

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHARLETTE MAYFIELD, CLAUDE MILLIEN,
and EBONY PORTER, individually and on behalf
of all persons similarly situated,

Plaintiffs,

CARL CLARK, DIONISIO INFANTE,
WILBERTO MELENDEZ, and SHANAE
HOWARD, individually and on behalf of all
persons similarly situated,

Plaintiffs-Intervenors,

-against-

ASTA FUNDING, INC., ASTA JOHN/JANE
DOES 1-20, PALISADES COLLECTION, LLC,
GARY STERN, PALISADES COLLECTION
JOHN/JANE DOES 1-20, PRESSLER &
PRESSLER, LLP, RICHARD A. FRANKLIN,
TIN-AN A. WANG, MITCHELL E. ZIPKIN,
CRAIG STILLER, and PRESSLER JOHN/JANE
DOES 1-20,

Defendants.

14 Civ. 2591 (LAP) (JLC)

**ORDER
GRANTING PRELIMINARY
APPROVAL OF CLASS
SETTLEMENT, DIRECTING
NOTICE TO CLASS MEMBERS,
APPOINTING CLASS
ADMINISTRATOR, AND
SETTING FAIRNESS HEARING**

LORETTA A. PRESKA, United States District Judge:

This matter comes before the Court on the joint request of the Named Plaintiffs, Charlette Mayfield, Claude Millien, Ebony Porter, Carl Clark, Wilberto Melendez, Dionisio Infante, and Shanae Howard (collectively, "Named Plaintiffs"), on behalf of themselves and putative class members, and Defendants Asta Funding, Inc., Asta John/Jane Does 1-20, Palisades Collection LLC, Gary Stern, Palisades Collection John/Jane Does 1-20, Pressler & Pressler LLP, Richard A. Franklin, Tin-An A. Wang, Mitchell E. Zipkin, Craig Stiller, and Pressler John/Jane Does 1-20 (collectively, "Defendants"), for preliminary approval of the Stipulation of Settlement

as to All Claims Against All Defendants, dated September 8, 2017 (the “Settlement Agreement”). The Court has reviewed the Settlement Agreement and the documents submitted by the parties in support thereof, and good cause appearing,

NOW IT IS HEREBY ORDERED AS FOLLOWS:

1. Definitions. For the purposes of this Order, the Court adopts by reference the definitions set forth in the “Definitions” section of the Settlement Agreement.
2. Certification of the Class. The Court hereby provisionally certifies under both Fed. R. Civ. P. 23(b)(2) and 23(b)(3), for settlement purposes only, pending a Fairness Hearing and further order of the Court, a class consisting of “All individuals against whom actions to collect AT&T Consumer Debts were brought in New York City Civil Court by Pressler & Pressler, LLP, as counsel for Palisades Collection, LLC and/or Asta Funding, Inc., with the exception of individuals against whom Sold Judgments were entered.” The Court provisionally finds that this class meets the requirements set forth in Rules 23(b)(2) and 23(b)(3).
3. Preliminary Approval: The Court preliminarily approves the proposed settlement as set forth in the Settlement Agreement as being sufficiently fair, reasonable, and adequate to the Class, and finds that it is the result of intensive, arms-length negotiations between experienced attorneys familiar with the legal and factual issues of this case. Specifically, the Court finds that:
 - (a) The payment of a Settlement Amount of \$3,900,000 to be distributed as monetary relief to Class Members is fair, reasonable, and adequate;

- (b) The Allocation Plan submitted by Class Counsel provides for distribution of the Settlement Amount in a manner that is fair, reasonable, and adequate;
- (c) The payment to Class Counsel of attorneys' fees and expenses in the amount of \$787,500 is fair and reasonable considering the work performed by Class Counsel in litigating the Action;
- (d) Defendants are to contribute the Settlement Amount and the attorneys' fees and expenses amount to the Class Settlement Account within fifteen (15) days of the Court's entry of this Order;
- (e) The Service Award payments of \$1000 to each Named Plaintiff and \$4000 to each Intervening Named Plaintiff to account for their roles in litigating the Action are fair, reasonable and adequate;
- (f) Within thirty (30) days following the Final Settlement Date, the Asta Defendants shall assign the AT&T Judgments, any judgments entered against Class Members in the Re-Filed Cases, and any remaining debts (in actions without judgments) to an entity identified by Class Counsel in order to enable that entity to seek vacatur of the AT&T Judgments and forgive the debts, and the Asta Defendants shall cooperate with Class Counsel to pursue vacatur of the AT&T Judgments.

4. Approval of Named Plaintiffs and Appointment of Class Counsel: For the purposes of the proposed settlement, the Court hereby (i) approves Charlette Mayfield, Claude Millien, Ebony Porter, Carl Clark, Wilberto Melendez, Dionisio Infante, and Shanae Howard as the Named Plaintiffs and class representatives; and (ii) appoints the New York Legal Assistance

Group and Hughes Hubbard & Reed LLP as Class Counsel pursuant to Federal Rule of Civil Procedure 23(g) for purposes of representing the proposed Class.

5. Class Administrator: The Court approves RG/2 Claims Administration LLC to serve as the Class Administrator, and approves the payment of all Administration Expenses from the Class Settlement Account.
6. Class Notice: The Court approves the form and content of the Individual Notice, Claim Form, and Publication Notice submitted by the parties to the Court.

- (a) The Court finds that the Individual Notice, Claim Form, and Publication Notice will fully and accurately inform potential Class Members of all material elements of the proposed settlement, the right to be excluded from the Class, and the right to object to the settlement.
- (b) No later than January 31, 2018, the Class Administrator shall mail or cause to be mailed the Individual Notices and Claims Forms by first-class mail to all potential Class Members. The Class Administrator shall cause a website to be established and post a copy of the Individual Notice and Claim Form on the website by no later than the date on which the Individual Notices begin to be sent out.
- (c) The Court finds that the Class Administrator distributing the Individual Notice and Claim Form by first-class mail to all potential Class Members at their last-known addresses, as derived from Defendants' records and/or publicly available databases, provides the best notice practicable under the circumstances, constitutes due and sufficient notice to the Class, and

complies with the requirements set forth under Federal Rule of Civil Procedure 23 and any other applicable law.

- (d) No later than January 31, 2018, the Class Administrator shall cause the Publication Notice to be published in each of the following publications: El Diario and the New York Daily News.
- (e) No later than February 19, 2018, the Class Administrator shall cause reminder postcards to be sent by first-class mail to all Class Members.
- (f) The parties will provide notice to the appropriate federal and state officials as required by the Class Action Fairness Act.
- (g) The parties may, by written agreement, make any amendments to or modifications of the Individual Notice, the Claim Form, the Publication Notice and the Allocation Plan without notice to or approval by the Court so long as such changes are not materially inconsistent with this Order and do not materially limit the rights of potential Class Members.

7. Objections to Settlement: A Class Member who wishes to object to the fairness, reasonableness or adequacy of the proposed settlement may do so by filing an objection as set forth below:

- (a) A Class Member who wishes to object must send to the Class Administrator a written statement of reasons, including any legal support or evidentiary support, for his or her objection postmarked no later than the Objection, Exclusion, and Claim Submission Deadline.
- (b) The Objection, Exclusion, and Claim Submission Deadline shall be March 20, 2018.

- (c) An objection must include the name, title, and docket number of the Action, as well as the full name, address, telephone number, email address if available, and signature of the Class Member.
- (d) Class Members who intend to appear at the Fairness Hearing should advise the Class Administrator in their written objection. If a Class Member retains counsel to appear on his or her behalf at the Fairness Hearing, such counsel must file with the Court and serve on Defendants Counsel and Class Counsel a notice of intention to appear, which must be received no later than March 20, 2018.
- (e) The Class Administrator shall promptly send a copy of each objection it receives to Defendants' Counsel and Class Counsel by email and in no event later than March 27, 2018.
- (f) Any Class Member who does not submit a valid and timely objection shall be deemed to have waived and forfeited any and all rights that he or she may have to object and shall be barred from making any objection to the fairness, reasonableness or adequacy of the proposed settlement.

8. Requests for Exclusion: Any Class Member may seek to exclude himself or herself from the Settlement Agreement. Any Class Member so excluded shall no longer be a member of the Class, shall not be bound by the Settlement Agreement, and shall not be entitled to any of its benefits.

- (a) A Class Member who wishes to be excluded from the Class must send to the Class Administrator a request for exclusion postmarked no later than the Objection, Exclusion, and Claim Submission Deadline.

- (b) A valid request for exclusion must be in writing, and must contain the information described in ¶ 7(c).
 - (c) The Class Administrator shall promptly send a copy of each request for exclusion it receives to Defendants' Counsel and Class Counsel by email and in no event later than March 27, 2018.
 - (d) Any Class Member who does not timely submit a valid request for exclusion shall be deemed a Class Member and shall be bound by the terms of the Settlement Agreement as well as the Final Approval Order.
9. Claim Submission: Any Class Member seeking a distribution from the Class Settlement Account must send a Claim Form to the Class Administrator postmarked no later than the Objection, Exclusion, and Claim Submission Deadline.
10. Fairness Hearing: A Final Approval and Fairness Hearing will be held on April 10, 2018 at 10:30 AM, at the United States District Court for the Southern District of New York, Courtroom 12A, at which time the Court will determine whether to grant final approval of the Settlement Agreement as fair, reasonable, adequate, and in the best interests of the Class, and whether to enter the Final Approval Order. Papers in support of a motion for entry of the Final Approval Order and the petition for attorneys' fees shall be filed with the Court on or before March 27, 2018. Any responses to objections to the proposed Settlement Agreement or the petition for attorney's fees, and any further papers in support of the motion for entry of the Final Approval Order or the petition for attorneys' fees, shall be filed with the Court on or before April 6, 2018.
11. Effect of this Order. Nothing contained in this Order is, or may be construed as an admission by Defendants or Plaintiffs on any point of fact or law, including, but not limited to, factual

or legal matters relating to any effort to certify this case as a class action. Nothing in this Order or pertaining to the Settlement Agreement shall be used as evidence in any further proceeding in this case, including, but not limited to, motions or proceedings seeking treatment of this case as a class action. Pending final determination of whether the Settlement Agreement should be approved, no Class Member, with the exception of any Class Member who has timely requested exclusion from the Class, may directly, derivatively, in a representative capacity, or in any other capacity, commence any action against any of the Releasees in any court or tribunal asserting any of the claims released in the Settlement Agreement.

12. Termination: This Order shall terminate in the event that the Court denies the motion to enter the Final Approval Order following the Fairness Hearing, or the Settlement Agreement is rejected by the mandate of an appellate court. In such event, the Settlement Agreement shall be null and void and shall have no force or effect, no Settling Party shall be bound by any of its terms, all Settling Parties and Class Members shall be restored to their respective positions existing immediately before the Execution Date, and any order entered by the Court in accordance with the Settlement Agreement shall be treated as vacated.

SO ORDERED.

Dated: _____

January 10, 2018
New York, New York



LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE