

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

KENISHA BRANTLEY and GREG
BRANTLEY, On Behalf of Themselves and
All Others Similarly Situated,

Plaintiffs,

vs.

REPUBLIC MORTGAGE INSURANCE
COMPANY,

Defendant.

CIVIL ACTION NO. 2:04-CV-00805-PMD

**PLAINTIFFS' UNOPPOSED MOTION FOR
FINAL APPROVAL OF CLASS
SETTLEMENT**

Plaintiffs, by and through undersigned counsel, move the Court for entry of an Order of Final Approval of the Class Settlement in the above matter. On December 12, 2006, the Court entered its Order of Preliminary Approval of the Class Settlement, and ordered that notices be sent to members of the certified class. Those notices have been sent, and a hearing for entry of an order of final approval is set for April 25, 2007, at 10:00 a.m.

The following Memorandum of Law is submitted in support of this motion.

Memorandum of Law

On December 12, 2006, the Court preliminarily certified a class in this matter and directed that class notices be sent to all class members. Defendant has complied with this Order, and all class members have now been heard from. A total of 35,449 class notices were mailed to members of the class. Each class member was given an opportunity to participate in the settlement, opt out of the settlement, or object to the terms of the settlement. All deadlines for opting out or objecting to the settlement have passed. Only five (5) class members chose to opt

out of the settlement, and no class member filed any objection to the settlement. Thus, the class members have voiced no objection to the settlement, and the final order should be entered.

The settlement has provided all class members with notices advising them of the terms of the settlement and a brochure providing them with important information regarding their privacy rights and the importance of credit reports. All class members have further been provided the opportunity to receive a “tri-merge” credit report from Equifax Consumer Services, Inc., consisting of Equifax’s “3-in-1 Credit Report with Score Power” together with a FICO credit score, a product having a normal retail value from Equifax of \$39.95. In addition, all class members may receive a check for \$15.00 by sending in the claim form attached to the class notice. All class members had, and continue to have, access to a website maintained by class counsel providing them with further information and with help from counsel during the claims process. Defendant agreed to pay, and has paid, all expenses associated with the mailing of class notices and with the administration of the class settlement, and administration through a third party administrator continues to date. Finally, Defendant agreed to pay attorneys’ fees and costs of class counsel in an amount to be set by the Court and consistent with the terms of the settlement. Class counsel estimates that the total value of the class benefits is at least \$2,500,000.

The settlement herein resulted after two years of litigation between the parties involving alleged violations of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §1681 *et seq.* Plaintiffs contended that Defendant violated the FCRA by failing to provide adverse action notices in connection with the setting of mortgage insurance premiums affected by information from consumer reports. Defendant vigorously defended the action and denied that any violations of the FCRA had occurred. During the pendency of the litigation, Defendant appealed to the Fourth Circuit Court of Appeals an order from the trial court denying Defendant’s motion to compel

arbitration of the claims brought. Depositions were taken after the appellate court affirmed the trial court ruling. Intensive settlement discussions thereafter resulted in the amicable settlement of all claims.

In reviewing this class settlement, the Court should determine whether the settlement is within the range of what might be approved as fair, reasonable and adequate. *See Flynn v. FMC Corp.*, 528 F.2d 1169, 1173 (4th Cir. 1975). This settlement was the result of arms-length negotiations between counsel experienced in complex litigation and class actions. Settlements of such matters are judicially favored. *See Adams v. Proctor & Gamble Mfg. Co.*, 678 F.2d 1190, 1196 (4th Cir. 1982). Settlement is encouraged where class action settlement “promises to maximize the resources available to the plaintiff class and minimize the drain on both the defendants and the courts.” *Central Wesleyan College v. W.R. Grace & Co.*, 6 F.3rd 177, 186 (4th Cir. 1993).

In their Motion for Preliminary Approval, class counsel set forth details regarding the benefits of the class settlement and the manner in which such settlement furthers the purposes of the FCRA. Now that all class members have had an opportunity to be heard as to the adequacy and fairness of the settlement, and no class member has objected to the settlement, the Court should enter its Order of Final Approval, including an award of attorneys’ fees and costs and the incentive awards set aside for the class representatives.

SIGNATURE ON NEXT PAGE

By: s/ Charles J. Bridgmon

T. English McCutchen (Federal ID #2830)
William E. Hopkins, Jr. (Federal ID #6075)
Charles J. Bridgmon (Federal ID #9189)
MCCUTCHEN BLANTON JOHNSON &
BARNETTE, LLP
1414 Lady Street
Columbia, SC 29201

Terry A. Smiljanich
Tamra S. Givens
Jill H. Bowman
JAMES, HOYER, NEWCOMER & SMILJANICH, P.A.
4830 W. Kennedy Blvd., Suite 550
Tampa, FL 33609

Douglas Bowdoin
DOUGLAS BOWDOIN, PA
Suite 800, Citrus Center
255 S. Orange Avenue
Orlando, FL 32801

J. P. Strom, Jr. (Federal ID #4354)
Mario A. Pacella (Federal ID #7538)
STROM LAW FIRM, LLC
2110 Beltline Boulevard, Suite A
Columbia, South Carolina 29204

Attorneys for Plaintiffs