

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
IN AND FOR CLAY COUNTY, FLORIDA
CIVIL DIVISION

JESSICA CATHEY, on behalf of
herself and on behalf of all others
similarly situated,

Plaintiff,

v.

Case No.: 2019-CA-000568

HEARTLAND DENTAL, LLC,

Defendant.

**ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

The plaintiff's unopposed motion for preliminary approval of the proposed settlement agreement in this action; conditional certification of a class solely for settlement purposes; appointment of plaintiff's counsel as class counsel; appointment of plaintiff as class representative; approval of the proposed notice of the settlement and notice procedures; scheduling of a fairness hearing; and approval of deadlines and procedures for opting out, objecting, and filing a motion for an award of attorneys' fees, expenses, and an incentive award is **GRANTED**.

I. Preliminary Approval of the Settlement

1. Based on a review of the motion for preliminary approval and all other papers submitted in connection with the motion, the Court finds it has jurisdiction over this action and that the named Plaintiff has standing under Florida law as to her claims under 15 U.S.C. 1681b(b)(2)(i)-(ii).

2. The settlement memorialized in the Settlement Agreement is preliminarily approved. For purposes of preliminary approval, the Court finds the proposed settlement fair, reasonable, and adequate.

3. The proposed settlement is within the range of possible final settlement approval, and the proposed notice to the class is adequate.

4. The settlement is the result of good-faith, arm's-length negotiation by attorneys well-versed in the prosecution of Fair Credit Reporting Act actions.

II. Conditional Certification of the Proposed Rule 1.220 Settlement Class

5. For settlement purposes only, the Settlement Class consists of **“All applicants for employment with Defendant or Defendant’s supported entities identified as the Settlement Class who authorized the disclosure of a consumer report alleged in this action not to contain a clear, conspicuous written disclosure as required under 15 U.S.C. § 1681b(b)(2)(A).”**

6. For settlement purposes only, the Settlement Class meets the requirements for class certification under Rules 1.220(a) and (b)(3), Florida Rules of Civil Procedure. The identities of the approximately 9,800 members of the Settlement Class can be ascertained from records available to Defendant.

7. For settlement purposes only, the Settlement Class satisfies Rule 1.220(a)(1) because the joinder of approximately 9,800 class members is impracticable.

8. For settlement purposes only, the Settlement Class satisfies Rule 1.220(a)(2) because the class members’ claims share common questions of fact and law.

9. For settlement purposes only, the Settlement Class satisfies Rule 1.220(a)(3) because the plaintiff’s claims and those of the class arise out of the same practice and are based on the same legal theories.

10. For settlement purposes only, Rule 1.220(a)(4) is satisfied because no conflict of interest exists between the plaintiff and the Settlement Class, and the plaintiff has retained competent counsel to represent her and the Settlement Class. Plaintiff’s counsel, Luis A. Cabassa and Brandon J. Hill of Wenzel Fenton Cabassa, P.A., regularly engage in FCRA lawsuits and are capable of

adequately representing the Settlement Class members' interests in this action.

11. For settlement purposes only, Rule 1.220(b)(3) is satisfied because common legal and factual issues predominate over individualized issues. Resolution of the common issues for the members of the Settlement Class in a single, coordinated proceeding is superior to individual lawsuits addressing the same legal and factual issues.

III. Appointment of Class Counsel and Class Representative

12. Luis A. Cabassa and Brandon J. Hill of Wenzel Fenton Cabassa, P.A., are appointed as Class Counsel for the Settlement Class.

13. Class Counsel performed substantial work identifying, investigating, prosecuting, and settling plaintiff's and the settlement class members' claims and have knowledge of the applicable law.

14. Jessica Cathey is appointed as Class Representative.

IV. Notice

15. The proposed short form notice of settlement, which is attached as Exhibit B to the Settlement Agreement, is approved and must be sent via mail. The Question and Answer Notice (long form notice) that will be posted on the settlement website, which is attached as Exhibit C to the Settlement Agreement, is also approved. Further, the notice procedures set forth in the Settlement Agreement are approved.

16. The content of the Notice complies with due process and Rule 1.220(d)(2) .

V. Class Action Settlement Procedures

17. The Court approves the procedures for opting out (requesting exclusion) and objecting set forth in the Settlement Agreement.

18. The Court further orders that:

a. **Notice.** No later than 10 days after entry of this Order (the "Notice Date"),

the Settlement Administrator must mail the Notice and establish the Settlement Website, including the Question and Answer Notice, in accordance with the Settlement Agreement.

b. **Fee and Incentive Award Motion.** No later than 10 days before the Final Fairness Hearing, Plaintiff must file a motion for attorneys' fees, expenses, and an incentive award.

c. **Objections.** The deadline for filing and serving objections to the Settlement shall be sixty days after the Notice Date. Settlement Class Members who do not file an objection that meets all of the requirements set forth below and in the Settlement Agreement waive any objection to the Settlement. Objections must be filed with the Court, served on Class Counsel and Defendant's Counsel (at the addresses listed below), reference this lawsuit and:

- (i) state the objector's full name, current address, and telephone number;
- (ii) include the Claim Number listed on the Notice sent to the objector;
- (iii) contain the objector's original signature;
- (iv) state that the objector objects to the Settlement, in whole or in part;
- (v) state the legal and factual basis for the objection;
- (vi) attach copies of any documents that the objector wants the Court to consider in support of the objection;
- (vii) identify by name, address, and bar number any attorney who represents the objector with respect to the objection or who assisted or advised the objector in any way with respect to the objection;
- (viii) list by case name and civil action number all class action settlements to which the objector (or any attorney that meets the description of subsection vii immediately above) have objected within the last five years; and send each to the following:

Clerk of Court Clerk of Court
825 North Orange Ave.,
Green Cove Springs, Florida 32043

Class Counsel Brandon J. Hill
Wenzel Fenton Cabassa, P.A.
1110 N. Florida Ave., Suite 300
Tampa, FL 33602

Defendant's Counsel Cathleen Scott
SCOTT WAGNER & ASSOCIATES, P.A.
Jupiter Gardens
250 South Central Boulevard
Suite 104-A
Jupiter, FL 33458

d. **Opt Outs (Exclusions)**. Opt out (exclusion) requests must be postmarked and sent by U.S. mail to the Settlement Administrator at *Cathey v. Heartland Dental, LLC*, Settlement Administrator, American Legal Claim Services, LLC 8475 Western Way Jacksonville, FL 32256, no later than sixty days after the Notice Date. Settlement Class Members who do not file opt out (exclusion) requests that meet all of the requirements set forth below and in the Settlement Agreement shall be bound by the Settlement. Opt out (exclusion) requests must contain:

- (i) the requestor's name, physical address, and phone number;
- (ii) the requestor's Claim Number (included on the Notice sent to the requestor);
- (iii) the following statement: "I hereby request to be excluded from the Settlement in *Cathey v. Heartland Dental, LLC*, 2019-CA-000568 and understand that I will not be entitled to receive any proceeds from the Settlement."; and
- (iv) the requestor's personal signature.

e. **Fairness Hearing**. The final Fairness Hearing is scheduled for **November 12, 2019, at 9:30 a.m. for 30 minutes** at the Circuit Court of the Fourth Judicial Circuit, in and for Clay County, Florida, 825 North Orange Ave., Green Cove Springs, Florida 32043, in Hearing Room 4-097 before Judge Steven B. Whittington.

SO ORDERED, this 22 day of August, 2019.



STEVEN B. WHITTINGTON
CIRCUIT COURT JUDGE

Copies furnished to all counsel of record.