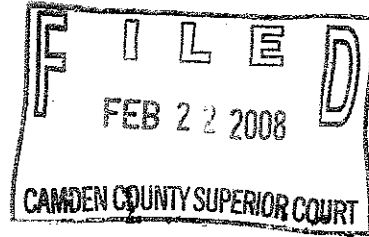


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JOSEPH ROGERS, On Behalf of Himself and All Others Similarly Situated,	:	SUPERIOR COURT OF NEW JERSEY CAMDEN COUNTY
	:	
Plaintiff,	:	DOCKET NO.: L-6935-06
	:	
v.	:	CIVIL ACTION/CLASS ACTION
	:	
WEICHERT TITLE AGENCY,	:	<b>FINAL APPROVAL ORDER</b>
	:	
Defendant.	:	
	:	

**WHEREAS**, Plaintiff, Joseph Rogers, on behalf of himself and all Class Members, previously filed a motion for an order preliminarily approving the Settlement Agreement (“Agreement”) entered into by the Parties to this action;

**WHEREAS**, Defendant, Weichert Title Agency (“WTA”), supported approval of that Settlement;

**WHEREAS**, the Court entered an Order granting preliminary approval to the Settlement on December 20, 2007; and

**WHEREAS**, the Court conducted a hearing regarding final approval of the Settlement on February 22, 2008, at which time it considered, among other matters, (1) any objections filed with or presented to the Court and the Parties’ responses thereto; (2) the memoranda submitted in support of final approval; (3) the Agreement and all exhibits thereto; and (4) the representations

and argument of counsel:

**IT IS ORDERED, ADJUDGED AND DECREED** that:

1. All capitalized terms used in this Order have the same meaning as defined in the Agreement.
2. This Court has jurisdiction over the subject matter of this Litigation and all parties to this Litigation, including all Class Members.
3. The Agreement and the Settlement set forth therein are found and determined to be fair, reasonable, and adequate, and are hereby approved and ordered performed by all parties to the Agreement.
4. This Court's preliminary certification of the following Settlement Class by entry of the Preliminary Approval Order is hereby confirmed:

All persons or entities who from October 1, 2000 to October 31, 2007 were charged fees in connection with real estate transactions in New Jersey by WTA Title Agency or its agents for recording releases of liens and for whom WTA Title Agency or its agents did not record the release.

It is well settled that, pursuant to Rule 4:32-1, "a class action 'should be permitted unless there is a clear showing that it is inappropriate or improper.'" *Delgozzo v. Kenny*, 266 N.J.Super. 169, 180 (App.Div. 1983), *quoting Lusky v. Capasso Bros.*, 118 N.J.Super. 369, 373 (App.Div. 1972), *cert. denied*, 60 N.J. 466 (1972). As such, Rule 4:32-1, governing certification of class actions, is to be liberally construed. *In re Cadillac V8-6-4 Class Action*, 93 N.J. 412, 435 (1983); *Delgozzo*, 266 N.J.Super. at 179. Applying this standard, all applicable elements under Rule 4:32-1(a) and (b) have been satisfied.

A. Numerosity.

For purposes of class certification, Plaintiff need only demonstrate that joinder of the class members is impracticable. R. 4:32-1(a)(1). In New Jersey a proposed class of forty (40) members satisfies this requirement. *Vargas v. Calabrese*, 634 F. Supp. 910 (D.N.J. 1986). Here, the Class consists of thousands of individuals. Thus, the numerosity element is satisfied.

B. Commonality.

Rule 4:32-1(a)(2) requires only that the court find that “there are questions of law or fact common to the class.” Rule 4:32-1(a)(2) does not require that all class members share identical claims. As noted in *Delgozzo*, under the analogous federal rule, “a single common question is sufficient.” 266 N.J.Super. at 185.

Here, there were multiple common issues of law and fact, including:

- (1) whether WTA collected Release Fees from Plaintiff and members of the Class;
- (2) whether WTA filed Releases with county clerks;
- (3) whether WTA retained the Release Fees if it did not file Releases with county clerks;
- (4) whether WTA breached its contracts with Plaintiff and members of the Settlement Class; and
- (5) whether WTA’s conduct caused injury to the Plaintiff and members of the Settlement Class.

Accordingly, the commonality element is easily satisfied.

C. Typicality.

In order to satisfy the typicality requirement, Plaintiff must demonstrate that “the claims or defenses of the representative parties [be] typical of the claims or defenses of the class:”

When the same unlawful conduct was directed at or affected both the named plaintiffs and the members of the putative class, the typicality requirement is usually met, irrespective of varying fact patterns that may underlie individual claims.

*Cannon v. Cherry Hill Toyota, Inc.*, 184 F.R.D. 540, 544 (D.N.J. 1999). The focus of the typicality inquiry is not on the named plaintiff's behavior, but rather on the acts and omissions of the defendant. The crucial question is whether the named plaintiff and the class can "point to the same broad course of alleged fraudulent conduct" to support a claim for relief." *Zinberg v. Washington Bancorp, Inc.*, 138 F.R.D. 397, 401 (D.N.J. 1990).

Here Plaintiff and all Class Members assert that they have been subjected to the same allegedly unlawful treatment by WTA -- the collection of a fee for recording a release of mortgage and the concomitant failure to perform the service. Thus, for purposes of the typicality inquiry, it is alleged that WTA, as to Plaintiff and each Class Member, (1) utilized a HUD-1 to collect a Release Fee; (2) failed to record the Release; and (3) failed reimburse the Release Fee to the Class Member and had no mechanism in place for doing so. The typicality element is satisfied.

D. Adequacy.

Rule 4:32-1(a)(4) requires the court to conclude that "the representative parties will fairly and adequately protect the interests of the class." To satisfy this requirement:

(a) the plaintiff's attorney must be qualified, experienced, and generally able to conduct the proposed litigation, and (b) the plaintiff must not have interests antagonistic to those of the class.

*Delgozzo*, 266 N.J.Super. at 188.

Here, Plaintiff has retained counsel with extensive experience in both state and federal

consumer class action litigation, considerable trial experience, and thorough knowledge of New Jersey courts. Furthermore, Plaintiff has no interests that are antagonistic to those of the Class. The interests of the Plaintiff and the other Class Members are the same: to obtain an adjudication that WTA's conduct of charging fees for services that were never performed was illegal, and to obtain redress for the damages caused by that illegal conduct. The adequacy element is satisfied.

E. Predominance.

In addition to meeting the requirements under Rule 4:32-1(a), the action also must satisfy one of the three sub-parts of Rule 4:32-1(b). Plaintiff has satisfied the requirements of Rule 4:32-1(b)(3), which requires the Court to find that:

. . . questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and . . . a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

Here, Plaintiff seeks to remedy common legal grievances on behalf of the Class. These common legal grievances are based on alleged uniform conduct by WTA to collect and retain fees for services not performed. Thus, the parties have reached a settlement of the claims, which will avoid any manageability issues in litigating the action. In this context, common questions of law and fact predominate over questions affecting only individual Class Members and a class action is the superior method for adjudicating this controversy.

5. The Court determines that the Class Notice given to Class Members regarding the material elements of the Settlement constitutes the best practicable notice to all Class Members and fully meets the requirements of due process.

6. Immediately upon entry of this Final Approval Order, the operative Complaint in this Litigation shall be dismissed in its entirety with prejudice. This dismissal shall be without costs to any party, except as specifically provided in the Agreement.

7. This Final Approval Order applies to all claims or causes of action settled under the terms of the Agreement, and shall be fully binding with respect to all Class Members who did not properly request exclusion.

8. This Final Approval Order is a final judgment within the meaning of the New Jersey Rules of Court.

9. This Court adjudges that the Plaintiff and all Class Members who did not properly request exclusion are barred and permanently enjoined from asserting, instituting, or prosecuting, either directly or indirectly, any claims settled under the terms of the Agreement, which they ever had, or now have, to the extent provided in the Agreement.

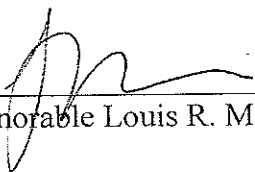
10. Without affecting the finality of this Final Approval Order in any way, the Court retains jurisdiction over: (1) the implementation and enforcement of the Agreement until each and every act agreed to be performed by the Parties to the Agreement shall have been performed; (2) any other action necessary to conclude this Settlement and to implement the Agreement; and (3) the enforcement, construction and interpretation of the Agreement.

11. Class Counsel, Shepherd, Finkelman, Miller & Shah, LLC and Trimble & Associates, are awarded costs, expenses, and attorneys' fees in the amount of \$235,000, which the Court determines to be fair, adequate and reasonable in light of the work performed by Class Counsel and the result achieved by Class Counsel on behalf of the Class. The \$235,000 shall be paid to Class Counsel in a manner consistent with the Agreement.

12. This Court determines that the \$2,500 incentive award to be paid to Plaintiff for his efforts in this Litigation is well within the range of incentive awards routinely awarded in class actions and, as such, approves the award.

ENTERED this 22nd day of February, 2008

BY THE COURT

  
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Honorable Louis R. Meloni