

**IN THE U.S. DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

ANTHONY LADD and NICHOLAS)	
BRINDLE, on behalf of themselves)	
and all others similarly situated,)	
)	
)	
Plaintiffs,)	No. 3:20-CV-00626
)	
v.)	
)	
NASHVILLE BOOTING, LLC)	
)	
Defendant.)	Judge Eli J. Richardson
)	Magistrate Judge Alistair E. Newbern

ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT

Pending before the Court is Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement and Notice to the Class (Doc. No. 104, “Motion”),¹ as effectively revised in light of subsequent filings (Doc Nos 107-111). Upon the Court’s review and consideration of the Motion, the memorandum in support of the Motion (Doc. No. 105), the Settlement Agreement (Doc. No.

¹ On May 11, 2023, the Court entered an order (Doc. No. 80) that certified a particular class and claims, and appointed class counsel, as follows:

[P]ursuant to Fed. R. Civ. P. 23(c)(1)(B), the Court hereby CERTIFIES, respectively, the following CLASS and CLAIMS: All persons who had a vehicle in their possession immobilized by Nashville Booting LLC in Nashville for longer than one hour after requesting removal of the immobilization device, from July 20, 2017 until June 17, 2022, but excluding the claims of non-named parties arising before December 1, 2018 (for whom Nashville Booting does not have any records). Plaintiffs’ negligent bailment claim, conversion claim, and trespass-to-chattel claim.

(Doc. No. 80 at 1). The Court also appointed Anthony Ladd and Nicholas Brindle as class representatives and Kotchen & Low LLP as class counsel. (*Id.* at 2).

105-1), and the subsequent filings,² the Motion (as affectively amended) is **GRANTED**, and IT IS HEREBY ORDERED as follows:

1. Pursuant to Fed. R. Civ. P. 23, the settlement of this action, as embodied in the terms of the Settlement Agreement, is preliminarily approved (except as indicated in ¶ 2 below) as a fair, reasonable, and adequate settlement in the best interests of the Class, in light of the factual, legal, practical, and procedural considerations raised. The Settlement Agreement is incorporated by reference into this Order (with capitalized terms as set forth in the Settlement Agreement) and is hereby preliminarily adopted (except as indicated in ¶ 2 below) as an order of this Court.

2. This Court reserves decision on whether to approve the service awards contemplated by the Settlement Agreement. This Court previously raised a potential concern to the Parties about the service awards requested by Plaintiffs and provided several options to Parties about how they wanted to proceed. (Doc. No. 106). Plaintiffs requested that this Court preliminarily approve the proposed settlement and judgment, but reserve decision until the final hearing on the proposed settlement. (Doc. No. 107). Defendant agreed with this approach. (Doc. No. 108). This Court will consider whether to grant any service awards, and the appropriate amount of those awards, if any, at the final hearing based upon Plaintiffs' petition for such awards, as well as any objections from the Class.

3. The Court finds that the Settlement Agreement's plan for class notice is the best notice practicable under the circumstances and satisfies the requirements of due process and Fed. R. Civ. P. 23(c)(2). That plan is approved and adopted. This Court further finds that the content of

² Among the subsequent filings is Plaintiffs' proposal for an order preliminarily approving class action settlement (Doc. No. 111-1), the content of which Defendant has approved. This proposed order differs from the instant Order only in that the instant Order (in addition to adding this and the prior and next footnote) reflects grammatical corrections, changes made to enhance consistency of terms, and changes in formatting, and directs that the hearing will be held in person and not telephonically.

the notice to the Class (reflected in the Settlement Agreement, as well as the revised Exhibit E) complies with Fed. R. Civ. P. 23(c)(2), is appropriate as part of the notice plan, and is approved and adopted. Plaintiffs' counsel³ shall provide the notice to the Class as proposed.

4. Plaintiffs' counsel shall create the website (NashvilleBootingSettlement.com) with the content reflected in the Settlement Agreement (as well as Exhibit E thereto) and to notify the previously identified class members with the following text message:

This text is being sent to you by court order in Ladd v. Nashville Booting because you may be part of a preliminarily approved class action judgment against Nashville Booting. For further information, visit NashvilleBootingSettlement.com. If you wish to be part of the judgment, you do not need to do anything. However, you can object or opt-out.

Plaintiffs' counsel shall provide notice to Unidentified Class Members by targeted advertising of the Settlement Website (NashvilleBootingSettlement.com) through social media in the greater Nashville area.

5. Plaintiffs' counsel shall send to Defendant's counsel, within seven (7) days of entry of this Order, instructions for transmittal of the \$25,000 lump sum payment amount. Upon receipt of those instructions, Defendant shall send payment of the \$25,000 lump sum amount to Plaintiffs' counsel's client trust fund account within twenty-one (21) days by check or wire. Once that payment is received, Plaintiffs' counsel is authorized to disburse those funds to reimburse the litigation costs it has previously advanced for the Class (\$3,700), as well as to pay the costs of the

³ Plaintiffs' counsel appear to be referred to at times in the Settlement Agreement as "Class Counsel." The Court notes that one of Plaintiffs' attorneys (Mr. Hammervold) is not within the scope of the Court's appointment (which extended only to the firm of Kotchen & Low LLP, because this is precisely what Plaintiffs asked for in their motion for class certification (Doc. No. 56 at 25 (using the pagination shown by PACER, not the pagination used by Plaintiffs, on this document))). However, the Court considers Mr. Hammervold, who has appeared on behalf of Plaintiffs, also to be authorized to act as Plaintiffs' counsel even though he is not with Kotchen & Low LLP.

approved class notice program (\$6,300). Plaintiffs' counsel is to hold the remaining balance (\$15,000) until the Court addresses the distribution of that money.

6. The Class Settlement Website and Notice informs members of the Settlement Class of their right to object to the proposed settlement. An objection must be signed under penalties of perjury and identify the following information or else the Court will disregard and strike the submitted objection as invalid: (1) the objector's name, address, and telephone number, (2) the specific date(s) the objector was employed by Defendant, (3) all attorneys who assisted the objector in preparing or filing the objection, (4) a list of all other class action cases in which the objector or their attorneys have submitted an objection to a settlement, including case name, court, case number, and how much, if any amount, was paid in connection with the objection, and (5) a statement of the reasons why the objector contends the Court should find that the proposed settlement is not fair, reasonable, adequate, and in the best interests of the Settlement Class.

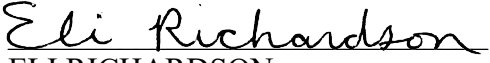
7. The Court hereby sets deadlines and dates for the acts and events set forth in the Settlement Agreement and directs the Parties to incorporate the deadlines and dates in the Class Notice:

- a. Plaintiffs' counsel shall launch the Class Settlement Website on or before July 5, 2024 [14 days after entry of this Order];
- b. Plaintiffs' counsel shall then send class notice by text message to all identified class members on or before July 12, 2024 [21 days after entry of this Order];
- c. Plaintiffs' counsel shall publish class notice to all unidentified class members through a targeted social media advertising campaign promoting the Class

Settlement Website from July 12, 2024 [21 days after entry of this order] until August 12, 2024 [51 days after entry of this Order]⁴;

- d. Objections and motions to intervene, including supporting memoranda, shall be filed in this Court and postmarked and served on Plaintiffs' counsel and Defendant's counsel on or before September 10, 2024 [81 days after entry of this Order], or be forever barred;
- e. Requests by any Settlement Class member to opt out of the settlement must be submitted on or before 81 days after Plaintiffs' counsel sends notice ("Notice Date"), or be forever barred;
- f. Plaintiffs shall file their motion for final approval of the proposed class settlement and judgment, as well as their petition for attorneys' fees and service awards, on or before 88 days after Notice Date; and
- g. The Final Approval Hearing, set forth on the Class Website, is hereby scheduled for **October 25, 2024 at 9:00 a.m. in Courtroom 5C of the Fred D. Thompson U.S. Courthouse and Federal Building, 719 Church Street, Nashville, Tennessee.**

ENTERED THIS 21ST DAY OF JUNE, 2024


ELI RICHARDSON
UNITED STATES DISTRICT JUDGE

⁴ Or until the Class Notice budget is exhausted, if earlier.