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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

*PAUL STEMPLE, individually and
on behalf of all others similarly
situated,*
Plaintiff,

v.

QC HOLDINGS, INC.,
Defendant.

Case No. 12-cv-01997-BAS(WVG)

**ORDER GRANTING
PLAINTIFF’S EX PARTE
APPLICATION FOR APPROVAL
OF SETTLEMENT
DISTRIBUTION PLAN**

[ECF No. 116]

Presently before the Court is Plaintiff Paul Stemple’s unopposed Ex Parte Motion for Approval of Settlement Distribution Plan. (ECF No. 116.) Plaintiff commenced this class action against Defendant QC Holdings, Inc. seeking relief for violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227. (ECF No. 1.) After several years of litigation, the Court granted the Motion for Final Approval of the Class Action Settlement (“Final Approval Order”) on November 7, 2016. (ECF No. 113.) This approval included, among other things, that a claims administrator would pay each Settlement Class Members their pro rata share of the Settlement Fund, or approximately \$1,208. (ECF No. 113 at 2, 7.)

1 Plaintiff now requests that the Court modify the distribution plan for the
2 settlement proceeds to the Settlement Class Members in the following ways. First,
3 Defendant will send one settlement check in the amount of \$1,163.24 to the validly
4 claiming Settlement Class Members who provided the claim administrator
5 (Kurtzman Carson Consultants, or “KCC”) with their valid tax identification
6 information. Currently, this includes 457 out of 664 Settlement Class Members.
7 Second, Defendant will also mail two settlement checks, one in an amount slightly
8 under \$600 (approximately \$577) in 2017 and the other in the amount of the
9 remaining portion in January 2018, to the validly claiming Settlement Class Members
10 who did not provide KCC with their valid tax identification information by
11 November 27, 2017. These two checks will total approximately \$1,155.00 and
12 account for the additional costs associated with sending two checks instead of one.
13 Currently, this includes 207 out of 664 Settlement Class Members.

14 Plaintiff makes this request largely due to the Internal Revenue Service’s
15 requirement that any individual recovery exceeding \$600 must be accompanied by a
16 tax identification number. (Mot. at 2.) The IRS penalizes \$250 for each check
17 without the required tax identification information. KCC sent out requests for the
18 tax identification numbers to every Settlement Class Member, and only received 457
19 valid tax identification numbers to date. (*Id.* at 2). Hence, for the remaining 207
20 Settlement Class Members, Plaintiff seeks to send these individuals two checks,
21 neither of which will exceed the \$600 threshold, to avoid the IRS’s penalty and
22 maximize these individuals’ recovery. (*Id.* at 4.) Plaintiff has also made the final
23 calculation of the settlement proceeds, which amounts to \$1,173.19 per claim for 664
24 valid claims. After dividing the costs of distributing the settlement checks among
25 the Settlement Class Member, each member will receive \$1,163.24. Those
26 Settlement Class Members who did not provide a valid tax identification number will
27 bear the additional cost of distributing two checks instead of one, and their individual
28 recovery will be further reduced to approximately \$1,155.00. The Final Approval


1 Order approximated \$1,208 per claim for the individual recovery amount for 645
2 valid claims. The Court made previous fairness determinations in its Final Approval
3 Order. Likewise, the Court finds that this amendment to the Final Approval Order is
4 fair and approval is warranted.

5 For the reasons stated both in this Order as well as its Final Approval Order,
6 the Court **GRANTS** Plaintiff's ex parte motion for approval of the settlement
7 distribution plan (ECF No. 116). Accordingly, the Court amends its previous Final
8 Approval Order (ECF No. 113) in the following ways:

- 9 1) The Court inserts the following item to its Order as item six: “(6) The Claim
10 Administrator shall mail—in 2017—one settlement check in the amount of
11 \$1,163.24 to the validly claiming Settlement Class Members who provided
12 the Claim Administrator with their valid tax identification information.
13 Currently, this includes 457 Settlement Class Members. The Claim
14 Administrator will also mail—in 2017 and in January 2018—two
15 settlement checks, one in an amount slightly under \$600 (approximately
16 \$577) and the other in the amount of the remaining portion owed, to the
17 validly claiming Settlement Class Members who did not provide the Claim
18 Administrator with their valid tax identification information by November
19 27, 2017. Both checks will be accompanied by an explanatory letter. These
20 two settlement checks should amount to approximately \$1,155.00 to
21 account for the additional costs associated with sending two checks instead
22 of one. Currently, this includes 207 Settlement Class Members.”
- 23 2) Each of the following item numbers will be renumbered accordingly to
24 account for this additional item (*e.g.* item six becomes item seven and so
25 on).

26 **IT IS SO ORDERED.**

27
28 **DATED: September 5, 2017**


Hon. Cynthia Bashant
United States District Judge