

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.