

**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

Re: ECF No. 31

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

WHEREAS, the parties in the above-captioned litigation have advised the Court that they have settled the litigation, the terms of which have been memorialized in a proposed class action settlement agreement (“the Agreement”);

WHEREAS, Plaintiff has applied to this Court through a motion for an order (1) certifying the class for settlement purposes, (2) granting preliminary approval of the Agreement resolving all claims in the above-captioned matter, (3) directing notice to the class, and (4) setting a final approval hearing; and

WHEREAS, the Court has read and considered Plaintiff’s Motion to Certify Class for Settlement Purposes and for Preliminary Approval of Class Action Settlement (“Motion”), the points and authorities and exhibits submitted therewith, the Agreement, and all of the supporting documents, and good cause appearing;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. This order incorporates by reference the definitions in the Agreement, and all terms defined therein shall have the same meaning in this order as set forth in the Agreement.

2. Plaintiff's Motion is GRANTED. It appears to this Court on a preliminary basis that the Agreement satisfies the elements of Fed. R. Civ. P. 23 and is fair, adequate, and reasonable.

3. The proposed Settlement Class is hereby preliminarily certified pursuant to Fed. R. Civ. P. 23(a) and (b)(2) for purposes of settlement. The Settlement Class is defined 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.

4. The Court finds that Plaintiff Blair Douglass will fairly and adequately protect the interests of the Settlement Class. As a result, the Court appoints and designates Mr. Douglass as representative of the Settlement Class.

5. The Court finds that attorneys Kevin Tucker, Kevin Abramowicz, Chandler Steiger, and Stephanie Moore of East End Trial Group LLC are experienced and competent counsel who will continue to fairly and adequately protect the interests of the Settlement Class. As a result, the Court appoints and designates attorneys Tucker, Abramowicz, Steiger, and Moore as Class Counsel for the Settlement Class.

6. The Court finds that the Long-Form Notice attached to the Agreement as Exhibit 1 and the notice plan attached to the pending motion as Exhibit 2 meet due process requirements, the requirements of Rules 23(c)(2) and 23(e) of the Federal Rules of Civil Procedure, and ensure notice is well calculated to reach representative class members. The notice and notice plan are hereby approved.

7. As soon as practicable, but no later than April 6, 2023, which is twenty-one (21) days after this Order, P.C. Richard shall, at its expense:

(a) Add dates to the placeholders in the Long-Form Notice accompanying the Agreement as Exhibit 1.

(b) Ensure the Settlement Website is live and may be accessed over the internet. P.C. Richard shall further ensure the Settlement Website is Accessible; the Settlement Website tracks the number of visitors to the Settlement Website; and the Settlement Website remains published until for at least 60 days after the date the Court grants final approval of the Settlement Agreement.

(c) Cause the Long-Form Notice to be published on, and make the following documents filed in the Lawsuit available for download on, the Settlement Website: the class action complaint, motion for preliminary approval of class action settlement and all supporting documents, and the Court's orders concerning preliminary approval as well as any supporting memorandum. P.C. Richard shall ensure the documents identified in this Section shall be fully accessible by individuals who use Appropriate Auxiliary Aids and Services.

(d) Display a link to the Settlement Website at the beginning of the Website. P.C. Richard shall ensure this link directs individuals who are Blind and/or who have a Visual Disability to the Settlement Website, and shall have the option to make this link invisible to customers who are not Blind and who do not have a Visual Disability, provided that this link is otherwise Accessible. The link shall include alternative text which reads "Click to view our ADA class action settlement notice." P.C. Richard shall further ensure this link remains published for at least 180 days after the date the Court grants final approval of the Settlement Agreement.

(e) Cause a post in the form set forth below to be published on the following social media accounts: <https://www.facebook.com/Pcrichardandson>, <https://www.instagram.com/pcrichardandson/>, and <https://twitter.com/PCRichardandSon>. P.C. Richard shall ensure these posts

are fully accessible to individuals who use Appropriate Auxiliary Aids and Services. P.C. Richard shall further ensure these posts remain published during the Agreement Term.

Visit <https://www.PCRichardADAsettlement.com> to learn more about P.C. Richard's agreement to make its online store accessible to individuals who are Blind and/or who have a Visual Disability. Have questions? Contact East End Trial Group at <https://eastendtrialgroup.com>.

(f) Cause an accessible in-app notice in the form set forth below to be published via P.C. Richard's Mobile Applications. P.C. Richard shall ensure this notice is fully accessible to individuals who use Appropriate Auxiliary Aids and Services. P.C. Richard shall further ensure this notice shall appear at least once to any user that accesses P.C. Richard's Mobile Applications during the Agreement Term.

Visit <https://www.PCRichardADAsettlement.com> to learn more about P.C. Richard's agreement to make its online store accessible to individuals who are Blind and/or who have a Visual Disability. Have questions? Contact East End Trial Group at <https://eastendtrialgroup.com>.

(g) Publish a blog post on the Website in the form of the Long-Form Notice accompanying the Agreement as Exhibit 1. P.C. Richard shall ensure this post is fully accessible to individuals who use Appropriate Auxiliary Aids and Services. P.C. Richard shall maintain the blog post on its Website during the Agreement Term.

(h) Cause an email in the form set forth below to be sent to each subscriber of P.C. Richard's newsletter. The email's subject line shall read: "Our agreement to make P.C. Richard's store accessible to individuals who are blind and/or who have a visual disability". P.C. Richard shall ensure this email is fully accessible to individuals who use Appropriate Auxiliary Aids and Services.

A proposed settlement has been reached that would resolve the class action lawsuit *Douglass v. P.C. Richard & Son, LLC*, Case No. 2:22-cv-399 (W.D. Pa.). The lawsuit alleges that P.C. Richard violated the Americans with Disabilities Act, 42 U.S.C. §§ 12101, *et seq.*, by failing to take the necessary steps to ensure its website

and mobile apps do not discriminate against individuals who are Blind and/or who have a Visual Disability. Under the settlement, P.C. Richard agrees to make its website, mobile apps, and any new website or mobile app it develops or acquires accessible to individuals who are Blind and/or who have a Visual Disability. For a more complete summary of the terms of the proposed settlement, please visit <https://www.PCRichardADAsettlement.com>. Have questions? Contact East End Trial Group at <https://eastendtrialgroup.com>.

8. P.C. Richard shall ensure the documents identified in the previous paragraphs shall be fully accessible by individuals who use Appropriate Auxiliary Aids and Services.

9. On or before June 22, 2023, which is five (5) days before the fairness hearing, P.C. Richard shall file a declaration that all of the obligations of Paragraphs 1 and 2, *supra*, have been discharged, along with the number of visitors to the Settlement Website.

10. As soon as practicable, but no later than April 13, 2023, which is twenty-eight (28) days after this Order, Class Counsel shall, at its expense, request that at least the following organizations publish notice in the form set forth below in their respective electronic newsletters and social media accounts such that the notice is sent out on or before May 15, 2023, which is sixty (60) days after this Order: ACHIEVA, American Action Fund for Blind Children and Adults, American Council of the Blind, American Foundation for the Blind, Blinded American Veterans Foundation, Blinded Veterans Association, Foundation Fighting Blindness, Pennsylvania Association for the Blind, Disability Law Center, Disability Rights Education and Defense Fund, and National Federation of the Blind.

A proposed settlement has been reached that would resolve the class action lawsuit *Douglass v. P.C. Richard & Son, LLC*, Case No. 2:22-cv-399 (W.D. Pa.). The lawsuit alleges that P.C. Richard violated the Americans with Disabilities Act, 42 U.S.C. §§ 12101, *et seq.*, by failing to take the necessary steps to ensure its website and mobile apps do not discriminate against individuals who are Blind and/or who have a Visual Disability. Under the settlement, P.C. Richard agrees to make its website, mobile apps, and any new website or mobile app it develops or acquires accessible to individuals who are Blind and/or who have a Visual Disability. For a more complete summary of the terms of the proposed settlement, please visit

<https://www.PCRichardADAsettlement.com>. Have questions? Contact East End Trial Group at <https://eastendtrialgroup.com>.

11. On or before May 15, 2023, which is sixty (60) days after this Order, Defendant or Defendant's counsel shall file a declaration evidencing Defendant's compliance with this order.

12. On or before May 15, 2023, which is sixty (60) days after this Order, Class Counsel shall file a declaration evidencing its compliance with this order.

13. On or before June 5, 2023, which is eighty-one (81) days after this Order, any Settlement Class Member may object to the Agreement by filing written objections with the Clerk of the Court ("Objection Deadline"). Only such objecting Settlement Class Members shall have the right, and only if they expressly seek it in their objection, to present objections orally at the final approval hearing.

14. On or before June 9, 2023, which is eighty-five (85) days after this Order and five (5) days after the Objection Deadline, the parties shall respond to any timely-filed objections.

15. On or before June 16, 2023, which is at least ninety (90) days after this Order, Plaintiff shall move for final approval and for reasonable attorneys' fees and costs.

16. A final approval hearing shall be held before this Court on June 27, 2023 at 9:30 a.m. ET in the United States District Court for the Western District of Pennsylvania, located at Joseph F. Weis Jr. U.S. Courthouse, 700 Grant Street, Courtroom 9C, Pittsburgh, PA 15219, to determine whether the Agreement shall be granted final approval, and to address any related matters.

17. The final approval hearing may, from time to time and without further notice to the Settlement Class Members (except those who have filed timely objections or entered appearances), be continued or adjourned by order of the Court.

18. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Agreement which are not materially inconsistent with either this order or the terms of the Agreement.

IT IS SO ORDERED.

Dated: March 16, 2023

/s/ *Maureen P. Kelly*
MAUREEN P. KELLY
UNITED STATES MAGISTRATE JUDGE