

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jul 08, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RYAN DALEY and ISAAK CURRY,
on behalf of themselves and others
similarly situated,

Plaintiffs,

v.

GREYSTAR REAL ESTATE
PARTNERS, LLC, a Delaware limited
liability company; GREYSTAR
MANAGEMENT SERVICES LP, a
Delaware corporation; and GREYSTAR
RS WEST, LLC, a Delaware limited
liability company,

Defendants.

No. 2:18-cv-00381-SMJ

**ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Before the Court is Plaintiffs' Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 125. The Court has considered the motion, the briefing, the Settlement Agreement, and the proposed notice, ECF No. 129, and is fully informed. The Court finds oral argument unnecessary and grants the motion.

Accordingly, **IT IS HEREBY ORDERED:**

- 1. Preliminary Approval of Proposed Settlement.** The Agreement, including all exhibits thereto, is preliminarily approved as fair,

1 reasonable, and adequate. The Court finds that (a) the Agreement
2 resulted from extensive arm's-length negotiations between the Parties
3 and their counsel, and (b) the Agreement is sufficient to warrant notice
4 thereof to members of the Settlement Class and the Settlement Hearing
5 described below.

- 6 **2. *The Certified Class.*** On August 13, 2020, the Court previously
7 certified the following class, comprising the individuals who are
8 potentially subject to the settlement agreement:

9 All persons who applied to rent any property in the state
10 of Washington where the rental property, on the date of
11 application, was owned or managed by Defendants, who
paid a tenant screening fee to Defendants or their affiliates,
between June 9, 2016 and August 13, 2020.

12 ECF No. 96.

- 13 **3. *Settlement Administrator.*** The Court appoints Postlethwaite &
14 Netterville ("P&N") as the Settlement Administrator, which shall
15 fulfill the Settlement Administration functions, duties, and
16 responsibilities of the Settlement Administrator as set forth in the
17 Agreement and this Order.

- 18 **4. *Settlement Hearing.*** A final approval hearing (the "Settlement
19 Hearing") shall be **SET for January 11, 2022 at 9:00 A.M. in**
20 **Spokane** to determine whether the Agreement is fair, reasonable, and
adequate, and should be given final approval.

1 A. The Court may postpone, adjourn, or continue the Settlement
2 Hearing without further notice to the Settlement Class.

3 **5. Class Notice.** The Court approves the form and content of the notices
4 substantially in the forms attached as Exhibits A, B, and C to the
5 Agreement.

6 A. The Settlement Administrator shall comply with the notice
7 requirements of Paragraph 4.03 of the Agreement. In
8 compliance with that Paragraph, beginning **no later than**
9 **fifteen days after entry of this Order**, the Settlement
10 Administrator shall cause notice to be delivered in the manner
11 set forth in the Agreement to all Settlement Class Members who
12 can be identified with reasonable effort.

13 B. Class Notices sent by email shall be substantially in the form
14 attached as Exhibit B to the Agreement and Class Notices sent
15 by U.S. Mail shall be substantially in the form attached as
16 Exhibit C to the Agreement. A Long-Form Notice substantially
17 in the form attached as Exhibit A to the Agreement will also be
18 available to Settlement Class Members upon request from the
19 Settlement Administrator.

20 **6. Filing of CAFA Notice.** Before the Settlement Hearing, Defendants
 shall file with the Court information regarding their compliance with
 the notice provisions of the Class Action Fairness Act of 2005
 ("CAFA"), 28 U.S.C. § 1715.

1 **7. Findings Concerning Class Notice.** The Court finds that the Class
2 Notice and the manner of its dissemination described in Paragraph 5
3 above and Paragraph 4.03 of the Agreement constitutes the best
4 practicable notice under the circumstances and is reasonably
5 calculated, under all the circumstances, to apprise Settlement Class
6 Members of the pendency of this action, the terms of the Agreement,
7 and their right to object to or exclude themselves from the Settlement
8 Class. The Court finds that the notice plan is reasonable, that it
9 constitutes due, adequate, and sufficient notice to all persons entitled
10 to receive notice, and that it meets the requirements of due process,
11 Fed. R. Civ. Pro. 23, and any other applicable laws.

12 **8. Exclusion from Settlement Class.** Each Settlement Class Member
13 who wishes to exclude themselves from the Settlement Class and
14 follows the procedures set forth in this Paragraph shall be excluded.

15 **A.** Any potential member of the Settlement Class may mail a
16 written request for exclusion, in the form specified in the Class
17 Notice, to the Settlement Administrator at the address set forth
18 in the Class Notice. All such written requests must be
19 postmarked **by forty-five days** after email or postcard Class
20 Notice is sent pursuant to Paragraphs 4.03.02 and/or 4.03.03 of
the Agreement, whichever is later.

B. All persons who properly request exclusion from the Settlement
Class shall not be Settlement Class Members and shall have no

1 rights with respect to, nor be bound by, the Agreement, should
2 it be finally approved. The names of all such excluded
3 individuals shall be attached as an exhibit to any Final
4 Judgment.

5 **9. *Claims Procedures.*** The Court approves the claims procedures set
6 forth in the Agreement.

7 **A.** The Court approves the form and content of the Claim Form
8 substantially in the form attached as Exhibit D to the Agreement.

9 **B.** The Claim Form will be attached to the email Class Notice and
10 included with the Postcard Notice as provided in Paragraph 4.03
11 of the Agreement. A valid Claim Form, as defined in Paragraph
12 5.03 of the Agreement, must be submitted as required in the
13 Class Notice via time-stamped email or postmarked letter **no**
14 **later than forty-five days** after email or postcard Class Notice
15 is sent, whichever is later. Such deadline may be further
16 extended by Court Order. Each Claim Form shall be deemed to
17 have been submitted when time-stamped for email transmission
18 or postmarked (if properly addressed and mailed by first-class
19 mail, postage prepaid).

20 **10. *Costs of Class Notice and Claims Processing.*** Defendants shall bear
all costs of notice to the Settlement Class of the pendency and
settlement of the Action and of processing claims, up to \$100,000.00.

1 This amount shall be paid to the Settlement Administrator **within ten**
2 **days of this Order.**

3 **11. *Objections and Appearances.***

4 **A. *Written Objections.*** Any Settlement Class Member who has not
5 timely submitted a written request for exclusion from the
6 Settlement Class, and thus is a Settlement Class Member, may
7 object to the fairness, reasonableness, or adequacy of the
8 Agreement, or the Fee and Expense Application.

9 **i.** Any Settlement Class Member who wishes to object to
10 the Settlement, must submit his or her objection in
11 writing, with objections mailed to: Class Counsel, Attn:
12 Kirk D. Miller of *Kirk D. Miller, P.S.*, 421 West Riverside
13 Avenue, Suite 660, Spokane, Washington 99201, and
14 Attn: Benjamin Stone of *Lewis Brisbois Bisgaard &*
15 *Smith*, 1111 Third Street, Suite 2700, Seattle, WA 98101;
16 and United States District Court for the Eastern District
17 of Washington, Clerk's Office, 920 W. Riverside Ave.
18 Ste. 840, Spokane, WA 99201, postmarked **no later than**
19 **forty-five days** after the date that email or postcard Class
20 Notice is sent, whichever is later.

ii. Objecting Settlement Class Members must include their
name and address, the name and number of the case, and
a statement of the reasons why they (a) believe the Court

1 should find that the proposed settlement is not in the best
2 interests of the Settlement Class or (b) object to the Fee
3 and Expense Application.

4 *iii.* Any objection not timely made in this manner shall be
5 waived and forever barred.

6 *iv.* Class Counsel will file copies of any written objections
7 received with the Court via ECF, **within forty-five days**
8 of email class notice being sent, or **within seven days** of
9 the expiration of the objection deadline, whichever is
later, if the objection is timely made.

10 **B. *Appearance at Settlement Hearing.*** Any objecting Settlement
11 Class Member who wishes to address the Court at the Settlement
12 Hearing must indicate his or her intent to do so in writing to
13 Class Counsel at the same time that the Settlement Class
14 Member submits the objection and must identify any witnesses
15 and documents that he or she intends to use or submit at the
Settlement Hearing.

16 *i.* Class Counsel will inform the Court and Defendants'
17 Counsel accordingly.

18 *ii.* Any Settlement Class Member who does not timely
19 deliver a written objection and notice of intention to
20 appear **within forty-five days after the date** that email
Class Notice is sent, in accordance with the requirements

1 of this Order, shall not be permitted to object or appear at
2 the Settlement Hearing, except for good cause shown, and
3 shall be bound by all proceedings, orders and judgments
4 of the Court.

5 **C. Fees and Cost Application.** Class Counsel shall file their Fee
6 and Cost Application, together with all supporting
7 documentation, **by no later than fourteen days** after email
8 Class Notice is sent, sufficiently in advance of the expiration of
9 the objection period so that any Settlement Class Member will
10 have sufficient information to decide whether to object and, if
11 applicable, to make an informed objection.

12 **D. Settlement Administrator's Disclosure of Results.** By no later
13 **than seven days** after the close of the forty-five-day objection
14 period, the Settlement Administrator shall provide Defendants,
15 Defendants' undersigned counsel, and Class Counsel with:

16 (a) the names and addresses of Eligible Claimants
17 whose claims have been approved, and (b) the
18 names and addresses of claimants deemed not
19 eligible by the Settlement Administrator or
20 challenged by Defendants as a material
misrepresentation, and a brief statement of the
reason(s) why the claim has been disallowed or

1 challenged, including any claim of material
2 misrepresentation.

3 Defendants and Class Counsel will have the right to review the
4 eligible and ineligible claims.

5 *i.* If Defendants and Class Counsel do not object in writing
6 to the Settlement Administrator's claims decisions and
7 amounts **within fourteen days** after receipt, Defendants
8 and Class Counsel shall have no further right to object to
9 the Settlement Administrator's list of claims and amounts
of relief payable.

10 *ii.* Should Defendants or Class Counsel timely object to the
11 Settlement Administrator's decisions or computations,
12 Defendants and Class Counsel shall promptly seek to
13 resolve any such dispute.

14 *iii.* If they cannot reach agreement **within five days** of
15 receipt of a timely objection from Defendants or Class
16 Counsel, the Parties shall submit their disagreement to the
17 Court or, upon mutual agreement, to Louis Peterson,
mediator, for prompt disposition.

18 *E. Motion for Final Approval.* If there are no timely made
19 objections by Defendants or Class Counsel to the Settlement
20 Administrator's determinations of eligible and ineligible
claimants and amounts to be paid, Representative Plaintiffs'

1 final approval motion of the Settlement shall be filed **by no later**
2 **than twenty-one days** of the expiration of the opt-out, object,
3 and claim deadline. If there are timely made objections by
4 Defendants or Class Counsel to the Settlement Administrator's
5 determinations of eligible and ineligible claimants and amounts
6 to be paid, Representative Plaintiff's final approval motion shall
7 be filed **by no later than twenty-one days** after resolution of
8 the objections.

9 **12. *Dates of Performance.*** In summary, the dates of performance are as
10 follows:

11 **A.** Defendants shall provide the \$2,500,000.00 Settlement Fund to
12 the Settlement administrator **within ten days of this Order;**

13 **B.** Defendants shall provide the Settlement Administrator and
14 Class Counsel with any and all contact information in their
15 possession concerning the class members **within twenty-one**
16 **days of this Order;**

17 **C.** The Settlement Administrator shall send the email Class Notice
18 and/or Postcard Class Notice to potential Settlement Class
19 Members **within fifteen days from receipt of the class**
20 **member contact information from the Defendant;**

D. Representative Class Counsel's Fee and Expense Application,
and all supporting materials, shall be filed **within fourteen days**
after email Class Notice is sent;

1 *E.* Settlement Class Members who desire to be excluded shall mail
2 requests for exclusion postmarked **within forty-five days after**
3 **email Class Notice or postcard Class Notice is sent,**
4 **whichever is later;**

5 *F.* All objections to the Agreement or the Fee and Cost Application
6 shall be filed and served **within forty-five days after email**
7 **Class Notice or postcard Class Notice is sent, whichever is**
8 **later;**

9 *G.* Settlement Class Members who desire to submit Claim Forms
10 shall do so by email or mail **within forty-five days after email**
11 **Class Notice or postcard Class Notice is sent, whichever is**
12 **later.**

13 *H.* **Within seven days following the expiration of the opt-out,**
14 **object, and claim deadline,** the Settlement Administrator shall
15 report to the Parties' Counsel its determinations of eligible and
16 ineligible claimants and amounts to be distributed.

17 *I.* **Within fourteen days following the Settlement**
18 **Administrator's report on eligible and ineligible claimants,**
19 Class Counsel and Defendants must object in writing to any
20 eligible or ineligible determinations and amounts to be
distributed.

i. If there are any disagreements, the Parties will have **five**
 days to find a resolution, and if no resolution can be

1 agreed upon, submit the dispute to the Court, or upon
2 mutual agreement, to mediation with Louis Peterson for
3 prompt resolution.

4 **J.** If there are no timely made objections to the Settlement
5 Administrator’s determinations of eligible and ineligible
6 claimants and amounts to be paid, Representative Plaintiff’s
7 final approval motion, shall be filed **within twenty-one days of**
8 **the expiration of the opt-out, object, and claim deadline.** If
9 there are timely made objections to the Settlement
10 Administrator’s determinations of eligible and ineligible
11 claimants and amounts to be paid, Representative Plaintiff’s
12 final approval motion shall be filed **within twenty-one days**
13 **after resolution of the objections;** and

14 **K.** The Settlement Hearing shall be **SET for January 11, 2022 at**
15 **9:00 A.M. in Spokane.**

16 **13. *Effect of Failure to Approve the Agreement.*** In the event the Court
17 does not finally approve the Agreement, or for any reason the Parties
18 fail to obtain a Final Judgment as contemplated in the Agreement, or
19 the Agreement is terminated pursuant to its terms for any reason, then
20 the following shall apply:

A. All orders and findings entered in connection with the
 Agreement shall become null and void and have no further force
 and effect, shall not be used or referred to for any purposes

1 whatsoever, and shall not be admissible or discoverable in any
2 other proceeding;

3 **B.** The conditional approval of the Settlement Class pursuant to this
4 Order shall be vacated automatically, and the case shall return
5 to its status as it existed before entry of this Order;

6 **C.** Nothing contained in this Order is, or may be construed as, any
7 admission or concession by or against Defendants or
8 Representative Plaintiff on any point of fact or law, including,
9 but not limited to, factual or legal matters relating to any effort
10 to certify this case as a class action for purposes of considering
11 settlement approval; and

12 **D.** Nothing in this Order or pertaining to the Agreement shall be
13 used as evidence in any further proceeding in this case,
14 including, but not limited to, motions or proceedings pertaining
15 to treatment of this case as a class action.

16 **14. Discretion of Counsel.** Counsel is hereby authorized to take all
17 reasonable steps in connection with approval and administration of the
18 Settlement not materially inconsistent with this Order or the
19 Agreement, including, without further approval of the Court, making
20 minor changes to the content of the Class Notice that they jointly deem
 reasonable or necessary.

15. Stay of Proceedings Pending Approval of the Settlement. All
 proceedings before the Court are **STAYED** pending final approval of

1 the settlement, except as may be necessary to implement the settlement
2 or comply with the terms of the Agreement.

3 **16. *Injunction Against Asserting Released Claims Pending Settlement***

4 ***Approval.*** Pending final determination of whether the settlement
5 should be approved, Representative Plaintiff, all Settlement Class
6 Members, and any person or entity allegedly acting on behalf of
7 Settlement Class Members, either directly, representatively or in any
8 other capacity, are preliminarily **ENJOINED** from commencing or
9 prosecuting against the Released Parties any action or proceeding in
10 any court or tribunal asserting any of the Released Claims, provided,
11 however, that this injunction shall not apply to individual claims of any
12 Settlement Class Members who timely exclude themselves in a manner
13 that complies with this Order.

14 **A.** This injunction is necessary to protect and effectuate the
15 settlement, this Order, and the Court’s flexibility and authority
16 to effectuate this settlement and to enter judgment when
17 appropriate and is ordered in aid of the Court’s jurisdiction and
18 to protect its judgments pursuant to 28 U.S.C. § 1651(a).

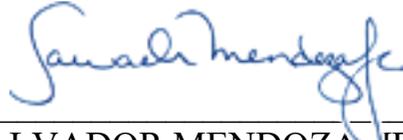
19 **17. *Reservation of Rights and Retention of Jurisdiction.*** The Court

20 reserves the right to adjourn or continue the date of the Settlement
Hearing without further notice to Settlement Class Members and
retains jurisdiction to consider all further applications arising out of or

1 connected with the settlement. The Court may approve or modify the
2 settlement without further notice to Settlement Class Members.

3 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
4 provide copies to all counsel.

5 **DATED** this 8th day of July 2021.

6 

7
8 SALVADOR MENDOZA, JR.
United States District Judge