

Notify

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
BUSINESS LITIGATION SESSION

NADINE MAZARD, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

Case No: SUCV2014-01726-BLS2

BTLS, INC. d/b/a BALISE TOYOTA

Defendant.

**[PROPOSED] ORDER FOR NOTICE AND HEARING**

WHEREAS, a putative class action is pending before the Court entitled *Mazard v. BTLS, Inc. d/b/a Balise Toyota*, Civil Action No. SUCV2014-01726-BLS2 (the "Action" or the "Litigation"); and

WHEREAS, the Court has received the Stipulation of Settlement dated June 12, 2014 (the "Stipulation"), that has been entered into by the Plaintiff and the Defendant, and the Court has reviewed the Stipulation and its attached Exhibits; and

WHEREAS, the parties having made application, pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure and G.L. c. 93A, § (2), for an order preliminarily approving the settlement of this Litigation, in accordance with the Stipulation which, together with the Exhibits annexed thereto, sets forth the terms and conditions for the proposed settlement of the Litigation; and

WHEREAS, all defined terms contained herein shall have the same meanings as set forth in the Stipulation;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure and G.L. c. 93A, § 9(2), the Court hereby preliminarily certifies the Action as a class action on behalf of the Class defined as all \_\_\_\_\_ [customers] ~~or citizens of Massachusetts~~ who were overcharged at Balise Toyota in West Springfield, Massachusetts from October 31, 2011

through December 1, 2013. Plaintiff Nadine Mazard is certified as the Class Representative, and her attorneys, Joshua N. Garick and Preston W. Leonard, are certified as Class Counsel.

2. The Court preliminarily finds and concludes that the requirements of Rule 23 of the Massachusetts Rules of Civil Procedure have been met:

- (a) The members of the Class are so numerous that separate joinder of each member is impracticable;
- (b) Plaintiff's claims raise questions of law and fact common to the questions of law or fact raised by the claims of each member of the Class;
- (c) Plaintiff's claims are typical of the claims of the members of the Class;
- (d) Plaintiff can fairly and adequately protect and represent the interests of the Class;
- (e) Questions of law or fact common to the members of the Class predominate over any questions affecting only individual members; and
- (f) A class action is superior to other available methods for the fair and efficient adjudication of the controversy presented by the Litigation.

3. The Court hereby preliminarily approves the Stipulation as fair, reasonable, and adequate, subject to further consideration at the Fairness Hearing described below.

4. A Fairness Hearing shall be held before this Court on October 2, 2014, at 2:00 a.m./(p.m.), in Courtroom 1017 at Three Pemberton Square, Boston, Massachusetts, to determine (a) whether the proposed settlement of the Litigation on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to the Class and should be approved by the Court; (b) whether a Final Judgment as provided in the Stipulation should be entered herein; and (c) whether Class Counsel's fee and expense application should be approved, and the amount of fees and expenses that should be awarded to Class Counsel to be paid by the Defendant and out of the Settlement Fund defined in the Stipulation.

5. The Court approves, as to form and content, the Settlement Notice (the "Notice"),

and finds that the mailing and distribution of the Notice substantially in the manner and form set forth in the Stipulation meets the requirements of Massachusetts Rule of Civil Procedure 23, Massachusetts General Laws, Chapter 93A, § 9(2) and due process, and is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all Persons entitled thereto.

6. The firm Boston Financial Data Services (the “Settlement Administrator”) is hereby appointed to supervise and administer the notice procedure, as well as the distribution of the Settlement Fund as set forth in the Stipulation. The Settlement Administrator shall cause the Notice to be mailed to Class Members within seven (7) days after receipt of this Order for Notice and Hearing.

7. Any Member of the Class may enter an appearance in the Litigation, at their own expense, individually or through counsel of his or her own choice, in which case such counsel must file with the Civil Clerk of the Court and deliver to Class Counsel and Defendant’s Counsel a notice of such appearance. If they do not enter an appearance, they will be represented by Class Counsel.

8. Any Member of the Class may appear in person or by counsel and show cause, if he, she or it has any, why the proposed settlement of the Litigation should or should not be approved as fair, reasonable and adequate, why a judgment should or should not be entered thereon, provided, however, that no Class Member or any other person shall be heard or entitled to contest such matters, unless that Class Member has delivered by hand or sent by first-class mail written objections and copies of any papers and briefs such that they are received at least (14) calendar days prior to the Fairness Hearing, by (a) Law Offices of Joshua N. Garick, P.C., ATTN: Joshua N. Garick, Esq., 100 TradeCenter, Suite G-700, Woburn, Massachusetts 01801;

(b) Leonard Law Office, P.C., ATTN: Preston W. Leonard, Esq., 63 Atlantic Avenue, 3rd Floor, Boston, Massachusetts, 02110; and (c) Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., ATTN: Lisa F. Glahn, Esq., One Financial Center, Boston, Massachusetts 02111, and filed said objections, papers and briefs with the Civil Clerk's Office for the Suffolk County Superior Court at least fourteen (14) calendar days prior to the Fairness Hearing. Any Class Member who does not make an objection in the manner provided herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed settlement as set forth in the Stipulation.

9. All papers in final support of the Settlement shall be filed and served at least seven (7) calendar days prior to the Fairness Hearing.

10. Pending final determination of whether the Settlement should be approved, all proceedings and all discovery are stayed pending further order of the Court.

11. The Court reserves the right to adjourn the date of the Fairness Hearing without further notice to the members of the Class, and retains jurisdiction to consider all further applications arising out of or connected with the proposed settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the settling Parties, if appropriate, without further notice to the Class.

IT IS SO ORDERED.

Dated: 10/27/2014, 2014

  
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SUPERIOR COURT JUDGE