

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
Civil Action No.: 2083CV00381A

MARIE COUGHLIN, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

HIGHER EDUCATION LOAN AUTHORITY
OF THE STATE OF MISSOURI (MOHELA),

Defendant.

PRELIMINARY APPROVAL ORDER

WHEREAS, the above-referenced putative class action is pending in this Court;

WHEREAS, plaintiff Marie Coughlin ("Plaintiff") and defendant Higher Education Loan Authority of the State of Missouri ("MOHELA") have agreed, subject to Court approval following notice of the proposed Settlement and a hearing, to settle this Action upon the terms and conditions set forth in the Settlement Agreement and Release lodged with this Court (the "Agreement");

WHEREAS, this Court has reviewed the Agreement, as well as the files, records and proceedings to date in this matter;

WHEREAS, for purposes of this order, capitalized terms used below shall have the meaning ascribed to them in the Agreement, unless otherwise defined herein; and

WHEREAS, for purposes of this Action only, and not construing MOHELA's participation in this settlement as a waiver of MOHELA's prior arguments in this Court regarding sovereign immunity, this Court has subject matter and personal jurisdiction over the Parties, including all persons in the Settlement Class.

NOW, THEREFORE, based on this Court's review of the Agreement and all of the files, records and proceedings herein, the Court concludes, upon preliminary examination, that the Agreement and Settlement appear fair, reasonable and adequate, and within the range of reasonableness for preliminary settlement approval, and that a hearing should and will be held after notice to the Settlement Class to confirm that the Agreement and Settlement are fair, reasonable and adequate and to determine whether the Settlement should be approved and final judgment entered in the Action based upon the Agreement.

IT IS HEREBY ORDERED THAT:

Preliminary Approval of Proposed Settlement. The Agreement, including all exhibits thereto, is preliminarily approved as fair, reasonable and adequate and within the range of reasonableness for preliminary settlement approval. The Court finds that: (a) the Agreement resulted from arm's length negotiations; and (b) the Agreement is sufficient to warrant notice of the Settlement to persons in the Settlement Class and a full hearing on the approval of the Settlement.

Class Certification for Settlement Purposes Only. Pursuant to Mass. Gen. Laws ch. 93A § 9, the Court conditionally certifies, for settlement purposes only, the following Settlement Class:

(a) consumers associated in MOHELA's records with addresses in the Commonwealth of Massachusetts; (b) to whom MOHELA directed in excess of two telephone calls within a seven-day period to their residence, cellular telephone or other provided telephone number between May 13, 2016 and the date of preliminary approval.

In connection with this conditional certification, the Court makes the following preliminary findings for settlement purposes only:

1. The Settlement Class appears to be so numerous that joinder of all members is impracticable;

2. There appear to be questions of law or fact common to the Settlement Class for purposes of determining whether this Settlement should be approved;

3. Plaintiff's claims appear to be typical of the claims being resolved through the proposed settlement;

4. Plaintiff appears to be capable of fairly and adequately protecting the interests of the Settlement Class in connection with the proposed settlement;

5. Common questions of law and fact appear to predominate over questions affecting only individual persons in the Settlement Class. Accordingly, the Settlement Class appears to be sufficiently cohesive to warrant settlement by representation; and

6. Certification of the Settlement Class appears to be superior to other available methods for the fair and efficient resolution of the claims of the Settlement Class.

Class Representative. Plaintiff is designated as class representative for the Settlement Class.

Class Counsel. The Court appoints Lemberg Law LLC as counsel for the Settlement Class. The Court finds that counsel is competent and capable of exercising all responsibilities as Class Counsel for the Settlement Class.

Final Approval Hearing. A final approval hearing (the "Final Approval Hearing") shall be held on May 3, 2022 at 2:00 P.M. to determine whether the Agreement is fair, reasonable and adequate and should be approved. Papers in support of final approval of the Agreement, the Service Award to Plaintiff, and Class Counsel's application for an award of attorneys' fees, costs and expenses (the "Fee Application") shall be filed with the Court according to the schedule set forth below. The Final Approval Hearing may be postponed, adjourned or continued by order of the Court without further notice to the Settlement Class. After the Final Approval Hearing, the

Court may enter a Final Approval Order in accordance with the Agreement that will adjudicate the rights of the Settlement Class Members with respect to the Released Claims.

Class Notice. Class Notice shall be sent within 30 calendar days following entry of this Preliminary Approval Order (the “Notice Deadline”).

1. Mail Notice. The Settlement Administrator will provide individual Mail Notice pursuant to the Agreement to all persons in the Settlement Class identified through the electronic records reasonably available to MOHELA.

2. Website Notice. The Settlement Administrator will establish and maintain a Settlement Website using a domain name dedicated to the Settlement, posted on which will be the Website Notice and other settlement-related documents. The Mail Notice shall direct recipients to the location of the Website Notice. The Settlement Website will be established no later than 30 calendar days following the date of this Order and shall remain active at least until the date of Final Approval.

3. Telephone Number. The Settlement Administrator will establish and maintain a toll-free telephone number which Settlement Class Members may call to receive more information regarding the Settlement. The Mail Notice shall inform Settlement Class Members of the toll-free number. The toll-free number will be established no later than 30 calendar days following the date of this Order and shall remain active at least until the date of the Final Approval.

Findings Concerning Class Notice. The Court finds that the foregoing Notice Program and the manner of its dissemination is the best practicable notice under the circumstances and is reasonably calculated to apprise the Settlement Class of the pendency of this Action, their right to object to the Settlement and the manner and means for Settlement Class Members to submit claims. The Court further finds that the Notice Program is reasonable, that it constitutes due, adequate and

sufficient notice to all persons entitled to receive notice and that it meets the requirements of due process and Mass. Gen. Laws ch. 93A § 9. The Court hereby approves the notices in substantially the same forms as those attached as Exhibits A & C to the Agreement.

Administration. The Settlement Award distribution process described in the Agreement is hereby approved. Settlement Class Members wishing to submit claims must do so by 60 days following the Notice Deadline (the “Claim Deadline”). Claims must be submitted through the Settlement Website, or postmarked, by the Claim Deadline.

Objections and Appearances.

1. Any Settlement Class Member may appear at the Final Approval Hearing to argue that the proposed Settlement should not be approved and/or to oppose the Fee Application of Class Counsel, and the Service Award to Plaintiff.

2. In order to be heard at the Final Approval Hearing, the person must make any objection in writing and mail it to counsel for the Parties and the clerk of this Court not later than 60 days following the Notice Deadline (the “Objection Deadline”). Any objections that are not timely filed and mailed shall be forever barred. All objections must comply with the directives contained in the Agreement or will otherwise be invalid and barred.

3. In order to be heard at the Final Approval Hearing, the person also must file with the Court and serve on all Parties a Notice of Intention to Appear with the Court.

4. Settlement Class Members who do not object to the Settlement need not appear at the Final Approval Hearing or take any other action to indicate their approval of the proposed class action settlement.

Further Papers in Support of Settlement and Fee Application. By no later than 30 calendar days before the Objection Deadline, Class Counsel shall file its Fee Application. No later than 14

calendar days before the Final Approval Hearing, Class Counsel and/or MOHELA's Counsel shall file with the Court any papers in support of final approval of the Settlement, including any response to any timely filed objections to the Settlement.

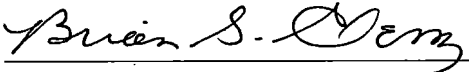
Effect of Failure to Approve the Agreement. In the event the Agreement is not approved by the Court, or for any reason the Parties fail to obtain a final judgment as contemplated in the Agreement, or the Agreement is terminated for any reason, then the following shall apply:

1. All orders and findings by this Court entered in connection with the Agreement shall become null and void and have no further force and effect, shall not be used or referred to for any purposes whatsoever and shall not be admissible in any proceeding;

2. The conditional certification of the Settlement Class pursuant to this Order shall be vacated automatically and void; no doctrine of waiver, estoppel or preclusion shall be asserted in any litigated certification proceedings in the Action; and the Agreement and its existence shall be inadmissible to establish any fact relevant to class certification or any alleged liability of MOHELA for the matters alleged in the Action or for any other purpose;

3. Nothing contained in this Order is, or may be construed as, an admission or concession by or against MOHELA or Plaintiff on any point of fact or law.

IT IS SO ORDERED THIS 22 DAY OF DECEMBER, 2021


Hon. BRIAN S. GLENN