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2018 MAY 21 PM 1:16
UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTES

U.S. DISTRICT COURT
DISTRICT OF MASS.

ALEXANDER VUCKOVIC, Individually
and On Behalf of All Others Similarly
Situated,

Case No: 1:15-cv-13696-GAO

Plaintiff,

v.

KT HEALTH HOLDINGS, LLC and
KT HEALTH, LLC,

Defendants.

**OBJECTION OF PAMELA SWEENEY PRO SE TO THE PROPOSED
SETTLEMENT AND NOTICE OF INTENT NOT TO APPEAR**

NOW COMES, Pro Se Objector, Pamela Sweeney and hereby files these objections to the proposed settlement in this matter.

I. PROOF OF MEMBERSHIP IN CLASS

Pamela Sweeney, Pro Se (“Objector”) believes she is a member of the class as defined in that certain Legal Notice of Class Action Settlement which is not dated (the “Notice”). Objector’s address and telephone number are listed at the conclusion of this objection.

II. NOTICE OF INTENT TO NOT APPEAR

Objector hereby gives notice that she does NOT intend to appear at the Final Approval Hearing on June 6, 2018, at 10:00 a.m. at the United States District Court for Massachusetts, U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210 before the Hon. George A. O'Toole, Jr. .

III. OBJECTOR IS A CLASS MEMBER

After reviewing the Notice, the Objector states that she is a class member with standing to object to the Court's Order for Preliminary Approval of the Settlement by virtue of her purchasing one or more packages of KT Tape in the United States between the dates of October 30, 2011 and November 3, 2017, for personal use and not for resale. Objector submitted a claim to the Settlement Administrator on May 16, 2018 on the Settlement website.

IV. REASONS FOR OBJECTING TO THE PROPOSED SETTLEMENT

A. The Requested Attorney Fees are Excessive.

Plaintiff Class Counsel requests that the Court award attorneys' fees in the amount of \$583,333.33, or one-third of the Settlement Fund, plus reimbursement of litigation costs and expenses in the amount of \$17,510.75. The total cash settlement amount is \$1.75 million dollars. It is somewhat unclear what the cost of

settlement administration will be. However, Objector assumes it might be as high as \$500,000.00. Class Representative Service Fees are \$5,000.00. If the settlement administrator Fee is higher it could possibly be a situation where the Class Members and the Plaintiff's Counsel and the Settlement administrator all share equally in the settlement proceeds (as "ugly" as that scenario might seem Plaintiff's Counsel attempts to avoid the unthinkable by assuring that the cash available to the Class Members will at least equal the total amount of attorneys' fees and expenses awarded to Plaintiff's Counsel. Nevertheless because the amount of Attorney Fees requested will be close to the cost of administration and the cash to the Class Members Objector asserts the fee request is excessive.

At this point in this case, one would expect Plaintiff's Counsel to attempt to justify its request by asking the Court to check its request by performing "lodestar fee cross check". Although not required to do so, the district court can (and Objector asserts *should*) take an extra step, cross-checking this result by using the lodestar method. *In re Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 941 (9th Cir. 2011). (checking the district court's percentage-of-recovery fees calculation against the lodestar method, which is "calculated by multiplying the number of hours the prevailing party reasonably expended on the litigation . . . by a reasonable hourly rate for the region and the experience of the lawyer"). *Id* at 941–44. A lodestar cross-check could confirm that the percentage requested is

reasonable. See *Vizcaino*, 290 F.3d at 1050 (“while the primary basis of the fee award remains the percentage method, the lodestar may provide a perspective on the reasonableness of a given percentage award”).

Here, however the Objector has provided no supporting documentation to even consider a lodestar cross check. In its Motion for Attorney Fees Plaintiff’s Counsel provides a “billing chart” which is merely a table of hours and rates. Objector argues that no fee request can be is reasonable in the absence of documentation, including detailed billing records which can be evaluated by Class Members and the Court to determine the reasonable nature (or not) of the request. Accordingly, the Court should deny the fee request by denying approval of the entire settlement.

B. Adoption of Other Objections.

The Objector hereby adopts and joins in all other objections which are based on sufficient precedent and theories of equity and law in this case and hereby incorporates said objections by reference as if they were fully described herein.


CONCLUSION

WHEREFORE, This Objector, for the foregoing reasons, respectfully requests that the Court, upon proper hearing:

1. Sustain these Objections;
2. Enter such Orders as are necessary and just to adjudicate these Objections and to alleviate the inherent unfairness, inadequacies and unreasonableness of the proposed settlement; and
3. Any and all other relief this Court deems equitable and just.

DATED: May 16, 2018.

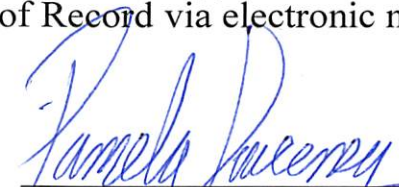
Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been timely filed with the Clerk of Court via First Class U. S. Mail. When the Clerk scans the document it will be provide to all registered parties via the CM/ECF system. Furthermore, I hereby certify that a true and correct copy of the foregoing has been served upon Counsel of Record via electronic mail on the 16th day of May, 2018.



Pamela Sweeney, Pro Se