

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BRAMSON, PLUTZIK, MAHLER & BIRKHAUSER, LLP
Daniel E. Birkhaeuser (Bar No. 136646)
Robert M. Bramson (Bar. No. 102006)
2125 Oak Grove Road, Suite 125
Walnut Creek, California 94598
Telephone: (925) 945-0200
Email: dbirkhaeuser@bramsonplutzik.com
jrosenberg@bramsonplutzik.com

FILED
ALAMEDA COUNTY

MAR 23 2023

CLERK OF THE SUPERIOR COURT

By 

THE NATIONAL CONSUMER LAW
CENTER
Charles Delbaum
Stuart Rossman
7 Winthrop Square, 4th Fl.
Boston, MA 02110
Telephone: (617) 542-8010
Facsimile: (617) 542-8028
Email: cdelbaum@nclc.org

LAW OFFICE OF IAN CHOWDHURY
Ian D. Chowdhury (Bar No. 199018)
700 N. Valley St., Suite B #15595
Anaheim, CA 92801
Telephone: (661) 242-1898
Facsimile: (818) 337-2215
Email: ian@ianchowdhury.com

Attorneys for Plaintiffs and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

Case No. RG10-529702

JUDITH REIMANN and MICHAEL
DaRONCO, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

ERICA L. BRACHFELD, THE BRACHFELD
LAW GROUP, P.C., MIDLAND FUNDING,
LLC, MIDLAND CREDIT MANAGEMENT,
LLC, and MIDLAND FUNDING NCC-2
CORP. and DOES 1-100, inclusive,

Defendants.

**~~PROPOSED~~ ORDER GRANTING
JOINT MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENT WITH
MIDLAND DEFENDANTS,
APPROVING DISTRIBUTION OF
NOTICE, AND SETTING FINAL
FAIRNESS HEARING**

Date: February 3, 2023

Time: 10:00 a.m.

Dept: 21

Reservation Number: 499881204952

21

1 WHEREAS, Plaintiffs JUDITH REIMANN and MICHAEL DaRONCO on behalf of
2 themselves and all others similarly situated, and Defendants and MIDLAND FUNDING, LLC,
3 MIDLAND FUNDING NCC-2 CORP., AND MIDLAND CREDIT MANAGEMENT, INC
4 (collectively “Midland”) have reached a proposed settlement and compromise of the claims in the
5 above-captioned matter, which is embodied in the Class Settlement and Release Agreement
6 attached as Exhibit 1 to the Declaration of Daniel E. Birkhaeuser in Support of Motion for
7 Preliminary Approval (the “Settlement Agreement”);

8 WHEREAS, the parties have applied to the Court for preliminary approval of the proposed
9 Settlement; and

10 WHEREAS, the capitalized terms herein shall have the same meaning as in the Settlement
11 Agreement;

12 NOW, THEREFORE, the Court, having read and considered the Settlement Agreement and
13 proposed Settlement Notice to the Class, as well as the Motion for Preliminary Approval of
14 Settlement and the supporting and additional papers, and the parties to the Settlement Agreement
15 having consented to the entry of this order, and good cause appearing,

16 IT IS HEREBY ORDERED AS FOLLOWS:

17 1. Pursuant to Rule 3.769 of the California Rules of Court, and subject to further
18 consideration by the Court at the time of the Final Approval Hearing, the Court hereby preliminarily
19 approves the Settlement as fair, reasonable, and adequate to the Class, as falling within the range of
20 possible final approval, and as meriting submission to the Class for its consideration.

21 2. By Order issued October 6, 2019, (the “Class Certification Order”), the Court
22 previously certified the following Plaintiff Class:

23 All California consumers who both: (1) from August 5, 2006, through
24 February 2, 2015, either (a) were sent collection demand letters, debt
25 collection letters, or dunning letters by Brachfeld Law Group regarding
26 a debt allegedly owed to one of the Midland Entities or (b) were sued
27 by the Midland Entities where Brachfeld Law Group was attorney of
28 record and (2) if they were in the class in *Vassalle v Midland Funding,
LLC*, United State District Court, N.D. Ohio) Co. 3:1 1-cv- 0096,
excluded themselves from the class.

In its Order, the Court found, and still finds, that the Class Representatives, and Class Counsel,

1 fairly and adequately represent the interests of the Class.

2 In addition, on April 29, 2022, the Court entered an Order on Subclasses, which created the
3 following subclasses and sub-subclasses:

4 A. Letter Subclass: All class members whose membership in the class is based, at least in
5 part, upon having been sent a debt collection letter by the Brachfeld Law Group regarding a
6 debt allegedly owed to Midland.

7 A-1. Non-Disclaimer Sub-Subclass: All Letter Subclass members that were sent a
8 debt collection letter which did not contain an express disclaimer that no attorney had
9 reviewed the file in question.

10 A-2. Disclaimer Sub-Subclass: All Letter Subclass members that were sent a debt
11 collection letter which contained an express disclaimer that no attorney had reviewed the file
12 in question.

13 B. Lawsuit Subclass: All class members whose membership in the class is based, at least in
14 part, upon having been sued by Midland where Brachfeld Law Group was the attorney of
15 record.

16 B-1. Judgment Sub-Subclass: All Lawsuit Subclass members as to whom a final
17 judgment was entered in the suit against them by Midland.

18 B-2. Non-Judgment Sub-Subclass: All Lawsuit Subclass members as to whom a
19 final judgment was not entered in the suit against them by Midland.

20 The Court also found that “no person may be a member of any of the above subclasses if they were
21 in the class in *Vassalle v. Midland Funding, LLC*, United States District Court, N.D. Ohio) Co. 3-
22 11-cv-0096, unless such person properly excluded themselves from the *Vassalle* class.”

23
24 3. A Final Approval Hearing shall be held before this Court on June 13, 2023 at 10:00
25 a.m. in Department 21 of the Alameda County Superior Court, located in the Administration
26 Building, 1221 Oak Street, Oakland, CA 94612, to address: (a) whether the proposed Settlement
27 should be finally approved as fair, reasonable and adequate; (b) whether the Final Approval Order
28 and Judgment should be entered; (c) whether the motion for attorneys’ fees and expenses to Class

1 Counsel and service awards to the class representatives should be approved; (d) whether Plaintiffs'
2 proposed Plan of Allocation for distribution of funds to the class should be approved, as is or as
3 modified by the Court; and (e) any other matters that the Court deems appropriate.

4 4. The Angeion Group is hereby appointed Notice and Settlement Administrator in
5 connection with the Settlement. The costs and expenses of notice and administration, including any
6 fees charged or costs or expenses incurred, by the Notice Administrator, shall be paid from the
7 Settlement Fund to be established under paragraph 4.2 of the Settlement Agreement. Following the
8 entry of this Order, Angeion may withdraw the amount of \$34,818 as an advance for costs it will
9 incur in providing notice to the class.

10 5. The Court approves, as to form and content, the Notice, substantially in the form
11 attached as Exhibit 2 to the Birkhaeuser Declaration (the "Settlement Notice"), which shall be sent
12 by the Settlement Administrator by first class mail no later than 21 days after entry of this
13 preliminary approval order. The Court further finds that the Settlement Notice will adequately
14 inform members of the Class of their rights to object to the Settlement Agreement or to exclude
15 themselves from the Class so as not to be bound by the terms of the Settlement Agreement.

16 6. The Court finds that the distribution of notice by US Mail, first class, and publication
17 of the notice on the settlement website, is adequate and constitutes the best notice practicable under
18 the circumstances and shall constitute due and sufficient notice to the Class of the terms of the
19 Settlement Agreement, the date, time, and place of the Final Approval Hearing and the class
20 members' legal rights and options, and complies fully with the requirements of the California Rules
21 of Court, the California Code of Civil Procedure, the Constitution of the State of California, the
22 United States Constitution, and other applicable laws.

23 7. Based on the foregoing findings, the Court orders that Notice be disseminated as set
24 forth above.

25 8. Any member of the Class who desires to be excluded from the Class, and therefore
26 not be bound by the terms of the Settlement, and who has not previously excluded themselves from
27 the Class, must send a timely and valid written and signed request for exclusion ("opt-out"),
28

1 postmarked on, or before, May 26, 2023, to the Settlement Administrator, pursuant to the
2 instructions set forth in the Notice.

3 9. Any person falling within the definition of the Class who timely elects to be
4 excluded shall not be bound by the release of any claims pursuant to the Settlement Agreement, and
5 shall not be entitled to object to the Settlement or appear at the Final Approval Hearing. The names
6 of all persons timely submitting valid opt-outs shall be provided to the Court no fewer than five (5)
7 court days in advance of the Final Approval Hearing.

8 10. The Plaintiffs shall file with the Court their motion in support of final settlement
9 approval, their application for service awards, their attorneys' fee and expense application, and
10 supporting papers, no fewer than 30 days before the Final Approval Hearing, *i.e.*, May 12, 2023.

11 11. Any Class Member who does not submit a valid and timely Request for Exclusion
12 may object to the terms of the Settlement Agreement, the entry of the proposed Final Approval
13 Order, and/or Class Counsel's application(s) for attorney's fees and expenses by submitting a valid
14 written statement of the specific objections, postmarked on or before May 26, 2023, to the Court,
15 Class Counsel and Midland's Counsel, according to the instructions set forth in the Notice. Any
16 such Class Member shall have the right to appear and be heard at the Final Approval Hearing, either
17 personally or through an attorney retained at the Class Member's own expense. The Plaintiffs shall
18 file their response to any written objections at least five (5) days prior to the final approval hearing.

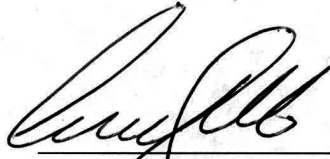
19 12. Any Class Member who does not make an objection in the time and manner
20 provided shall be deemed to have waived such objection and shall be forever foreclosed from
21 asserting any objection or opposition to the fairness or adequacy of the proposed Settlement as
22 incorporated in the Settlement Agreement, the Final Approval Order and Judgment, and Class
23 Counsel's application for attorney's fees and expenses.

24 13. The Court may, for good cause, extend any of the deadlines set forth in this Order
25 without further notice to the Class Members. The Final Approval Hearing may, from time to time
26 and without further notice to the Class, be continued by order of the Court.

27 **IT IS SO ORDERED.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: *March 23, 2023*



Honorable Evelio Grillo
Judge of the Superior Court