

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Ronald A. Guzman	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	11 C 2539	DATE	2/22/2012
CASE TITLE	Hardwick vs. Fisher & Shapiro, LLC		

DOCKET ENTRY TEXT

For the reasons provided herein, the Court denies without prejudice the joint motion for preliminary approval of class settlement agreement [doc. no. 22].

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

The Court denies without prejudice the joint motion for preliminary approval of class settlement agreement because the language of the release in paragraph H is far too broad. It states that each class member not opting out agrees to:

[R]elease and forever discharge the Defendant, its attorney's employees, agents, and insurers...from all causes of action, suits, claims, and demands, whatsoever, known or unknown, in law or in equity, which the class now has, ever had, or hereafter may have against the released parties, arising out of affidavits attached or executed in support of the foreclosure matters filed against the Class Members, which affidavits and foreclosure lawsuits make them members of the Class.

(Joint Mot. Preliminary Approval Class Settlement Agreement, Appx. 1, Class Settlement Agreement ¶ H.)

This language purports to release defendants from liability for any claim, not just for the FDCPA claims, which are the only claims alleged in the complaint. The only claims that have been litigated in the instant case are those under the FDCPA. However, the broad sweeping release by all class members (who have not opted out) serves to obstruct any other possible causes of action in past, present and future against the defendant. Unlike the FDCPA, under which plaintiffs may recover limited statutory damages, defendant's conduct may give rise to other causes of action that allow plaintiffs to recover actual damages and therefore the Court declines to approve the proposed class settlement as written.

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 5.0.3
Eastern Division**

Faylicia L. Hardwick

Plaintiff,

v.

Case No.: 1:11-cv-02539

Honorable Ronald A. Guzman

Fisher & Shapiro, LLC

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, February 22, 2012:

MINUTE entry before Honorable Ronald A. Guzman: For the reasons provided herein, the Court denies without prejudice the joint motion for preliminary approval of class settlement agreement [doc. no. 22]. Mailed notice (cjb,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Ronald A. Guzman	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	11 C 2539	DATE	2/22/2012
CASE TITLE	In Re: Hardwick v. Fisher & Shapiro, LLC		

DOCKET ENTRY TEXT

For the reasons provided herein, the Court denies Jeanette Tate Stinnette and Isaac A. Stinnette's motion to intervene and substitute putative class counsel and the Court strikes their objections to the proposed settlement as moot because the Court denies the joint motion for preliminary approval of the class settlement agreement [doc. no. 28].

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

The Stinnettes' reasons for intervening, substituting counsel and objecting to the proposed class settlement agreement were based on the assumption that the Court would approve the wide sweeping language of the release contained in the proposed settlement agreement. In a separate minute order, the Court denies the proposed class settlement agreement as being far too broadly written because it includes a release of claims far beyond the scope of the instant litigation which is limited the FDCPA claims. Limiting the class settlement in this way promotes the fair adjudication of the FDCPA claims before this Court while permitting the Stinnettes to proceed in state court with their state law claims against this defendant as well as other defendants.

Given the Court's ruling, the Stinnettes have not demonstrated that intervention as of right is warranted because they have failed to show that they will not be adequately represented by the lead plaintiff in this case as to their FDCPA claims or that they will be adversely affected by the disposition of property subject to the control of the court. *See* Fed. R. Civ. P. 24(a). Further, a court has broad discretion to determine whether to allow permissive intervention. *First Interstate Bank of Nevada, N.A. v. Chapman & Cutler*, 837 F.2d 775, 782 (7th Cir. 1988) (asserting that "permissive intervention is wholly discretionary"). Such factors to take into consideration are delay or prejudice to the original parties and the reasons for seeking intervention. Fed. R. Civ. P. 24(c); *see Vollmer v. Publishers Clearing House*, 248 F.3d 698, 707 (7th Cir. 2001). Given that the scope of the Stinnettes' litigation is much broader and involves more parties than the instant litigation, which merely involves a discrete issue of law under the FDCPA, *i.e.*, whether it is governed by *O'Rourke v. Palisades Acquisition XVI, LLC*, 635 F.3d 938, 943-44 (7th Cir. 2011), delay and prejudice is inevitable regarding the adjudication of the rights of the original parties.