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15 IRINA MCKEEHAN

FILED  
Clerk of the Superior Court

APR 19 2024

By: M. Garland

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**IN AND FOR THE COUNTY OF SAN DIEGO**  
**NORTH DIVISION**

16 IRINA MCKEEHAN, individually and on  
17 behalf of a class of similarly situated  
18 individuals,

19 Plaintiff,

20 v.

21 1-800-PACK-RAT, LLC; and DOES 1  
22 through 100, inclusive,

23 Defendants.

Case No: 37-2022-00038509-CU-BT-NC

[Assigned for all purposes to:  
Honorable Cynthia A. Freeland]

CLASS ACTION

**[PROPOSED] ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

Date: April 19, 2024  
Time: 1:30 p.m.  
Dept: N-27

Complaint Filed: September 27, 2022  
Trial: TBD

1 Plaintiff Irina McKeehan’s Motion for Preliminary Approval of Class Action Settlement  
2 came on for hearing regularly in the above captioned court, the Honorable Cynthia A. Freeland  
3 presiding. All parties appeared by counsel of record.

4 Having fully reviewed and considered Plaintiff’s motion, the Declarations of Eric A.  
5 Grover, Scot D. Bernstein, and Kroll Settlement Administration, the Settlement Agreement and  
6 Release (“Settlement Agreement”) between Plaintiff and Defendant 1-800-PACK-RAT, LLC  
7 (“Defendant”), the proposed Settlement Class Notices and Claim Form, and the arguments of  
8 counsel, and with GOOD CAUSE APPEARING, the Court hereby rules as follows:

- 9 1. The Court GRANTS Plaintiff’s Motion for Preliminary Approval of Class Action  
10 Settlement.
- 11 2. The Court GRANTS preliminary approval of the terms and conditions contained in  
12 the Settlement Agreement. The Court finds that the terms of the Settlement  
13 Agreement are within the range of possible approval at the final approval hearing.  
14 Unless otherwise provided in this Order, all capitalized terms shall have the same  
15 meaning as set forth in the Settlement Agreement.
- 16 3. The Court FINDS that the following class should be preliminarily certified for  
17 settlement purposes only:

18 All natural persons who, while residing or located in California, received an  
19 outbound call from Defendant’s customer service department at any time  
20 during the period from and including September 27, 2021 through and  
21 including October 10, 2022 (the “Class Period”) that was recorded.

22 Excluded from the Settlement Class are all attorneys and employees of  
23 Settlement Class Counsel, any judicial officer to whom this case is assigned,  
24 and persons who validly opt out of the settlement by following the  
25 procedures set forth in the Settlement Agreement.

- 26 4. The Court FINDS that, for the purposes of approving this settlement only, the  
27 proposed Settlement Class meets the requirements for certification under Code of  
28 Civil Procedure § 382: (a) the proposed Settlement Class is ascertainable and so

1 numerous that joinder of all members of the Settlement Class are impracticable; (b)  
2 there are questions of law or fact common to members of the proposed Settlement  
3 Class; (c) the claims of Plaintiff are typical of the claims of the members of the  
4 proposed Settlement Class and the Plaintiff is representative of the proposed  
5 Settlement Class; (d) Plaintiff's counsel, Keller Grover LLP and Law Offices of  
6 Scot D. Bernstein, A Professional Corporation, will fairly and adequately protect  
7 the interests of the proposed Settlement Class; and (e) a class action is superior to  
8 the other available methods for an efficient resolution of this controversy.

- 9 5. The Court APPOINTS as Settlement Class Counsel Eric A. Grover of Keller  
10 Grover LLP and Scot Bernstein of Law Offices of Scot D. Bernstein, A Professional  
11 Corporation.
- 12 6. The Court APPROVES Plaintiff Irina McKeehan as Settlement Class  
13 Representative.
- 14 7. The Court APPROVES Kroll Settlement Administration as Claims Administrator  
15 for the purpose of this settlement and pursuant to the terms contained in the  
16 Settlement Agreement.
- 17 8. The Court APPROVES the Postcard Notice, Email Notice, Long-Form Settlement  
18 Class Notice, and Claim Form, which are attached to the Settlement Agreement as  
19 **Exhibits A, B, C, and D** respectively. The Court finds that the notice procedure  
20 set forth in the Settlement Agreement, which includes the U.S. mail distribution of  
21 the Postcard Notice, the email distribution of the Email Notice, and the publication  
22 of the Settlement Website, constitutes the best notice practicable under the  
23 circumstances and is in full compliance with the laws of the State of California and  
24 the United States and the requirements of due process. The Court further finds that  
25 the Settlement Class Notice materials and Claim Form fully and accurately inform  
26 Settlement Class Members of all material elements of the Settlement Agreement,  
27 of each Settlement Class Member's right to submit a claim, of each Settlement  
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Class Member’s right to be excluded from the settlement, and of each Settlement Class Member’s right to object to the settlement.

- 9. The Court DIRECTS that, for all outbound calls for which Defendant has records that were made during the Class Period by Defendant’s customer service department to California Area Codes, Defendant shall compile a list of those calls’ unique telephone numbers and, to the extent they are in Defendant’s possession and capacity to collect, the names, telephone numbers, and most recent mailing addresses and email addresses associated with those telephone numbers (the “Settlement Class Member Contact List”). Defendant shall provide the Settlement Class Member Contact List to the Claims Administrator no later than 30 calendar days after the date of this Order in accordance with the Settlement Agreement.
- 10. The Court DIRECTS the Claims Administrator to utilize the Settlement Class Member Contact List to confirm that it contains the most recent mailing and email addresses and make any necessary updates. The Claims Administrator shall: (1) run database searches in an effort to obtain the names and the current or most recently known mailing and email addresses associated with each telephone number on the Class Telephone Number List; and (2) run all such identified mailing addresses through the United States Postal Service National Change of Address (“NCOA”) (or comparable) database(s) to update that information.
- 11. The Court DIRECTS the Claims Administrator, no later than 50 days after the date of this Order, to send the Email Notice (substantially in the form of Exhibit B) to each of the persons on the Settlement Class Member Contact List for whom an email address can be located. An Email Notice shall be sent to every email address obtained for each Settlement Class Member. Additionally, no later than 50 days after the date of this Order, the Claims Administrator shall mail the Postcard Notice (substantially in the form of Exhibit A) to each of the persons on the Settlement Class Member Contact List for whom a mailing address can be located. If any Postcard Notice is returned to the Claims Administrator as undeliverable, the

1 Claims Administrator immediately will perform a skip-trace and/or other  
2 customary address search in an attempt to locate a valid address and, if a new  
3 mailing address is obtained, re-mail the Postcard Notice to that updated mailing  
4 address. The date on which the Email Notice and Postcard Notice are sent to  
5 Settlement Class Members is referred to as the “Notice Date.”

6 12. The Court DIRECTS the Claims Administrator, no later 50 calendar days after  
7 entry of the Court’s order preliminarily approving the Class Action Settlement, to  
8 publish a website (the “Settlement Website”) on the internet at the URL  
9 www.PRCallRecordingSettlement.com (or a similar name as agreed upon by the  
10 Parties if that one is not available), which shall set forth a summary of the terms of  
11 the settlement, state the means by which Settlement Class Members may  
12 communicate with the Claims Administrator (including but not limited to the  
13 Claims Administrator’s business name, address, a toll-free telephone number, and  
14 e-mail address), contain a set of “Frequently Asked Questions” and corresponding  
15 answers, provide instructions on how to submit a Claim Form (both electronically  
16 and by mail) and the deadline to do so, and provide instructions on how to object  
17 to and opt out of the settlement and the deadlines to do so. The Settlement Website  
18 also shall provide, free of charge, a viewable, printable, and downloadable copy, in  
19 PDF file format, of each of the following documents: the Settlement Agreement;  
20 the Complaint; this Preliminary Approval Order; the Claim Form (**Exhibit D**); and  
21 the “Long-Form Settlement Class Notice” (**Exhibit C**). The Settlement Website  
22 shall remain active for 90 calendar days after the Settlement Effective Date and  
23 shall be made non-operational on the 91<sup>st</sup> calendar day after the Settlement  
24 Effective Date. Defense Counsel and Settlement Class Counsel shall have the right  
25 to review and approve the Settlement Website, including its content, before it goes  
26 live.

27 13. The Court DIRECTS the Claims Administrator to ensure that the information that  
28 it receives from Defendant and Settlement Class Members is secured and managed

1 in such a way as to protect the security and confidentiality of the information,  
2 consistent with the privacy policies of Defendant as well as applicable law. Except  
3 as specifically provided in the Settlement Agreement and as necessary for  
4 Settlement Class Counsel to meet its duties to Settlement Class Members, the  
5 Claims Administrator shall not disclose or disseminate any information that it  
6 receives from Defendant, including but not limited to Defendant's customer  
7 information, to anyone without the prior written consent of Defendant.

8 14. The Claims Administrator shall take all other necessary actions in furtherance of  
9 obtaining correct mailing and emailing address information for Settlement Class  
10 Members, determining Settlement Class Members' payment amounts, receiving  
11 and processing Settlement Class Member objections and opt-outs, and other claims  
12 administration functions, as are specified in the Settlement Agreement.

13 15. Settlement Class Members who wish to participate in the settlement shall  
14 completely fill out and sign (or electronically submit) a Claim Form in the manner  
15 provided for in the Settlement Agreement. Claim Forms submitted by Settlement  
16 Class Members must be postmarked or received electronically no later than 110  
17 days after entry of the Court's order preliminarily approving the Class Action  
18 Settlement.

19 16. The Court APPROVES the proposed procedure for the Settlement Class Members  
20 to submit a request for exclusion from the settlement. Any Settlement Class  
21 Member requesting exclusion from the settlement must send a letter by first class  
22 mail to the Claims Administrator containing (1) the title of the Action; (2) the full  
23 name, address, and telephone number of the person requesting exclusion; (3) a  
24 statement that he or she requests exclusion from the Settlement Class; and (4) the  
25 telephone number(s) from which that person claims to have made and/or received  
26 a call covered by this Class Action Settlement. Settlement Class Members who  
27 timely opt out of the Class Action Settlement shall (a) have no right to receive any  
28 benefits from the Class Action Settlement; (b) not be bound by the terms of the

1 Class Action Settlement; and (c) have no right to object to the terms of the Class  
2 Action Settlement or to be heard at the final fairness hearing. Any such opt-out  
3 request must be made in accordance with the terms set forth in the Settlement  
4 Agreement and the Long-Form Settlement Class Notice and will be timely only if  
5 postmarked no later than 110 days after entry of the Court's order preliminarily  
6 approving the Class Action Settlement. The delivery date is deemed to be the date  
7 on which the request for exclusion is deposited in the U.S. Mail as evidenced by  
8 the postmark.

9 17. Any Settlement Class Member who does not submit a valid and timely request for  
10 exclusion from the Settlement Class will be bound by all proceedings, orders, and  
11 judgments in this action relating to the Settlement Agreement.

12 18. The Court APPROVES the proposed procedure for the Settlement Class Members  
13 to object to the settlement. As explained in the Settlement Class notices, any  
14 Settlement Class Member seeking to object to the settlement shall file a written  
15 objection with the Claims Administrator no later than 110 days after entry of the  
16 Court's order preliminarily approving the Class Action Settlement. Each written  
17 objection must include: (1) a heading containing the name and case number of the  
18 Action (*McKeehan v. 1-800-PACK-RAT, LLC*, Case No. 37-2022-00038509-CU-  
19 BT-NC); (2) the Settlement Class Member's name and postal address; (3) a  
20 statement as to the basis of the objector's belief that he or she is a member of the  
21 Settlement Class; (4) a detailed statement of each objection, including, if available,  
22 the factual and legal basis for each objection; and (5) a statement of whether the  
23 Settlement Class Member intends to appear, either in person or through counsel, at  
24 the final approval hearing, and, if through counsel, a statement identifying the  
25 counsel's name, postal address, telephone number, and email address. Any  
26 documents that the objecting Settlement Class Member wishes for the Court to  
27 consider must also be attached to the objection. The failure to submit a written  
28 objection does not waive a Settlement Class Member's right to appear and orally

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object to the settlement at the Final Approval Hearing. Settlement Class Counsel shall file copies of any objections with the final approval motion papers.

19. Settlement Class Counsel shall file a motion for final approval the settlement and a motion for approval of reasonable attorneys' fees, litigation costs, administration costs, and a service award for the Settlement Class Representative no later than 130 days after this entry of this preliminary approval order.

20. The Final Approval Hearing is scheduled for October 4, 2024 at 1:30 p.m. in Department N-27, which is at least 150 calendar days from the entry of this Order. At the time of the Final Approval Hearing, the Court shall finally determine whether the settlement is fair, reasonable and adequate. The date and time selected for the hearing must appear in the Settlement Class notice materials and on the Settlement Website. The Final Approval Hearing date or time may be changed without further notice. Any change to the Final Approval Hearing date or time shall be posted on the Settlement Website.

21. Except as provided herein and as necessary to effectuate the Settlement Agreement, the action is hereby stayed in its entirety and all currently calendared events are hereby vacated unless and until the Court renders a final decision on approval of the settlement.

**IT IS SO ORDERED.**

Dated: APRIL 19, 2024

Cynthia A. Freeland  
HON. CYNTHIA A. FREELAND  
JUDGE OF THE SUPERIOR COURT