UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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| ZEVE BAUMGARTEN, individually on behalf of himself and all others similarly situated and JOHN DOES (1-100) on behalf of themselves and all others similarly situated,<br><br>Plaintiff,<br><br>-against-<br><br>CLEANWELL, LLC,<br><br>Defendant. | ORDER<br>16-CV-01780 (AMD) (SMG) |

GOLD, STEVEN M., U.S. Magistrate Judge:

This Court held a fairness hearing with respect to the parties' class action settlement on October 10, 2017. Docket Entry 56. During the hearing, the Court asked the parties whether the notice requirements of the Class Action Fairness Act ("CAFA"), as set forth in 28 U.S.C. § 1715(b), had been satisfied. Plaintiffs submitted a letter in response to the Court's inquiry on October 11, 2017. Docket Entry 57. In their letter, plaintiffs reported that the notice requirements had not been met, but suggested that those requirements do not apply to a settlement of this type. The Court has reviewed plaintiffs' arguments and has found them unpersuasive.

CAFA defines a "class action" as "any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure . . . ." 28 U.S.C. § 1711(2). The statute requires that "[n]ot later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal

official, a notice of the proposed settlement . . . ." 28 U.S.C. § 1715(b). Therefore, on its face, the notice requirement applies to all class actions filed in federal court.

The parties have not identified any authority for their contention that the notice requirement should not apply in cases, like this one, where the settlement provides only injunctive relief and leaves class members free to pursue claims for damages. The results of the Court's research, moreover, suggests that CAFA means exactly what it says: notice pursuant to Section 1715(b) is required in all cases settled on behalf of a class certified pursuant to Fed. R. Civ. P. 23. *See, e.g.*, MATTHEW WALSH & MATTHEW BENHAM, AVOIDING SETTLEMENT NOTIFICATION PITFALLS OF THE CLASS ACTION FAIRNESS ACT 3 (2012), http://www.winston.com/images/content/1/3/1331.pdf ("[T]his language has no carve-outs and thus by implication includes all class actions in federal court, whether filed there in the first instance or removed from state courts.").

Accordingly, the parties shall provide notice that complies with the requirements listed in 28 U.S.C. § 1715(b) no later than November 4, 2017. The Court will hold another fairness hearing on February 9, 2018 at 3:00 p.m. by telephone. Counsel for plaintiffs shall arrange the conference call.

SO ORDERED.

/s/
Steven M. Gold
United States Magistrate Judge

Brooklyn, New York
October 12, 2017

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