

02/27/2023

David W. Slayton, Executive Officer / Clerk of Court

By:           M. Fregoso           Deputy

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**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF LOS ANGELES**

DAVE VACCARO, individually and on  
behalf of all others similarly situated,  
  
Plaintiff,

vs.

DELTA DRUGS, II, INC. and DOES 1  
through 10, inclusive,  
  
Defendant.

) Case No. 20STCV28871  
)  
) *[Assigned for All Purposes to the Hon. Elihu*  
) *M. Berle, Dept. 6]*  
)  
) **ORDER GRANTING FINAL APPROVAL**  
) **OF CLASS ACTION SETTLEMENT**  
)  
) Date: February 27, 2023  
) Time: 10:00 a.m.  
) Dept.: 6  
)  
)

Electronically Received 02/27/2023 10:55 AM

1 Plaintiff has filed a Motion for an Order Granting Final Approval of Class Action Settlement,  
2 Conditionally Certifying Proposed Settlement Class, AND A Motion Approving Motion for  
3 Attorneys' Fees and Costs, and granting Incentive Award ("Motion"). Having reviewed the Motion  
4 and supporting materials, the Court determines and orders as follows:

5 On May 22, 2022, this Court entered an Order Granting Preliminary Approval of Settlement,  
6 resulting in certification of the following provisional Settlement Class:

7 "All California residents who, from January 1, 2020 to May 25, 2022,  
8 received an outbound call from Defendant and/or Defendant's dialing  
9 vendors without notice and whose call was recorded."

10 The Court further approved the form of, and directed the parties to provide, the proposed Class Notice  
11 to the Class, which informed absent class members of: (a) the proposed Settlement, and the  
12 Settlement's key terms; (b) the date, time, and location of the Final Approval Hearing; (c) the right of  
13 any Class Member to object to the proposed Settlement, and an explanation of the procedures to  
14 exercise that right; (d) the right of any Class Member to exclude themselves from the proposed  
15 Settlement; and an explanation of the procedures to exercise that right; and (e) an explanation of the  
16 procedures for Class Members to participate in the proposed Settlement.

17 No objections had been made, timely or otherwise, pursuant to the Class Notice sent to the  
18 Settlement Class members, nor did any objectors appear at the time of the hearing.

19 This matter having come before the Court for hearing pursuant to the Order of this Court dated  
20 February 27, 2023, for approval of the settlement set forth in the Class Action Settlement Agreement  
21 and Release ("Settlement"), and due and adequate notice having been given to the Putative Class  
22 Members as required in said Order, and the Court having considered all papers filed and proceedings  
23 had herein and otherwise being fully informed of the promises and good cause appearing therefore, it  
24 is ORDERED, ADJUDGED AND DECREED THAT:

- 25 1. This Court has jurisdiction over the subject matter of the Action and over all of the parties to  
26 the Action.
- 27 2. The Court finds that the Settlement Class is properly certified as a class for settlement purposes,  
28 only.

- 1 3. The Class Notice provided to the Settlement Class conforms with the requirements of  
2 California Code of Civil Procedure § 382, the California and United States Constitutions, and  
3 any other applicable law, and constitutes the best notice practicable under the circumstances,  
4 by providing individual notice to all Class Members who could be identified through  
5 reasonable effort, and by providing due and adequate notice of the proceedings and of the  
6 matters set forth therein to the other Class Members. The notice fully satisfied the requirements  
7 of Due Process.
- 8 4. The Court finds the settlement was entered into in good faith, that the settlement is fair,  
9 reasonable and adequate, and that the settlement satisfies the standards and applicable  
10 requirements for final approval of this class action settlement under California law.
- 11 5. No Class Members have objected to the terms of the Settlement.
- 12 6. No Class Members have requested exclusion from the Settlement.
- 13 7. Upon entry of this Order, compensation to the participating members of the Settlement Class  
14 shall be effected pursuant to the terms of the Settlement.
- 15 8. In addition to any recovery that Plaintiff may receive under the Settlement, and in recognition  
16 of the Plaintiff's efforts and risks taken on behalf of the Settlement Class, the Court hereby  
17 approves the payment of an incentive award to the Plaintiff, in the amount of \$7,500.
- 18 9. The Court approves the payment of attorneys' fees to Class Counsel in the sum of \$100,000.00,  
19 and the reimbursement of litigation expenses in the sum of \$10,000.00.
- 20 10. The Court approves and orders payment in an amount commensurate with Postlethwaite &  
21 Netterville's ("P&N") actual costs, and not to exceed \$ 50,00.00 to P&N for performance of  
22 its settlement claims administration services.
- 23 11. Upon the Effective Date, the Plaintiff and all members of the Settlement Class, except the  
24 excluded individuals referenced in paragraph 6 of this Order, shall have, by operation of this  
25 Order and the accompanying Judgment, fully, finally and forever released, relinquished, and  
26 discharged defendants from all claims as defined by the terms of the Settlement. Upon the  
27 Effective Date, all members of the Settlement Class shall be and are hereby permanently barred  
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and enjoined from the institution or prosecution of any and all of the claims released under the terms of the Stipulation of Settlement.

12. Upon completion of administration of the Settlement, the parties shall file a declaration setting forth that claims have been paid and that the terms of the settlement have been completed.

13. This “Judgment” is intended to be a final disposition of the above captioned action in its entirety, and is intended to be immediately appealable.

14. This Court shall retain jurisdiction with respect to all matters related to the administration and consummation of the settlement, and any and all claims, asserted in, arising out of, or related to the subject matter of the lawsuit, including but not limited to all matters related to the Settlement and the determination of all controversies related thereto.

15. The Court sets a final status conference regarding final distribution for October 27, 2023 at 8:30 in Department 6. The Parties are to file a declaration from the Administrator showing distribution has been completed as well as a Joint Status Report by October 20, 2023. If the Court is satisfied that the funds have been distributed, the hearing will come off calendar.

~~HEGGH~~

Dated: ~~February 27, 2023~~



**Elihu M. Berle**

HON. ELIHU M. BERLE  
JUDGE OF THE SUPERIOR COURT  
Elihu M. Berle / Judge

1  
2 **PROOF OF SERVICE**

3 I am employed in Los Angeles County, California. I am over the age of 18 and not a party to  
4 this action. My business address is 21031 Ventura Blvd., Suite 340, Woodland Hills, CA 91364.

5 On February 27, 2023, I served the foregoing document, described as:

6 **ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

7  the original of the document

8  true copies of the document

9 as follows:

10 William C. Fleming, Jr., Esq.

11 Dustin Huffine, Esq.

12 Moss Law Group

13 255 South Marengo Avenue

14 Pasadena, CA 91101

15 wfleming@rmosslaw.com

16 dhuffine@rmosslaw.com

17  **BY ELECTRONIC MAIL:** I served the above documents in pdf format to the email listed in  
18 the service caption above via Case Anywhere. A true and correct copy of transmittal will be  
19 produced if requested by any party or the Court.

20  **STATE:** I declare under penalty of perjury under the laws of the state of California that the  
21 above is true and correct.

22  **FEDERAL:** I declare that I am employed in the office of a member of the bar of this court at  
23 whose direction the service was made.

24 Executed this February 27, 2023, at Woodland Hills, California.

25 *Erika Campany*

26 Erika Campany