

1ST CIRCUIT COURT  
STATE OF HAWAII  
FILED

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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

PHILIPPE GROSS, individually  
and on behalf of a class of similarly  
situated persons,

Plaintiffs,

vs.

UNIVERSITY OF HAWAII,

Defendant.

Civil No. 11-1-1217-06 PWB  
(Class Action)

**ORDER GRANTING FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT AND DISMISSING THE  
ACTION**

HEARING:

DATE: April 11, 2011  
TIME: 10:00 am  
Judge Patrick Border

**ORDER GRANTING FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT AND DISMISSING THE ACTION**

Plaintiffs' Motion for Final Approval of Class Action Settlement filed on April 4, 2012  
was heard by the Honorable Patrick Border on April 11, 2012 at 10:00 a.m., Class Counsel  
Thomas R. Grande and Bruce F. Sherman representing Plaintiffs and Mark Bennett representing  
Defendant. There were no other appearances in person or through counsel.

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1ST JUDICIAL CIRCUIT  
STATE OF HAWAII  
16TH DIVISION

I do hereby certify that this is a full, true, and  
correct copy of the original on file in this office.

  
Clerk, Circuit Court, First Circuit

On February 3, 2012 the Court entered its Order Granting Preliminary Approval of Settlement (“Preliminary Approval Order”). WHEREAS, there are no objections filed by any interested person to the proposed Settlement.

NOW, THEREFORE, the Court, having read and considered all written submissions made in connection with the Stipulation and heard oral argument, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. The Court possesses jurisdiction over the subject matter of this Litigation, the Plaintiffs, the Settlement Class Members, and the Defendant. This Order incorporates by reference the definitions in the February 1, 2012 Order Granting Preliminary Approval of Settlement, Directing Notice to the Class and Scheduling Fairness Hearing (“Preliminary Approval Order”) and all terms used in this Order will have the same meanings as set forth in the Preliminary Approval Order unless otherwise defined in this Order.

2. The Court ratifies its certification of this Litigation as a class action, and, in so doing, finds that the requirements of Hawai‘i Rule of Civil Procedure 23 have been met – in particular because: (1) the Settlement Class is so numerous that joinder of all members is impracticable; (2) there are questions of fact or law common to the Settlement Class, which common questions predominate over any questions affecting only individual members; (3) the claims of the Representative Plaintiff is typical of the claims of the Settlement Class; (4) the Representative Plaintiff and Plaintiffs’ Counsel will fairly and adequately protect the interests of the Settlement Class; and (5) a class action is superior to any other method for the fair and efficient settlement of this controversy.

3. The Settlement Class is defined as follows:

All persons whose confidential information was released or made available by the University of Hawai'i during the alleged privacy breaches of (1) April 15, 2009 (Kapiolani Community College), (2) May 30, 2010 (Honolulu Community College), (3) June 6, 2010 (University of Hawai'i at Manoa), (4) October 18, 2010 (University of Hawai'i at West Oah'u) collectively involving approximately 96,000 individuals, and (5) June 2011 (Kapiolani Community College) involving approximately 2,000 individuals.

4. Excluded from the definition of the Settlement Class are (i) the University of Hawai'i and its officers and regents; (ii) shareholders and employees of the law firm Starn O'Toole Marcus & Fisher; (iii) the Court presiding over any motion to approve this Settlement Agreement; and (iv) any Person who timely and validly requests exclusion from the Settlement Class. The Court hereby finds that the Settlement is the result of good-faith arms-length negotiations by the parties thereto. Its approval will further the interests of justice and is in the best interests of the Settlement Class.

5. All provisions and terms of the settlement are, after hearing and opportunity for objection, hereby found to be fair, reasonable, and adequate as to the Settlement Class Members and the Plaintiffs, and all provisions and terms of the Settlement are hereby finally approved in all respects.

6. On March 30, 2012, Defendant submitted a declaration to the Court confirming that the notice was given as required in the Preliminary Approval Order, informing potential Settlement Class Members of the terms of the settlement of the action and of their opportunity to object to the terms of the settlement, attorneys' fees and costs. On March 30, 2012, Plaintiffs submitted a declaration to the Court confirming that the settlement website was published as required in the Preliminary Approval Order.

7. The Court hereby finds that appropriate notice was given by First Class Mail to Settlement Class Members in accordance with the orders of the Court and that said notice constitutes a valid, due, and sufficient notice to Settlement Class Members and is the best notice practicable under the circumstances. The notice complied fully with the requirements of due process, the Hawai'i Rules of Civil Procedure, and all other applicable laws. The Court also finds that as set forth in the declarations in paragraph 6 above, significant additional notice was provided to Settlement Class Members, including but not limited to emails, publication in newspapers, including one newspaper of general Statewide circulation, and on the internet.

8. Class members were previously given an opportunity to opt-out of the class action and the court finds that the opportunity to opt-out given complies fully with the requirements of due process, the Hawai'i Rules of Civil Procedure, and all other applicable laws.

9. No class members have objected and all Settlement Class Members are therefore bound by this Order, the Settlement Agreement, and the full releases provided for in the Settlement Agreement.

10. Plaintiffs and all Settlement Class Members are bound by the terms of the Release and Released Claims as defined in the Preliminary Approval Order and which were filed with the Court In the Motion for Preliminary Approval of Class Action Settlement, and as specifically set forth in the Settlement Agreement between the parties, which Settlement Agreement, in all regards and all particulars is specifically approved.

11. The Court finds that the hourly rates and charges submitted by counsel are appropriate for counsel of similar experience and that the time spent by counsel was reasonable and necessary for the prosecution of this litigation. The parties have negotiated the payment of attorneys' fees and costs, which the Court approves and finds the amounts reasonable and

necessary for the prosecution of this litigation. The parties have negotiated the payment of an incentive payment to Representative Plaintiff Philippe Gross, which the Court approves and finds the amount reasonable and necessary for the prosecution of this litigation.

12. Defendant will pay the following sums within ten (10) days of the effective date of the settlement agreement, if there is no appeal from the Final Judgment:

\$150,500.00 payable for fees and costs to Class Counsel with specific payees and amounts to be paid pursuant to instructions from Class Counsel to Defendant; and, in addition

\$2,000.00 payable to "Philippe Gross."

for a total payment of \$152,500.

13. It is further ordered that Defendant shall cause a final report to be submitted to the Court by July 1, 2012 confirming the provision of settlement services to class members who enrolled in credit monitoring services.

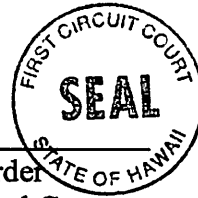
14. All claims of the representative Plaintiff and the Plaintiff class as defined above, made in this action, or which could have been made in the action and that relate to the facts, transactions, and occurrences that are the subject matter of the action are DISMISSED WITH PREJUDICE pursuant to H.R.C.P. Rule 23(e) and Rule 41(b). As there is no just reason for delay, and there are no remaining claims by any party, the Court hereby directs that a FINAL JUDGMENT be entered under H.R.C.P. Rule 58.

Without in any way affecting the finality of the Final Judgment, this Court expressly retains continuing jurisdiction solely for the purpose of adjudicating any matter relating to the performance, or lack of performance, of any party under any of the provisions of the Settlement approved herein

IT IS SO ORDERED.

Dated: Honolulu, Hawai'i, APR 11 2012, 2012.

*Patrick W. Border*



Honorable Patrick W. Border  
Judge of the Above-Entitled Court

Approved as to Form:

A handwritten signature in black ink, appearing to be "MJB", written over a horizontal line.

MARK J. BENNETT  
BRANDI J. BUEHN

Attorneys for Defendant

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ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND DISMISSING THE ACTION; Gross v. University of Hawaii; Civil No. 11-1-1217-06 PWB