UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Almada v. Krieger Law Firm, A.P.C.

Almada · No. 19-cv-2109-MMP · Decided May 6, 2025

SUMMARY

The United States District Court for the Southern District of California granted in substantial part an unopposed motion for a third distribution from a residual class settlement fund and for final approval of cy pres beneficiaries. The court authorized a third pro rata distribution to 159 participating class members, approved the National Consumer Law Center as a cy pres recipient, and rejected Public Justice as lacking a sufficient nexus to the class and claims. The order is based on alleged violations of the Fair Debt Collection Practices Act and California's Rosenthal Fair Debt Collection Practices Act.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Michelle M. Pettit
JURISDICTION	United States District Court for the Southern District of California
DECIDED	May 6, 2025
DOCKET	19-cv-2109-MMP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed an unopposed motion for a third distribution from a residual class-action settlement fund and for final approval of proposed cy pres beneficiaries.
STANDARD OF REVIEW	The Court exercised broad equitable discretion in determining how to distribute unclaimed class-action settlement funds and evaluated proposed cy pres recipients under the direct-and-substantial-nexus standard.
PRECEDENTIAL VALUE	unpublished
PARTIES	Jeffrey A. Almada v. Krieger Law Firm, A.P.C.

TOPICS

class actions · remedies · fair debt collection · consumer protection · civil procedure

PRACTICE AREAS

class action settlement administration | fair debt collection | consumer protection | equitable remedies

QUESTIONS PRESENTED

1. Whether a third pro rata distribution from the residual settlement fund to class members who cashed their second-distribution checks was administratively and economically feasible and consistent with the settlement agreement.
2. Whether the National Consumer Law Center and Public Justice were appropriate cy pres beneficiaries under the settlement agreement and the governing cy pres standards.

HOLDINGS

1. A third pro rata distribution to the 159 participating class members who cashed their second-distribution checks was appropriate because it was administratively feasible, economically feasible, consistent with the settlement agreement, and directly benefited class members.
2. The National Consumer Law Center was an appropriate cy pres recipient because its consumer-protection resources and training concerning unfair debt-collection practices had a direct and substantial nexus to the interests of absent class members.
3. Public Justice was not an appropriate cy pres beneficiary because Plaintiff failed to show that its proposed use of the funds would have a direct and substantial nexus to the interests of the absent class members or specifically advance the objectives of the FDCPA and RFDCPA.

KEY QUOTATIONS

> *"A district court has "broad discretionary powers in shaping equitable decrees for distributing unclaimed class action funds" and its "choice among distribution options should be guided by the objectives of the underlying statute and the interests of the silent class members.""* (at 2)

> *"Finally, a third distribution is consistent with the Settlement's terms and directly benefits class members; thus, it is preferable to a cy pres distribution in these circumstances."* (at 3)

> *"Overall, the cy pres award must have a "direct and substantial nexus to the interests of absent class members[.]""* (at 4)

> *"Not just any worthy recipient can qualify as an appropriate cy pres beneficiary."* (at 5)

FACTUAL BACKGROUND

The parties settled a putative FDCPA and RFDCPA class action, and the Court approved the settlement in January 2023. After an initial distribution, a second distribution was made to 195 class members who cashed their first checks; 36 second-distribution checks remained uncashed, leaving $5,576.40 in the common fund. Because a third distribution to the 159 class members who cashed their second checks would cost $2,717 and yield an estimated payment of $17.98 per member, the Court found it administratively and economically feasible. The Court found that NCLC's work directly related to unfair debt-collection practices, but that the record did not adequately connect Public Justice's proposed use of funds to the interests of the class.

PROCEDURAL HISTORY

Almada filed a putative class action alleging violations of the Fair Debt Collection Practices Act and the Rosenthal Fair Debt Collection Practices Act. The Court approved the settlement in January 2023, authorized a second distribution in May 2024, and deferred approval of cy pres recipients until after further distributions. After a second distribution, Plaintiff sought authorization for a third distribution to participating class members and approval of the National Consumer Law Center and Public Justice as cy pres recipients. The Court granted the motion in substantial part, approved the third distribution and NCLC, but rejected Public Justice as a cy pres beneficiary.

DISPOSITION

other

CASES CITED

- In re Google Inc. St. View Elec. Commc'ns Litig., 21 F.4th 1102, 1110–11, 1116 (9th Cir. 2021)
- Six (6) Mexican Workers v. Ariz. Citrus Growers, 904 F.2d 1301, 1307 (9th Cir. 1990)
- Connor v. JPMorgan Chase Bank, N.A., No. 10-cv-1284-GPS-BGS, 2021 WL 1238862, at *1–2 (S.D. Cal. Apr. 2, 2021)
- Malta v. Fed. Home Loan Mortg. Corp., No. 10-cv-1290-BEN-NLS, 2017 WL 11837070, at *3 (S.D. Cal. Aug. 1, 2017)
- Klier v. Elf Atochem N. Am. Inc., 658 F.3d 468, 475 (5th Cir. 2011)
- Frank v. Gaos, 586 U.S. 485, 490–91 (2019)
- Nachshin v. AOL, LLC, 663 F.3d 1034, 1036, 1038, 1040 (9th Cir. 2011)
- Lane v. Facebook, Inc., 696 F.3d 811, 821 (9th Cir. 2012)
- McKnight v. Uber Techs., Inc., No. 14-cv-05615-JST, 2017 WL 3427985, at *6 (N.D. Cal. Aug. 7, 2017)
- Karcauskas v. Regreso Fin. Servs. LLC, No. 15-cv-9225-FMO-RAOX, 2019 WL 13031925, at *6 (C.D. Cal. Nov. 12, 2019)
- Durham v. Cont'l Cent. Credit, Inc., No. 07-cv-1763-BTM-WMC, 2011 WL 2173769, at *1 (S.D. Cal. June 2, 2011)
- Dennis v. Kellogg Co., 697 F.3d 858, 865 (9th Cir. 2012)