

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

BLAIR DOUGLASS, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

P.C. RICHARD & SON, LLC,

Defendant.

Civil Action No. 2:22-cv-00399

**PLAINTIFF'S MOTION TO CERTIFY CLASS FOR
SETTLEMENT PURPOSES AND FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiff Blair Douglass, on behalf of himself and all others similarly situated, hereby moves pursuant to Rule 23(e) of the Federal Rules of Civil Procedure for an order conditionally certifying a class for settlement purposes, preliminarily approving the settlement, approving the proposed notice and notice plan, and setting aside dates for the submission of objections to the settlement and a fairness hearing. **It is Plaintiff's understanding that Defendant P.C. Richard & Son, LLC does not oppose the relief sought in this motion. However, Plaintiff understands that Defendant will subsequently confirm its position in a separate filing with the Court.** In further support of this motion, Plaintiff states as follows:

1. In March 2020, Plaintiff attempted to access Defendant's online store, located at <https://www.pcrichard.com/>. (Doc. 1, ¶¶ 25-26, 43.)

2. Plaintiff could not access Defendant’s online store because it was not compatible with screen reader auxiliary aids, which Plaintiff uses to access digital content because he is blind.¹ (Doc. 1, ¶¶ 20, 37, 42-43.)

3. In March 2022, Plaintiff filed a class action complaint seeking declaratory and injunctive relief, alleging that Defendant does not have, and has never had, adequate policies and practices to cause its online store to be accessible to blind persons, in violation of Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12181, *et seq.*, and its implementing regulations. (Doc. 1.)

4. In June 2022, Plaintiff notified the Court that the parties had agreed to settle this case. (Doc. 13.)

5. After months of good faith negotiations, the parties reached a settlement and executed a proposed class action settlement agreement on or about December 16, 2022.²

6. The agreement resolves this action and defines the settlement class as “a national class of individuals who are Blind and/or who have a Visual Disability and who use Appropriate Auxiliary Aids and Services to navigate digital content and who have accessed, attempted to access, or been deterred from attempting to access, or who will access, attempt to access, or be deterred from attempting to access, [<https://www.pcrichard.com/>] from the United States.”

7. Under the terms of the agreement,³ Defendant shall ensure blind or visually disabled individuals have full and equal enjoyment of the goods, services, facilities, privileges,

¹ Plaintiff uses the word “blind” to describe people who, as a result of a visual impairment, have substantially limited eyesight. This includes people who have no vision at all as well as those who have low vision. *See* James H. Omvig, *Why Use the Word “Blind”?*, Braille Monitor (Jan. 2009), <https://nfb.org/sites/default/files/images/nfb/publications/bm/bm09/bm0901/bm090107.htm>.

² The proposed agreement is attached to this motion as Exhibit 1.

³ The terms of the agreement are explained more fully in the accompanying memorandum.

advantages, and accommodations provided by and through <https://www.pcrichard.com/>, and any website which Defendant develops, starts to operate, or acquires and which is publicly available in the United States.

8. The proposed agreement, notice,⁴ and notice plan⁵ are comparable to or more robust than class action settlements resolving nearly identical claims that courts finally approved in *Murphy v. Eyebobs, LLC*, No. 1:21-cv-00017, Doc. 49 (W.D. Pa. Feb. 9, 2022) (“*Eyebobs*”), *Murphy v. Charles Tyrwhitt, Inc.*, No. 1:20-cv-00056, Doc. 47 (W.D. Pa. Feb. 16, 2022) (“*Charles Tyrwhitt*”), *Giannaros v. Poly-Wood, LLC*, No. 1:21-cv-10351, Doc. 45 (D. Mass. Oct. 27, 2022) (“*Poly-Wood*”), and *Murphy v. The Hundreds Is Huge, Inc.*, No. 1:21-cv-00204, Doc. 41 (W.D. Pa. Nov. 17, 2022) (“*The Hundreds*”), and preliminarily approved in *Douglass v. Optavia LLC*, No. 2:22-cv-00594, Doc. 18 (W.D. Pa. Sept. 14, 2022) (“*Optavia*”).

9. Given the substantial relief obtained and the inherent risks of continued litigation, the settlement is fair, reasonable, and adequate. The proposed agreement is on par with, or exceeds, the relief achieved in analogous cases brought by the National Federation of the Blind and the Civil Rights Division of the U.S. Department of Justice, and in the five cases cited in the preceding paragraph. It was reached after many months of good faith negotiations at arm’s length.

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Certify the class for settlement purposes, appoint Plaintiff as class representative, and appoint Plaintiff’s counsel as class counsel;⁶

(B) Preliminarily approve the settlement as set forth in the proposed agreement; and

⁴ The proposed long-form notice is attached to the proposed agreement as Exhibit 1.

⁵ The proposed notice plan is attached to this motion as Exhibit 2.

⁶ Plaintiff’s counsel’s resumes are attached to this motion as Exhibit 3.

(C) Approve the notice and notice plan, including by setting, among other dates:

(1) A date twenty-one (21) days after the Court grants preliminary approval as the deadline to publish notice of the settlement (“Notice Deadline”);

(2) A date eighty-one (81) days after the Court grants preliminary approval as the deadline for the submission of any objections to the settlement;

(3) A date ninety (90) days after the Court grants preliminary approval as the deadline for Plaintiff to move for final approval and for reasonable attorneys’ fees and costs;

(4) A date one hundred and twenty (120) days after the Court grants preliminary approval for a final approval hearing, or as soon thereafter as the Court may set the hearing.

Respectfully submitted,

Dated: December 18, 2022

/s/ Kevin W. Tucker

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that, on December 18, 2022, a true and correct copy of the foregoing document was filed and served by way of the Court's CM/ECF system on all counsel of record.

Dated: December 18, 2022

/s/ Kevin W. Tucker

Kevin W. Tucker