

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

BARBARA CRAW, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 18-12149-LTS
)	
HOMETOWN AMERICA, LLC, et al.,)	
)	
Defendants.)	

JOINT MOTION TO DEFER ENTRY OF ANY ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT UNTIL SEPTEMBER 22, 2021, AND TO HOLD THE FAIRNESS HEARING AS SCHEDULED ON SEPTEMBER 14, 2021

Plaintiff, Barbara Crow, on behalf of herself and the Class, and Defendants Hometown America, LLC, Hometown America Management, LLC, and Hometown Oakhill, LLC (the defendants collectively are the “Oakhill Defendants,” and the Oakhill Defendants collectively with Plaintiff Crow, on behalf of herself and the Class, are the “Parties”), respectfully move this Court to defer entry of any order granting final approval of the proposed Settlement in this case at least until September 22, 2021 (but keep the Fairness Hearing scheduled for September 14, 2021), to give the appropriate governmental authorities the 90-day notice required by the Class Action Fairness Act (“CAFA”), 28 U.S.C. §1715. As grounds for this motion, the Parties state the following:

1. This Court entered its Preliminary Approval Order, preliminarily approving the proposed Settlement of the claims relating to the Oakhill Manufactured Housing Community, located in Attleboro, Massachusetts, on May 7, 2021 (D.E. 174). The Court scheduled the Fairness Hearing for September 14, 2021. (D.E. 174 at 17).

2. This Court preliminarily approved the following Class: All current and former residents of the Oakhill Manufactured Housing Community who resided there at any point between September 25, 2012, and March 23, 2021. (D.E. 174, at ¶ 18.A).

3. The Class Action Fairness Act (“CAFA”), 28 U.S.C. §1715, requires the service of a notice of a proposed settlement of any covered class action upon the appropriate federal and state officials prior to final approval of the settlement.

4. On May 14, 2021, less than ten days after this Court entered its Preliminary Approval Order, CAFA notices in this case were served on the appropriate Massachusetts and United States Department of Justice (“USDOJ”) officials in the form of a letter, with an enclosed CD including the documents required to be served under CAFA. *See* Declaration of Lorrie L. Hargrove, ¶ 9 & Exhibit A thereto (D.E. 205-3).

5. After the Settlement Administrator updated the Oakhill Known Class Member List with addresses obtained from its National Change of Address database and LexisNexis search, the Settlement Administrator located addresses indicating that at least one class member may also live in the following states: California, Connecticut, Florida, Illinois, Maine, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, and Vermont. *See* Declaration of Bailey Hughes, ¶ 13 (D.E. 205-1).

6. On June 15, 2021, more than ninety days before the scheduled September 14, 2021 Fairness Hearing in this case, CAFA notices were served on the appropriate state officials in California, Connecticut, Florida, Illinois, Maine, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, and Vermont, in the form of a letter, with an enclosed CD including the documents required to be served under CAFA. Hargrove Decl., ¶ 6 & Exhibit B thereto (D.E. 205-3).

7. On June 21, 2021, the USDOJ contacted Defendants' counsel via e-mail, stating that the CD that it received was "damaged/broken." On June 23, 2021, Defendants' counsel emailed the USDOJ a zip file with all of the documents required by the CAFA notice, which had been on the CD. That same day, the USDOJ informed Defendants' counsel via email that it was able to open all of the documents on the zip file. The USDOJ thus was served with CAFA notice on June 23, 2021, 83 days prior to the scheduled Fairness Hearing in this case. Hargrove Decl., ¶ 7 (D.E. 205-3).

8. Pursuant to 28 U.S.C. §1715(d), "[a]n order giving final approval of a proposed settlement may not be issued earlier than 90 days after the latter of the dates" on which such officials are served with the CAFA notice. Because the USDOJ was not served until June 23, 2021, this Court may not enter a final approval of the proposed Settlement until September 22, 2021.

9. Numerous federal courts have entered final orders approving settlements where CAFA's notice requirement did not have technical compliance, but where the Court had given the governmental authorities 90 days to object prior to entering a final order. *See, e.g., In re Processed Egg Prods. Antitrust Litig.*, 284 F.R.D 249, 258 n.12 (E.D. Pa. 2012); *Gatdula v. CRST Int'l, Inc.*, No. cv 11-01285, 2015 WL 12697656, at *12 (C.D. Cal. Aug. 26, 2015) (citing cases); *In re Pool Prods. Distrib. Mkt. Antitrust*, MDL No. 2328, 2016 WL 235781, at * 5 (E.D. La. Jan. 20, 2016).

10. Furthermore, several courts have kept the fairness hearing as originally scheduled, despite the 90-day objection time not passing before the fairness hearing, and simply held the final order in abeyance until the 90-day objection time had passed. *See, e.g., Wilcox v. Swapp*, No. 2:17-cv-275, 2020 WL 2110411, at * 1–2 (E.D. Wash. April 22, 2020); *Gatdula*, 2015 WL

12697656, at *12; *Precision Associates, Inc. v. Panalpina World Transp. (Holding) Ltd.*, No. 08-cv-42, 2013 WL 4525323, at *17 & n. 31 (E.D.N.Y. Aug. 27, 2013) (similarly holding final order in abeyance until 90 days had passed, after receiving a letter from Co-Lead Counsel prior to Fairness Hearing that the CAFA notice had not been served 90 days prior to the Fairness Hearing).

11. The Court in *Wilcox* held:

The Court finds that, as long as the relevant government officials are allowed ninety days to object to the settlement, the [CAFA] notice requirement has served its purpose. In this case, holding final approval in abeyance until June 22, 2020, allows the appropriate government officials the statutorily required amount of time to object to the settlement and to request a hearing. Thus, the Court will conduct the final fairness hearing on April 29, 2020, as scheduled, and hold any decision approving the settlement in abeyance, as requested.

2020 WL 2110411, at *2 (citation omitted).

12. The Parties will ask the Settlement Administrator to place this motion, and any order by this Court thereon, on the Settlement Website.

WHEREFORE, the Parties respectfully request that the Court defer entry of any order granting final approval of the proposed Settlement in this case at least until September 22, 2021, but continue to hold the Fairness Hearing as previously scheduled on September 14, 2021.

Dated: September 3, 2021

Respectfully submitted,

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Oakhill Class,

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CERTIFICATE OF SERVICE

I, Tristan P. Colangelo, hereby certify that a true copy of the above document was served electronically upon the below-listed attorney for each other party and the objectors on September 3, 2021, as registered ECF participants. I also certify that a true copy of the above document was served electronically upon the below-listed attorney for the objectors, who has not yet appeared in this action, via email on September 3, 2021.

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