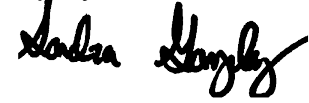


Filed
February 19, 2020
Alex Calvo, Clerk
By Gonzalez, Sandra
Deputy, Santa Cruz County



**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ**

Case No. 17-cv-01995

GEORGE PATTERSON, Individually And on
Behalf of All Others Similarly Situated,
Plaintiff,

v.
RANDOLPH K. REPASS, MATTHEW L.
HYDE, BARBARA L. RAMBO, DENNIS F.
MADSEN, ROBERT D. OLSEN, JAMES F.
NORDSTROM, JR., ALICE M. RICHTER, AND
CHRISTIANA SHI,
Defendants.

**~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT AND
PROVIDING FOR NOTICE**

Hearing Date: February 5, 2020
Time: 8:30 A.M.
Location: Department 10
Judge: Hon. John Gallagher
Action Filed: July 27, 2017

1 WHEREAS, the plaintiff (“Plaintiff”) and the defendants (“Defendants”) in the above-entitled
2 action (the “Action”) entered into a Stipulation and Agreement of Settlement, Compromise, and
3 Release dated January 3, 2020, (the “Stipulation” or “Settlement”),¹ which is subject to review by this
4 Court and which, together with the Exhibits thereto, sets forth the terms and conditions for the
5 Settlement of the claims in the Action; and the Court having read and considered the Stipulation and
6 the accompanying documents; and the Parties having consented to the entry of this Order;

7 IT IS HEREBY ORDERED that:

8 1. The Court preliminarily finds and concludes that the Settlement as set forth in the
9 Stipulation results from arm’s-length settlement negotiations, including mediation under the direction
10 of an experienced mediator, Jed Melnick of JAMS, and is sufficiently fair, reasonable, and adequate
11 to warrant providing notice of the Settlement to the Class. As a result, the Court preliminarily approves
12 the Settlement and adopts the terms of the Stipulation for the purpose of this Order Granting
13 Preliminary Approval of Class Action Settlement and Providing for Notice (the “Order”).

14 2. A hearing (the “Settlement Hearing”) shall be held before the Court May 13, 2020,
15 at 8:30 a.m., in Department 10 of the Superior Court of the State of California, County of Santa Cruz,
16 located at 701 Ocean Street, Santa Cruz, California 95060 to determine:

17 (a) whether the Settlement should be finally approved by the Court as fair,
18 reasonable, and adequate;

19 (b) whether the Order and Judgment attached as Exhibit D to the Stipulation should
20 be entered in all material respects;

21 (c) whether the proposed plan of distribution should be approved; and

22 (d) whether the Court should approve the award of Plaintiff’s Counsel’s attorneys’
23 fees and expenses (the “Fee and Expenses Award”) and Plaintiff’s Incentive Award.

24 3. Any moving papers filed in support of the final approval of the Settlement, the plan of
25 distribution, the Fee and Expenses Award and/or Incentive Awards, shall be filed at least twenty-eight
26 (28) calendar days prior to the deadline for objections reflected herein. All reply papers shall be filed

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¹ All capitalized terms herein have the same meanings as defined in the Stipulation, unless otherwise
28 stated.

1 at least seven (7) calendar days prior to the Settlement Hearing.

2 4. The Court may adjourn or continue the Settlement Hearing or any part thereof,
3 without further notice of any kind to the Class.

4 5. The Court may approve the Settlement at or after the Settlement Hearing with such
5 modification as may be consented to by the Parties to the Stipulation and without further notice to
6 the Class.

7 6. Plaintiff's Counsel are hereby authorized to retain the firm of RG2 ("Claims
8 Administrator") to supervise and administer the notice procedure as well as the processing of claims
9 as more fully set forth below:

10 (a) Within fourteen (14) calendar days of the date of this Order (the "Notice
11 Date"), the Claims Administrator shall cause a copy of the Long-Form Notice, substantially
12 in the form annexed as Exhibit B to the Stipulation, to be mailed, by First-Class Mail, postage
13 prepaid, to all members of the Class who can be identified with reasonable effort;

14 (b) Within seven (7) calendar days of the Notice Date, the Claims Administrator
15 shall cause the Publication Notice, substantially in the form annexed as Exhibit C hereto, to
16 be published once over the Accesswire;

17 (c) Within fourteen (14) calendar days of the Notice Date, the Claims
18 Administrator shall post on [CLAIMS WEBSITE], the Stipulation and Notice;

19 (d) Within two (2) business days of filing, the Claims Administrator shall post on
20 [CLAIMS WEBSITE] Plaintiff's motion for final approval of the Settlement, plan of
21 distribution; and request for a Fee and Expense Award and/or Incentive Award; and

22 (e) At least seven (7) days prior to the Settlement Hearing, Plaintiffs' Counsel
23 shall serve on Defendants' Counsel and file with the Court proof, by affidavit or declaration,
24 of such mailing and publication.

25 7. The Court approves, in form and content, the Long-Form Notice, and the Publication
26 Notice, substantially in the forms annexed as Exhibits B and C to the Stipulation, and finds that the
27 giving of notice as specified herein meets the requirements of the California Code of Civil Procedure
28 and due process, is the best notice practicable under the circumstances, including individual notice

1 to all Class Members who can be identified through reasonable efforts, and shall constitute due and
2 sufficient notice to all persons and entities entitled to receive notice.

3 8. All Class Members shall be bound by all determinations, releases and judgments in
4 this Action, whether favorable or unfavorable, and regardless of whether such Persons seek or obtain
5 by any means, any distribution from the Settlement Fund, unless they request exclusion from the
6 Class in a timely and proper manner, as hereinafter provided. A Class Member wishing to make
7 such request shall, no later than twenty-one (21) calendar days prior to the Settlement Hearing, mail
8 a request for exclusion in written form by First-Class Mail postmarked to the address designated in
9 the Notice. Such request for exclusion shall indicate the name, address and telephone number of
10 the Person seeking exclusion, that the Person requests to be excluded from the Class, and must be
11 signed by such Person. Such Persons requesting exclusion must also state the number of shares of
12 West Marine common stock they held or owned as of September 14, 2017, the date of the
13 consummation of the Merger. The request for exclusion shall not be effective unless it is made in
14 writing within the time stated above, and the exclusion is accepted by the Court. Class Members
15 requesting exclusion from the Class shall not be entitled to receive any payment out of the Net
16 Settlement Fund as described in the Stipulation and Notice. Upon receiving any request for
17 exclusion, Plaintiffs' Counsel or the Claims Administrator shall promptly, and in no case later than
18 fifteen (15) calendar days prior to the Settlement Hearing, notify Defendants' Counsel of such
19 request for exclusion and provide copies of such request for exclusion and any documentation
20 accompanying it by email.

21 9. The Court will consider objections to the Settlement, the plan of distribution, the
22 request for an Incentive Award to Plaintiff for his representation of the Class, and/or the Fee and
23 Expense Award. Any person wanting to object may do so in writing. Such objections and any
24 supporting papers, accompanied by proof of Class membership, shall be filed with the Clerk of the
25 Court, Superior Court of the State of California, County of Santa Cruz, 701 Ocean Street, Santa
26 Cruz, California 95060, and copies of all such papers served such that they are received no later
27 than twenty-one (21) calendar days prior to the Settlement Hearing, upon the following: Evan J.
28 Smith, Brodsky & Smith, LLC, Two Bala Plaza, Suite 510, Bala Cynwyd, PA 19004, on behalf of

1 the Plaintiff and the Class. Persons who object in writing to the Settlement, the plan of distribution,
2 and/or the Fee and Expense Award and/or Incentive Award and desire to present evidence at the
3 Settlement Hearing must include in their written objections copies of any exhibits they intend to
4 introduce into evidence at the Settlement Hearing. If an objector hires an attorney to represent him,
5 her, or it for the purposes of making an objection, the attorney must both effect service of a notice
6 of appearance on counsel listed above and file it with the Court by no later than twenty-one
7 (21) calendar days prior to the Settlement Hearing. A Class Member who files a written objection
8 does not have to appear at the Settlement Hearing for the Court to consider his, her or its objection.
9 Any member of the Class who does not make his, her, or its objection in the manner provided shall
10 be deemed to have waived such objection and shall be foreclosed from making any objection to the
11 fairness or adequacy of the Settlement set forth in the Stipulation, to the plan of distribution, and to
12 the award of attorneys' fees and expenses to Plaintiff's Counsel unless the Court orders otherwise.

13 10. No Person that is not a Class Member or counsel to the Plaintiff shall have any right
14 to any portion of, or in the distribution of, the Settlement Fund unless otherwise ordered by the
15 Court or otherwise provided in the Stipulation.

16 11. All funds held in the account maintained by Plaintiff's Counsel and into which the
17 Settlement Payment shall be deposited (the "Account") shall be deemed and considered to be in
18 *custodia legis*, and shall remain subject to the jurisdiction of the Court, until such time as such funds
19 shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

20 12. Neither the Released Defendant Parties nor their counsel shall have any responsibility
21 for the plan of distribution or any application for attorneys' fees and expenses submitted by
22 Plaintiff's Counsel and such matters will be considered separately from the fairness, reasonableness,
23 and adequacy of the Settlement

24 13. If the Settlement, including any amendment made in accordance with the Stipulation,
25 is not approved by the Court, is terminated in accordance with the Stipulation, or shall not become
26 effective for any reason whatsoever, the Settlement and Stipulation (including any modification
27 thereof), and any action taken or to be taken in connection therewith (including this Order and any
28 judgment entered herein) shall be terminated and shall become null and void and of no further force

1 and effect except that neither Plaintiff nor any of his counsel shall have any obligation to repay any
2 Administrative Costs.

3 14. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations,
4 discussions, or proceedings connected with it, nor any act performed or document executed pursuant
5 to or in furtherance of the Stipulation or the Settlement, may be construed as an admission or
6 concession by the Released Defendant Parties or Released Plaintiff Parties of the truth of any of the
7 allegations in the Action, or of any liability, fault, or wrongdoing of any kind.

8 15. The Court retains jurisdiction over all proceedings arising out of or related to the
9 Stipulation and/or the Settlement.

10 16. All proceedings in the Action, other than proceedings as may be necessary to carry
11 out the terms and conditions of the Settlement, are hereby stayed and suspended until further order
12 of this Court.


13 17. Without further order of the Court, the Parties may agree to reasonable extensions of
14 time to carry out any of the provisions of this Order or the Stipulation.

15 18. If the Settlement provided for in the Stipulation shall be approved by the Court
16 following the Settlement Hearing, a Judgment shall be entered as described in the Stipulation.

17 19. Pending final determination of whether the Settlement should be finally approved,
18 neither the Plaintiff, nor any Class Member, directly or indirectly, representatively, or in any other
19 capacity, shall commence, prosecute, or participate in the commencement or prosecution of any
20 Released Plaintiff's Claim against any Released Defendant Party.

1 **IT IS SO ORDERED.**

2 Dated: Signed: 2/19/2020 10:31 AM


HONORABLE JOHN GALLAGHER
JUDGE OF THE SUPERIOR COURT

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4
5 Submitted by:

6 **BRODSKY & SMITH LLC**
Evan J. Smith (SBN 242352)

7
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16 *Attorneys for Plaintiff and the Class*
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