

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

WAYNE CAPRIO, et al., on
behalf of himself and all
others similarly situated,

Plaintiffs,

v.

APEX ASSET MANAGEMENT, LLC,

Defendant.

Civil No. 13-5069-KMW

FINAL JUDGMENT ORDER APPROVING SETTLEMENT

This matter is before the Court on the parties' joint request that this Court grant final approval of the parties' class action settlement; and the parties consenting to the jurisdiction of this Court to enter this Order; and the Court noting that on October 22, 2014, it issued an Opinion and Order granting preliminary approval of plaintiffs' Motion of Proposed Settlement, Motion in Support of Settlement and Approval of Class Notice [Doc. No. 28-2]; and the Court further noting that in its Opinion and Order it preliminarily approved the parties' Settlement Agreement as fair, reasonable and adequate, and conditionally certified for settlement purposes, pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3), the class defined in the parties' Settlement Agreement; and the Court further noting that its Opinion and Order approved the proposed form and manner

of service of the Notice of Proposed Class Action Settlement, Fairness Hearing, Final Settlement Approval and Distribution of Counsel Fees (“Notice”); and the Court further noting that on October 22, 2014, it also entered an Order Granting Preliminary Approval of Proposed Settlement Between Class Plaintiff and Defendants, Approving Form of Notice and Authorizing Dissemination of Class Notice to Potential Class Members [Doc. No. 28]; and the Court having conducted a final fairness hearing on February 18, 2015; and no person having appeared at the fairness hearing to object to the parties’ settlement; and the Court having received the Certification of Andrew M. Schwartz, Esquire [Doc. No. 30] advising the Court that appropriate notice pursuant to the Class Action Fairness Act, 28 U.S.C. §1715, was given and no responses and objections have been received; and plaintiff further requesting that this Order be entered; and for the reasons stated on the record at the February 18, 2015 fairness hearing; and for the reasons stated herein; and good cause appearing for the entry of this Order,

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED this **18th** day of **February, 2015**, as follows:

1. This Court certifies the following Settlement Class (“Settlement Class”), pursuant to Fed. R. Civ. P.

23(a) and (b)(3): all persons located in New Jersey who were sent a letter to the last known address set forth in defendant's records, from the defendant from August 23, 2012 through November 12, 2013 on behalf of VPA Family Practice Center, or Lourdes Cardiology Services, P.C., or Virtua Express/Virtua Immediate Care that contained language substantially similar to the Form Paragraph in the letter attached to the Complaint.

2. The Court finds that:

- a. The Settlement Class is so numerous that joinder of all members is impracticable, satisfying the requirements of Fed. R. Civ. P. 23(a)(1);
- b. There are questions of law or fact common to the Settlement Class, satisfying the requirements of Fed. R. Civ. P. 23(a)(2);
- c. The claims of the representative plaintiff are typical of the claims of the Settlement Class, satisfying the requirements of Fed. R. Civ. P. 23(a)(3);

- d. The representative plaintiff will fairly and adequately protect the interests of the Settlement Class, satisfying the requirements of Fed. R. Civ. P. 23(a)(4);
 - e. Questions of law or fact common to the members of the Settlement Class predominate over questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy, satisfying the requirements of Fed. R. Civ. P. 23(b)(3); and
 - f. This action is manageable as a class action.
3. The Court finds that the parties have complied with the notice requirements set forth in this Court's Order Granting Preliminary Settlement Approval.
4. The Court finds that due and adequate notice was provided pursuant to Fed. R. Civ. P. 23 to all members of the Settlement Class, notifying the Settlement Class of, inter alia, the pendency of this action and the proposed settlement with the defendants. The Notice provided was the best notice practicable under the circumstances and

included individual notice by United States First Class Mail to all members of the Settlement Class who could be identified through reasonable effort. The Notice fully complied in all respects with the requirements of Fed. R. Civ. P. 23 and due process.

5. The Court finds that ten (10) claim forms were received postmarked after the cutoff date and those ten (10) claims will be processed as part of the settlement class as agreed to by the parties. The Court further finds that no objections or exclusions were received [Affidavit of Tristan Kernick, Doc. No. 35].
6. The Court finds that the Settlement Agreement between plaintiff and defendants, is fair, reasonable and adequate to the Settlement Class within the meaning of Fed. R. Civ. P. 23. The Settlement Agreement is hereby approved pursuant to Fed. R. Civ. P. 23(e).
7. The total settlement amount is Four Thousand Seventy-Seven Dollars (\$4,077). Each class member who participates in the Settlement will receive a pro rata share of the overall class recovery which

is Four Thousand Seventy-Seven Dollars (\$4,077).

8. Joseph K. Jones, Esquire is approved as Class Counsel.
9. In accordance with their initiation and diligent prosecution of this matter and according due weight to the risks associated with prosecuting this case incurred by the lead plaintiffs and in further consideration of their diligent efforts to prosecute this case on behalf of the class, the Court approves the payment to lead plaintiff, Wayne Caprio, an incentive stipend of Two Thousand Dollars (\$2,000), and to Mary Ann Caprio, One Thousand Dollars (\$1,000). Said sum shall be paid from the defendants separate and apart from the sum due to the Class.
10. Class Counsel is hereby awarded attorneys' fees and costs in the total amount of Thirty-Five Thousand Dollars (\$35,000). Said sum shall be paid to Class Counsel by defendants separate and apart from the settlement sum due the class. This payment includes all costs awarded and time associated with the further administration of the claims

processing, even if the costs and time have not yet been incurred.

11. All Released Claims (as defined in the Settlement Agreement) of class plaintiffs and the Settlement Class that were asserted against the settling defendants and the releasees (as defined in the Settlement Agreement) in the action are dismissed with prejudice, and except as provided for in the Settlement Agreement, without costs. Nothing contained in this Order shall affect the claims of the class plaintiffs and the Settlement Class against any defendants other than the settling defendants and any persons or entities related to the settling defendants who are defined as releasees under the Settlement Agreement.
12. Without affecting the finality of this Final Judgment in any way, this Court hereby retains continuing jurisdiction for the purpose of, inter alia, implementing and enforcing the Settlement Agreement.

13. The Clerk of the Court is directed to close this
file.

s/ Karen M. Williams
KAREN M. WILLIAMS
United States Magistrate Judge