

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.

BTLS, INC. d/b/a BALISE TOYOTA

Defendant.

Case No: SUCV2014-01726-BLS2

2014 SEP 29 AM 11:05
CLERK OF COURT

ORDER AND FINAL JUDGMENT

On October 2, 2014, this Court heard the Motion for Final Approval of Proposed Class Settlement filed by Nadine Mazard ("Plaintiff"). This Court reviewed the motion and the supporting papers, including the Class Action Stipulation of Settlement ("Stipulation") and any objections made to the Stipulation. The Court also considered the oral arguments of counsel. Based on this review and the findings below, the Court found good case to grant the motion. Accordingly, the Plaintiff's Motion for Final Approval of Proposed Class Settlement is ALLOWED and JUDGMENT shall enter as follows.

FINDINGS:

1. Unless otherwise specified, defined terms in this Order have the same definition as the terms in the Stipulation.

2. This Court has jurisdiction over the subject matter of this Action, all Parties to the Action, and all Class Members.

3. Notice was provided to Class Members in accordance with the terms of the Stipulation, MASS. R. CIV. P. 23, G.L. c. 93A, § 9(2) and due process. The notice: (i) fully and

Notice Sent
10-3-14
PWL
JNG
Kmm.
LFG
BB

JUDGMENT ENTERED ON DOCKET 10-3 2014
PURSUANT TO THE PROVISIONS OF MASS. R. CIV. P. 58(a)
AND NOTICE SENT TO PARTIES PURSUANT TO THE PRO-
VISIONS OF MASS. R. CIV. P. 77(d) AS FOLLOWS

accurately informed Class Members about the lawsuit and settlement; (ii) provided sufficient information so that Class Members were able to decide whether to object to, or participate in the proposed settlement; (iii) provided procedures for Class Members to file written objections to the proposed settlement, to appear at the Fairness Hearing, and to state objections to the proposed settlement; and (iv) provided notice of the time, date and place of the Fairness Hearing.

4. For the reasons stated in the Order of Notice and Hearing, and having found nothing that would disturb these previous findings, the Court finds and determines that the proposed Class, as defined below, meets all of the legal requirements for class certification, and the Action is hereby certified as a class action pursuant to MASS. R. CIV. P. 23(a) and (b) and G.L. c. 93A, § 9(2).

5. The Parties adequately performed their obligations under the Stipulation.

6. Upon review of the record, the Court hereby finds that the terms and provision of the Stipulation have been entered into in good faith and are fair, reasonable, and adequate as to, and in the best interest of, each of the Class Members, and in full compliance with all applicable requirements of law. With respect to the determination that the Stipulation is fair, reasonable, and adequate, the Court specifically notes that whether the outcome on the merits would result in a ruling in Plaintiff's and the Class' favor was uncertain, the Stipulation was reached through negotiations with experienced and informed counsel, and the terms of the Stipulation reflect substantial benefits to the Class in light of the circumstances of the Action.

7. An incentive award to Plaintiff Nadine Mazard of \$3,500.00 is fair and reasonable in light of (a) Plaintiff's risk (including financial, professional and emotional) in commencing this Action as the class representative; (b) the time and effort expended by Plaintiff in litigating this action as the class representative; and (c) Plaintiff's public interest service.

8. An award of \$29,167.00 in attorneys' fees and costs to Class Counsel is fair and reasonable in light of the nature of the case, Class Counsel's experience and efforts in prosecuting this Action, and the benefits obtained for the Class. In making this award of attorneys' fees and costs, the Court has considered and found that:

- a. the Stipulation provides direct, immediate and tangible economic benefits to the Class;
- b. Class Counsel have conducted the Litigation and have negotiated the Stipulation with skill, perseverance and diligent advocacy;
- c. the Action involves complex legal and factual issues. But for the Stipulation, the litigation would involve further lengthy proceedings, at considerable risk to the Class, and with uncertain resolution of the legal and factual issues;
- d. had Class Counsel not achieved the Stipulation, there would remain a significant risk that the Class Representative and the Class may have recovered less or nothing from the Defendant;
- e. the requested award of attorneys' fees and costs is fair, reasonable and consistent with awards in similar cases;
- f. the requested award of attorneys' fees will not in any way diminish the recovery of the Class and is unopposed by Defendant; and
- g. the requested award of attorneys' fees is supported by the laws of the Commonwealth of Massachusetts and falls well within the range of attorneys' fees and expenses awarded by Courts within the Commonwealth.

IT IS ORDERED THAT:

1. **Class Members.** The Class is defined as all customers who were overcharged at Balise Toyota in West Springfield, Massachusetts from October 31, 2011 through December 1, 2013.

2. **Binding Effect of Order.** This Order applies to all claims or causes of action settled under the Stipulation of Settlement, and binds all Class Members.

3. **Release.** Plaintiff and Class Members, on behalf of themselves and their past or present respective successors, heirs, legatees, assignees, and all persons acting for them, past or

present, fully and forever release and discharge the Released Parties of and from each and every Settled Claim, and do release and forever discharge, and will forever be enjoined from prosecuting, any Settled Claims against any of the Released Parties.

4. **Class Relief.** The Defendant will issue to each Class Member one \$15.00 Coupon for each Overcharge Transaction they engaged in at Balise Toyota. The full terms of relief described in this paragraph are set forth in the Stipulation, and are specifically incorporated herein by reference.

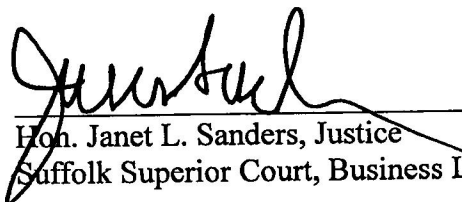
5. **Incentive Award.** Plaintiff Nadine Mazard is awarded \$3,500.00 as an incentive award. Payment shall be made pursuant to the timeline stated in the Stipulation.

6. **Attorneys' Fees and Costs.** Class Counsel is awarded \$29,167.00 in fees and costs. Payment shall be made pursuant to the timeline stated in the Stipulation.

7. **Cy Pres Relief.** A *cy pres* distribution in an amount equal to the difference between (i) the net settlement proceeds after payment of the incentive award to plaintiff and Class Counsel fees; and (ii) total value of all Coupons redeemed within one (1) year after the date of Coupon mailing, will be made to Spectrum in Motion Dance Theater Ensemble, Inc. – a 501(c)(3) charitable organization in the greater Springfield/Hartford area that provides youth outreach services and access to the arts to members of inner city communities. The amount of the *cy pres* payment and the timing for such payment shall be determined as set forth in the Stipulation.

NOW, THEREFORE, the Court, finding that no reason exists for delay, hereby directs the Clerk to enter this **FINAL JUDGMENT**, pursuant to MASS. R. CIV. P. 58, forthwith.

Dated: October 2, 2014



Hon. Janet L. Sanders, Justice
Suffolk Superior Court, Business Litigation Session