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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR KING COUNTY

MARKELETTA WILSON, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

RENTGROW, INC., a Delaware corporation;  
YARDI SYSTEMS, INC., a California  
corporation,

Defendants.

NO. 13-2-15514-1 SEA

**PLAINTIFF’S SUPPLEMENTAL  
MEMORANDUM IN SUPPORT OF  
FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT**

**I. INTRODUCTION**

Plaintiff and Class Counsel have achieved an excellent result for the Settlement Class and believe the Settlement is fair, adequate, and reasonable. The deadline for objecting to or requesting exclusion from the settlement has now passed, and it is clear the Settlement Class members overwhelmingly agree. Out of 253 individuals, none have opted out and none have submitted objections. *See* Second Supplemental Declaration of Toby J. Marshall in support of Plaintiff’s Motion for Final Approval of Class Action Settlement (“Second Supp. Marshall Decl.”) ¶¶ 2–3. The tacit approval of the entire Settlement Class weighs strongly in favor of final approval.

1 Furthermore, the notice program implemented by Terrell Marshall Daudt & Willie  
2 PLLC (“TMDW”) was highly successful. Of the 253 notices mailed, only 24 (9.5 percent)  
3 failed to reach their intended targets. *See* Second Supp. Marshall Decl. at ¶ 4. For these  
4 reasons, settlement approval is appropriate.

## 5 II. STATEMENT OF FACTS

6 There are 253 members in the Settlement Class, which is comprised of all Washington  
7 consumers who at any time after April 3, 2011 were the subject of a consumer report issued by  
8 Defendants that included a record of the consumer’s arrest, indictment, or conviction for an  
9 adult crime that, from the date of disposition, release, or parole, antedated the report by more  
10 than seven years. *See* Complaint at ¶ 6.1. TMDW fully implemented the notice program  
11 approved in the Court’s Order Granting Preliminary Approval. *See* Declaration of Eden  
12 B. Nordby regarding Notice Dissemination and Claims Administration. Of the 253 notices  
13 mailed, more than 90 percent reached their intended recipients. *See* Second Supp. Marshall  
14 Decl. at ¶ 4.

15 The reaction of the proposed Settlement Class to the notice has been positive. The  
16 deadline for opting out of or objecting to the Settlement was November 7, 2013. *See* Second  
17 Supp. Marshall Decl. at ¶¶ 2 – 3. None of the Settlement Class members sent an exclusion  
18 request to Plaintiff’s counsel, and no Settlement Class members submitted objections to the  
19 Settlement. *Id.* Thus, the Settlement has the tacit approval of the entire Settlement Class.

## 20 III. AUTHORITY AND ARGUMENT

21 In deciding whether to approve a class action settlement under Rule 23, the Court’s  
22 primary inquiry is to determine whether the settlement is “fair, adequate, and reasonable.”  
23 *Lane v. Facebook, Inc.*, 696 F.3d 811, 819 (9th Cir. 2012); *see also Class Plaintiffs v. City of*  
24 *Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992). Generally speaking, a settlement is fair,  
25 adequate, and reasonable, and merits final approval when “the interests of the class as a whole  
26

1 are better served by the settlement than by further litigation.” *Manual for Complex Litigation*  
2 (Fourth) (“MCL 4th”) § 21.61, at 480 (2010).

3 As the Ninth Circuit recognized in *City of Seattle*, the trial court’s ultimate  
4 determination “will involve a balancing of several factors.” *Id.* (quoting *Officers for Justice v.*  
5 *Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982)). Plaintiff addressed each of these  
6 factors in her Motion for Final Approval, demonstrating that the Settlement is the product of  
7 arm’s-length negotiations conducted by counsel with extensive experience in class action  
8 litigation and affords outstanding relief for the Class, especially in light of the substantial risks  
9 of continued litigation. *See generally* Plaintiff’s Motion for Final Approval of Class Action  
10 Settlement.

11 Plaintiff could not fully address the “reaction of the class” factor until the deadline for  
12 opting out and objecting to the Settlement had passed. Now that the deadlines have passed, it is  
13 clear that the reaction to the Settlement has been overwhelmingly positive. No class members  
14 have objected and no class members have opted out. *See* Second Supp. Marshall Decl. at  
15 ¶¶ 2 – 3. The lack of objections and opt-outs indicates broad, class-wide support for the  
16 Settlement and weighs heavily in favor of approval. Class Counsel also heard directly from  
17 seven class members who called to ask questions about the Settlement and express their  
18 appreciation for it. *Id.* at ¶ 5.

#### 19 IV. CONCLUSION

20 “[V]oluntary conciliation and settlement are the preferred means of dispute resolution.”  
21 *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982). For the reasons  
22 set forth above, Plaintiff respectfully requests that the Court grant final approval to the  
23 Settlement.

1 RESPECTFULLY SUBMITTED AND DATED this 22nd day of November, 2013.

2 TERRELL MARSHALL DAUDT & WILLIE PLLC

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