented in accordance with the
2 Preliminary Approval Order entered on June 7, 2022, (b) was the best notice practicable
3 under the circumstances to all Class Members entitled to notice of these proceedings and of
4 the matters set forth therein, including the proposed Settlement set forth in the Settlement
5 Agreement, (c) was reasonably calculated under the circumstances to apprise Class Members
6 of (i) the pendency of the Action; (ii) the effect of the proposed Settlement (including the
7 releases contained therein); and (iii) their right to object to any aspect of the proposed
8 Settlement, and/or appear at the Final Approval Hearing, (d) was reasonable and constituted
9 due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the
10 proposed Settlement, and (e) fully satisfied the requirements of Rule 23 of the Federal Rules
11 of Civil Procedure, the requirements of due process, and all other applicable law and rules.
12 The Court further finds that the notice provisions of the Class Action Fairness Act, 28 U.S.C.
13 § 1715, were fully discharged. Therefore, it is determined that all Class Members are bound
14 by the Order and Final Judgment herein.

15 9. Separate orders shall be entered regarding the Class Counsel’s motion for
16 attorneys’ fees and expenses as allowed by the Court. Any order entered regarding any
17 attorneys’ fee and expense application shall in no way disturb or affect this Order and Final
18 Judgment and shall be considered separate from this Order and Final Judgment.

19 10. Neither this Order and Final Judgment, the Settlement Agreement, nor any of
20 their terms or provisions, nor any of the negotiations, discussions, proceedings connected
21 thereto, nor any act performed or document executed pursuant to or in furtherance of the
22 Settlement Agreement or the Settlement: (a) is or may be deemed to be or may be used as an
23 admission of, or evidence of, the validity of any of the allegations in the Action or of the
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1 validity of any Released Claim, or of any wrongdoing or liability of Defendant or Released
2 Parties; or (b) is, or shall be deemed to be, or shall be used as an admission of any fault or
3 omission of Defendant or Released Parties in any statement, release, or written documents
4 issued, filed, or made; or (c) is or may be deemed to be or may be used as an admission of, or
5 evidence of, any fault, liability, wrongdoing, negligence, or omission of any Defendant or
6 Released Parties in any civil, criminal, or administrative proceeding in any court, arbitration
7 proceeding, administrative agency, or forum or tribunal in which any Defendant or Released
8 Parties are or become parties; or (d) is or may be deemed to be or may be used as an
9 admission or evidence that any claims asserted by Plaintiffs lacked merit or that the amount
10 recoverable was not greater than the Settlement Amount, in any civil, criminal, or
11 administrative proceeding in any court, administrative agency, or other tribunal. Defendant,
12 Released Parties, Plaintiffs, Class Members, and their respective counsel may file the
13 Settlement Agreement and/or this Order and Final Judgment in any action that may be
14 brought against them in order to support a defense or counterclaim based on principles of res
15 judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction or any
16 other theory of claim preclusion or issue preclusion or similar defense or counterclaim. The
17 Parties may file the Settlement Agreement and/or this Order and Final Judgment in any
18 proceedings that may be necessary to consummate or enforce the Settlement Agreement, the
19 Settlement, or the Order and Final Judgment.

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23 11. Without affecting the finality of this Order and Final Judgment in any way, this
24 Court hereby retains continuing exclusive jurisdiction over: (a) implementation of this
25 Settlement and any award or distribution of the Settlement Fund, including interest earned
26 thereon; (b) disposition of the Settlement Fund; (c) hearing and determining applications for
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1 attorneys' fees and expenses and interest in the Action; and (d) the Parties hereto for the
2 purpose of construing, enforcing, and administering the Settlement Agreement.

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4 12. The Court finds that during the course of the Action, the Parties and
5 their respective counsel at all times complied with the requirements of Federal Rule of Civil
6 Procedure 11.

7 13. In the event that the Settlement does not become effective in accordance with
8 the terms of the Settlement Agreement, or the Effective Date does not occur, or in the event
9 that the Settlement Fund, or any portion thereof, is returned to the Defendants as required
10 under the terms of the Settlement Agreement, then this Order and Final Judgment shall be
11 rendered null and void to the extent provided by and in accordance with the Settlement
12 Agreement and shall be vacated and, in such event, all orders entered and releases delivered in
13 connection herewith shall be null and void to the extent provided by and in accordance with
14 the Settlement Agreement.

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16 14. Without further approval from the Court, the Parties are hereby authorized to
17 agree and to adopt such amendments or modifications of the Settlement Agreement or any
18 exhibits attached thereto to effectuate the Settlement that: (i) are not materially inconsistent
19 with this Order and Final Judgment; and (ii) do not materially limit the rights of Class
20 Members in connection with the Settlement. Without further order of the Court, the Parties
21 may agree to reasonable extensions of time to carry out any of the provisions of the
22 Settlement Agreement.
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