

DISTRICT COURT, LARIMER COUNTY, COLORADO
201 Laporte Avenue, Suite 100
Fort Collins, CO 80521

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CASE NUMBER: 2017CV31088

Plaintiffs: Todd Wasulko, Rasheda Mayner, Manish Sing,
and Ying Li,

v.

Defendant: eRentPayment, LLC

v

Third-Party Defendant: Base Commerce, LLC
d/b/a Check Commerce

▲ COURT USE ONLY ▲

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Case No. 2017cv31088

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**JOINT MOTION TO AMEND ORDER RE: GRANTING MOTION FOR CLASS
CERTIFICATION AND APPROVAL OF THE CLASS SETTLEMENT AGREEMENT
AND TO AMEND ORDER RE: NOTICE OF FINAL APPROVAL AND FAIRNESS
HEARING**

Plaintiffs Todd Wasulko, Rasheda Mayner, Manish Sing, and Ying Li (collectively “Plaintiffs”), Defendant eRentPayment, LLC (“eRent”), and Third-Party Defendant Base Commerce, LLC d/b/a Check Commerce (“Check Commerce” and, together with Plaintiffs and eRent, the “Parties”) jointly move this Court to amend its Order Re: Granting Motion for Class Certification and Approval of the Class Settlement Agreement and to amend its Order Re: Granting Notice of Final Approval and Fairness hearing as follows:

1. On May 19, 2020, the Parties filed their Motion for Class Certification and Approval of the Class Settlement Agreement (“Motion for Class Certification”), which the Court granted on the same day.

2. In that Motion for Class Certification, the class was defined as eRent customers who “(1) agreed to utilize eRent’s online rental payment-collection service to receive rental payments, (2) whose tenant made a rental payment using eRent’s website between October 3, 2017 and October 12, 2017, and (3) did not receive the payment made by the tenant.”

3. In working with the Class Administrator, the Parties have determined that the class definition requires a slight modification to incorporate all potential class members. Specifically, there are potential class members that are eRent customers/landlords that made payments to tenants for items such as deposit refunds that were not received in addition to the landlords identified in the current class definition where tenants made payments that they did not receive.

4. Thus, the Parties propose an amended class definition for the “Settlement Class” that consists of “any eRentPayment, LLC (“eRent”) customers that (1) agreed to utilize eRent’s online rental payment-collection service to receive or process payments; (2) whose tenant(s) made a payment using eRent’s website between October 3, 2017 and October 12, 2017 (the “Class Period”) or who made payments to tenant(s) using eRent’s website during the Class Period; and (3) did not receive the payment made by the tenant or the tenant did not receive the payment made by the eRent customer.”

5. The Notice Submitting Known Contact Information for Potential Class Members provided by eRent to the Court on June 22, 2020 includes all potential class members, including those implicated by the amended class definition.

6. This change in class definition requires that remaining deadlines be modified to allow the Parties and Class Administrator time to update the notice and claim forms (the “Notices”) that will be distributed to the class members as well as update data fields for the landlords who made payments for use by the Class Administrator in creating the Notices.

7. Thus, the Parties request that the deadline to distribute Notices be amended from July 31, 2020, to 14 days after this Court issues an Order on this motion.

8. The Parties also request that the opt-out deadline be extended to 45 days after the deadline to distribute Notices.¹

9. The change in the above deadlines require that the Final Approval and Fairness Hearing currently scheduled for September 16, 2020 at 9 am also be rescheduled.

10. Accordingly, the Parties jointly request that the Court reset the hearing, *sua sponte*, as soon as its calendar allows following the opt-out deadline, which will be no more than 45 days from the approval of this motion, and request that, to the extent possible, the hearing be scheduled to occur no later than October 30, 2020.

WHEREFORE, Plaintiffs, eRent, and Check Commerce jointly move this Court to enter its Order:

- a. Approving the amended class definition;
- b. Establish a deadline for distributing Notices for 14 days after this Court issues an Order on this motion;
- c. Establish a deadline for the opt-out period to be 45 days after the deadline to distribute Notices;
- d. Reschedule the Final Approval and Fairness Hearing from September 16, 2020 at 9 am to the earliest date the Court's calendar allows following the opt-out deadline, which will be 45 days after the deadline to distribute Notices, and to the extent possible, no later than October 30, 2020.

¹ The Parties note for the Court that the prior schedule provided an opt-out/objection period of 20 days. This request extends that that opt-out/objection period from 20 days to 45 days.

Respectfully submitted this 31st of July, 2020.

/s/ Ian T. Hicks

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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of July, 2020, a true and correct copy of the foregoing **JOINT MOTION TO AMEND ORDER RE: GRANTING MOTION FOR CLASS CERTIFICATION AND APPROVAL OF THE CLASS SETTLEMENT AGREEMENT AND TO AMEND ORDER RE: NOTICE OF FINAL APPROVAL AND FAIRNESS HEARING** was filed and served electronically via Colorado Courts E-filing system, as follows:

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A duly signed original is on file at the Law
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