

Blackerby v Concepts of Independence Inc.
2020 NY Slip Op 32564(U)
August 7, 2020
Supreme Court, New York County
Docket Number: 156571/2017
Judge: Barbara Jaffe
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. BARBARA JAFFE PART IAS MOTION 12EFM

Justice

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AMBER BLACKERBY, INDIVIDUALLY AND ON
BEHALF OF ALL OTHER PERSONS SIMILARLY
SITUATED,

Plaintiff,

- v -

CONCEPTS OF INDEPENDENCE INC.,
OR ANY OTHER RELATED ENTITIES,

Defendant.

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INDEX NO. 156571/2017
MOTION DATE _____
MOTION SEQ. NO. 004

**SECOND SUPPLEMENTAL
DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 004) 36-41, 43-51, 53, 55-62, 64-66

were read on this motion for order maintain class action.

By order dated July 26, 2019, the proposed class action settlement agreement was approved as fair, adequate and reasonable, provided that notice of the proposed class action settlement be sent to members of the proposed settlement class. A copy of the approved notice and claim form is annexed to the affirmation of Lloyd Ambinder, Esq., dated January 8, 2020, as Exhibit "C".

By stipulation and order dated May 26, 2020, publication was authorized of a supplemental notice in Spanish and in English (supplemental notice) to all members of the class who did not previously file a claim form electing to participate in the proposed settlement.

Plaintiffs now apply pursuant to CPLR 907, without opposition, for a final order and judgment approving the class action settlement in the above entitled action, in accordance with

the settlement agreement and release, which sets forth the terms and conditions for the settlement of this action against defendant Concepts of Independence, Inc. and for dismissal of this action against defendant, with prejudice.

Pursuant to CPLR 907(2), the final settlement conference, originally scheduled for January 15, 2020 and adjourned to February 19, 2020, was convened to determine whether the proposed class action settlement should be finally approved.

The February 19, 2020 hearing was subsequently adjourned to August 5, 2020 to effectuate publication of the supplemental notice.

Class counsel affirms that he appeared for the August 5, 2020 hearing and that no class members attended (NYSCEF 66).

Class counsel represents that no member of the class has provided any written or other objection to the proposed class action settlement.

The proposed class action settlement, as set forth in the settlement agreement, is finally approved. The settlement agreement is hereby incorporated into this final order.

The settlement of this action is both procedurally and substantively fair, and the notices given to the class members accurately informed them of the proposed settlement, was the best notice practicable under the circumstances, and constituted valid, due, and sufficient notice.

The claims administration process was fair and reasonable, and provided each class member with a fair and reasonable opportunity to submit a claim for payment made available under the proposed settlement.

For purposes of this final order, all terms not otherwise defined herein shall have the same meanings set forth in the settlement agreement.

Accordingly, it is hereby

ORDERED, that the settlement set forth in the settlement agreement is finally approved, as it is, in all respects, fair, reasonable, adequate, and binding on and in the best interest of the plaintiffs and the class members in accordance with CPLR article nine and the terms of the settlement agreement, and directs implementation of all its terms and provisions. Defendant is directed to effectuate distribution of the net settlement fund for distribution to the authorized claimants in accordance with the terms of the settlement agreement and this final order; it is further

ORDERED, that plaintiff and all class members are (i) conclusively deemed to have released and discharged defendant from any and all claims, causes of actions, or demands of any kind released in the settlement agreement, as set forth more fully in the settlement agreement, and (ii) permanently enjoined and barred from asserting, either directly or indirectly against defendant, any and all claims, causes of actions, or demands of any kind related to the claims released in the settlement agreement; it is further

ORDERED, that class counsel's application for an award of attorneys' fees, expenses and costs, and the claims administrator's fees, to be paid out of the gross settlement amount is granted; it is further

ORDERED, that the parties are directed to effectuate the terms of the settlement agreement and release in accordance with its terms; it is further

ORDERED, that without affecting the finality of this judgment in any way, this court hereby retains jurisdiction over consummation and performance of the settlement agreement; it is further

ORDERED, that this matter is hereby dismissed with prejudice and the case shall be closed; and it is further

ORDERED, that the Clerk is directed to enter judgment accordingly.

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8/7/2020
DATE

BARBARA JAFFE, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: