

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

**ORDER GRANTING PLAINTIFFS’
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND REQUEST
FOR FAIRNESS HEARING**

Before the Court is the Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement and Request for Fairness Hearing (the “Unopposed Motion”). The Court has considered the Unopposed Motion, together with its supporting declarations and exhibits. This Court has reviewed the Parties’ Settlement Agreement (“Agreement”), as well as the files, records, and proceedings to date in this matter. For purposes of this Order, capitalized terms used below shall have the meaning ascribed to them in the Unopposed Motion, unless otherwise defined.

1 Based on this Court’s review of the Agreement and all of the files, records, and
2 proceedings herein, the Court concludes, upon preliminary examination, that the Agreement
3 and Settlement appear fair, reasonable, and adequate, and within the range of reasonableness
4 for preliminary settlement approval, and that a hearing should and will be held after notice to
5 the Class to confirm that the Agreement and Settlement are fair, reasonable, and adequate and
6 to determine whether the Settlement should be approved and final judgment entered in this
7 action based upon the Agreement.
8

9 IT IS HEREBY ORDERED THAT:

10 **A. Preliminary Approval of Proposed Settlement.**

11 The Agreement is preliminarily approved as fair, reasonable, and adequate and within
12 the range of reasonableness for preliminary settlement approval. The Court finds that: (a) the
13 Agreement resulted from extensive arm’s length negotiations; and (b) the Agreement is
14 sufficient to warrant notice of the Settlement to persons in the Class and a full hearing on the
15 approval of the Settlement.
16

17 **B. Settlement Hearing.**

18 A final approval hearing (the “Settlement Hearing”) shall be held before the Honorable
19 Ricardo S. Martinez on November 3, 2022 at 9:00 a.m. as set forth in the Notice to the Class,
20 to determine whether the Agreement is fair, reasonable, and adequate and should be approved.
21 Papers in support of final approval of the Agreement, the incentive award to Plaintiffs, and
22 Class Counsel’s application for an award of attorneys’ fees, costs and expenses (the “Fee
23 Application”) shall be filed with the Court according to the schedule set forth in Paragraph K
24 below. The Final Settlement Approval Hearing, and all dates provided for herein, may, without
25 further notice to the Class, be continued or adjourned by order of this Court. After the
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1 Settlement Hearing, the Court may enter a settlement order and final judgment in accordance
2 with the Agreement that will adjudicate the rights of the Class Members with respect to the
3 Released Claims being settled.
4

5 **C. Class Notice.**

6 Class Notice shall be sent within thirty (30) days following entry of this Order.
7 American Legal Claim Services, LLC is appointed as Claims Administrator.

8 **D. Mail Notice.**

9 The Claims Administrator will provide mail postcard notice as set forth in Exhibit 1 of
10 Exhibit B to the Unopposed Motion to persons in the Class for whom the Defendant possesses
11 mailing addresses. Mail Notice will be sent via first-class mail to the most recent mailing
12 address as reflected in reasonably available records of the Defendant. Skip tracing shall be
13 performed by the Claims Administrator for all returned mail.
14

15 **E. Findings Concerning Class Notice.**

16 The Court finds that the foregoing program of Class Notice and the manner of its
17 dissemination is the best practicable notice under the circumstances and is reasonably calculated
18 to apprise the Class of the pendency of this action and their right to object to the Settlement.
19 The Court further finds that the Class Notice program is reasonable, that it constitutes due,
20 adequate, and sufficient notice to all persons entitled to receive notice and that it meets the
21 requirements of due process and FRCP 23. The Court hereby approves notices substantially in
22 the same form as Exhibits 1 and 2 to Exhibit B the Unopposed Motion.
23

24 **F. Administration.**

25 The Court confirms that it is appropriate for the Defendant to provide the information
26
27

1 necessary to provide the notice contemplated herein and to administer the settlement, including
2 names, addresses, and personal identifying information.

3
4 **G. Objections and Appearances.**

5 Any person in the Class who has not timely submitted a valid request for exclusion from
6 the Class, and thus is a Class Member, may object to the proposed Settlement and appear at the
7 Final Approval Hearing to argue that the proposed settlement should not be approved and/or to
8 oppose the application of Class Counsel for an award of attorneys' fees and the incentive award
9 to the named Plaintiffs.

10 1. In order to object to the Settlement, a Class member must make any objection in
11 writing and file it with the Court and serve on all Parties not later than sixty (60)
12 days after the Notice Mailing Date. The objection must include the person's name,
13 address, telephone number, and signature, and must set forth, in clear and concise
14 terms, the legal and factual arguments supporting the objection. Any objections that
15 are not timely filed and mailed shall be forever barred.

16
17 2. In order to speak at the hearing, a Class member also must file with the Court and
18 serve on all Parties a Notice of Intention to Appear at the Fairness Hearing with the
19 Court no later than sixty (60) days after the Notice Mailing Date. The Notice must
20 include the person's name, address, telephone number, and signature.

21
22 **H. Further Papers in Support of Settlement And Fee Application.**

23 Class Counsel's Motion for Attorneys' Fees and the Motion for Final Approval shall
24 be filed within ten (10) days of the Objection Deadline as provided in Paragraph K.

25
26 **I. Effect of Failure to Approve the Agreement.**

27 In the event the Agreement is not approved by the Court, or for any reason the Parties

1 fail to obtain a Final Judgment as contemplated in the Agreement, or the Agreement is
2 terminated pursuant to its terms for any reason, then the following shall apply:

- 3
- 4 1. All orders and findings entered in connection with the Agreement shall become null
5 and void and have no further force and effect, shall not be used or referred to for any
6 purposes whatsoever, and shall not be admissible or discoverable in any other
7 proceeding;
 - 8 2. The Agreement and its existence shall be inadmissible to establish any fact or any
9 alleged liability of the Defendant for the matters alleged in this action or for any
10 other purpose; and
 - 11 3. Nothing contained in this Order is, or may be construed as, any admission or
12 concession by or against the Defendant or Plaintiffs on any point of fact or law.

13

14 **J. Stay/Bar of Other Proceedings.**

15 All proceedings in this action are stayed until further order of the Court, except as may
16 be necessary to implement the terms of the Settlement. Pending final determination of
17 whether the Settlement should be approved, Plaintiffs, all persons in the Class and
18 persons purporting to act on their behalf are enjoined from commencing or prosecuting (either
19 directly, representatively, or in any other capacity) against any of the Released Parties any
20 action, arbitration, or proceeding in any court, arbitration forum, or tribunal asserting any of the
21 Released Claims as defined in the Agreement.
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K. Timeline

<u>ACTION</u>	<u>DATE</u>
Preliminary Approval Order Entered	At the Court's Discretion
Notice Mailing Date	Within 30 days following entry of the Preliminary Approval Order
Objection Deadline	60 days after Notice Mailing Date
Plaintiffs' Counsel Fee Motion Submitted	10 days after Objection Deadline
Final Approval Hearing/Noting Date	No earlier than 120 days after entry of the Preliminary Approval Order
Final Approval Order Entered	At the Court's Discretion

The Final Hearing is scheduled on November 3, 2022 at 9:00 a.m. in Courtroom 13206 at the United States Courthouse, 700 Stewart Street, Seattle, WA 98101.

IT IS SO ORDERED

DATED this 7th day of June, 2022.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

1 “Presented by”

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