

FILED

Superior Court of California
County of Los Angeles

07/15/2024

David W. Slayton, Executive Officer / Clerk of Court

By: P. Herrera Deputy

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

JEFFREY KOENIG on Behalf of himself
and All Others Similarly Situated,

Plaintiffs,
v.

VIZIO, Inc.,

Defendant.

Case No.: BC702266

Hon., Kenneth R. Freeman, Dept. 14

~~PROPOSED~~ ORDER GRANTING
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT

DEPT: SS 014

This Motion for Final Approval of Class Action Settlement came on for hearing before this Court, the Honorable Kenneth R. Freeman, presiding, on June 20, 2024. The Court having considered all submissions and arguments with respect to the Motion, the Court HEREBY ORDERS THE FOLLOWING:

1. The Court has jurisdiction over the subject matter of this action, the Settlement Class Representatives, the Settlement Class as defined in the Class Action Settlement Agreement filed on September 25, 2023 (the "Settlement Agreement" or "Settlement"), and the Defendant. Capitalized terms not otherwise defined in this Order shall have the definitions set forth in the Settlement Agreement.

1 2. Pursuant to the Order Granting Preliminary Approval of Class Action
2 Settlement, the notice was provided to Settlement Class Members by electronic means. The
3 Class Notice informed Settlement Class members, including those who requested exclusion,
4 of: the material terms of the Settlement; their right to receive the benefits of the Settlement;
5 their right to object to the Settlement or to exclude themselves from the Settlement; and their
6 right to appear in person or by counsel at the Fairness Hearing and be heard regarding approval
7 of the Settlement. Adequate periods of time were provided by each of these procedures. There
8 were no objections to the Settlement from any Settlement Class Members. The Court finds and
9 determines that this notice procedure afforded adequate protections to all members of the
10 Settlement Class, including the one who requested exclusion, and provides the basis for the
11 Court to make an informed decision regarding approval of the Settlement. The Court finds and
12 determines that the notice provided in this case was the best notice practicable, which satisfied
13 the requirements of law and due process.
14

15 3. One individual has submitted a valid and timely requests for exclusion,
16 identified on Exhibit I to the declaration of the Settlement Administrator. That individual is not
17 bound by the terms of the Settlement.
18

19 4. The Court hereby awards \$9,975,000 to Settlement Class Counsel for attorneys'
20 fees and expenses according to the Settlement's terms. The Court further awards \$25,000 shall
21 be paid to to Plaintiff Jeffrey Koenig according to the Settlement's terms.
22

23 5. For purposes of the Settlement, the Court confirms its certification of the
24 Settlement Class, confirms Plaintiff Jeffrey Koenig as Class Representative and Milberg
25 Coleman Bryson Phillips Grossman, PLLC, Crueger Dickinson LLC, Hudock Law Group S.C,
26 and Nelson & Fraenkel LLP as Settlement Class Counsel. The Court concludes that Settlement
27 Class Counsel and the Settlement Class Representative have fairly and adequately represented
28

1 the Settlement Class with respect to the Settlement. Notwithstanding the certification of the
2 Settlement Class and appointment of the Settlement Class Representative for purposes of
3 effecting the Settlement, if this Order is reversed on appeal or the Agreement is terminated in
4 accordance with the provisions of the Agreement, the foregoing certification of the Settlement
5 Class and appointment of the Settlement Class Representatives shall be void and of no further
6 effect and the parties to the Settlement shall be returned to the status each occupied before entry
7 of the Preliminary Approval Order, without prejudice to any legal argument that any of the
8 parties to the Settlement might have asserted but for the Settlement.
9

10 6. The Settlement is in all respects fair, reasonable, adequate, and proper and in the
11 best interests of the Settlement Class. In reaching this conclusion, the Court has considered a
12 number of factors, including: (1) the strength of Plaintiffs' case and Defendant's defenses; (2)
13 the risk, expense, complexity, and likely duration of the litigation; (2) the reaction of the
14 Settlement Class to the settlement; (3) the extent of discovery and stage of the proceedings; (4)
15 the experience and views of counsel; (5) the valuable changes in practice agreed to by the
16 parties under the terms of the Settlement; and (6) the range of reasonableness of the Settlement
17 fund to a possible recovery in light of all the attendant risks of litigation.
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19 7. The Court finds that the Settlement has been reached as a result of informed and
20 non-collusive arm's-length negotiations. The Court further finds that the Parties have conducted
21 sufficient investigation, discovery and research, and their attorneys were able to reasonably
22 evaluate their respective positions.
23

24 8. The Settlement Agreement is not an admission by Defendant, nor is this Order a
25 finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Order,
26 the Settlement Agreement, nor any document referred to herein, nor any action taken to carry out
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1 the Settlement Agreement, may be construed as, or may be used as, an admission of any fault,
2 wrongdoing, omission, concession, or liability whatsoever by or against Defendant.

3 9. The Court finds that the Settlement is fair, adequate, and reasonable and hereby
4 gives final approval to the Settlement.

5 10. Pursuant to the stipulated injunction in the Settlement Agreement, the Court
6 hereby enters the following injunctive relief: for new VIZIO-branded television models sold after
7 the date the Court enters the Final Approval Order, the Court enjoins Defendant from advertising
8 or representing such televisions as having an “effective refresh rate” measured in hertz (Hz),
9 including “120Hz Effective Refresh Rate” or “240Hz Effective Refresh Rate.” VIZIO shall not
10 be obligated to recall or modify labeling for any VIZIO-branded television model that has
11 already been sold or distributed to a third party. This stipulated injunction shall remain in effect
12 in perpetuity, or until such time as VIZIO seeks relief from the Court based on good cause
13 shown.
14

15 11. Pursuant to the Settlement Agreement, the Court also orders payment to be made
16 by the Settlement Administrator to the participating Settlement Class Members who submitted a
17 valid claim that was approved by the Settlement Administrator.
18

19 12. The Parties are hereby ordered to comply with the terms of the Settlement.

20 13. Nothing in this Order will preclude any action to enforce the Parties' obligations
21 under the Settlement or under this Order.
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23 14. Pursuant to the Settlement, Settlement Class members who have not excluded
24 themselves from the Settlement are permanently barred from prosecuting the Released Claims
25 against the Released Parties under the Settlement.
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15. Without affecting the finality of this Order in any way, the Court retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation and enforcement of this Order and the Settlement.

16. The Parties will bear their own costs and attorneys' fees except as otherwise provided herein.

IT IS SO ORDERED.

Dated: ~~9/11/08~~ _____



A handwritten signature in black ink, appearing to read "K. Freeman", written over a horizontal line.

Kenneth R. Freeman / Judge
Honorable Kenneth R. Freeman
Judge of the Superior Court