

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS**

DAVIS NEUROLOGY, P.A. on )  
 behalf of itself and all other entities and )  
 persons similarly situated, )  
 )  
 Plaintiffs, )  
 vs. )  
 )  
 DENTAL EQUITIES, LLC d/b/a )  
 PEER UNITED, FIRST ARKANSAS BANK )  
 & TRUST, )  
 And JOHN DOES 1-10, Intending to refer )  
 To those persons, corporations or other legal )  
 Entities that acted as agents, consultants, )  
 Independent contractors or representatives, )  
 )  
 Defendants. )

CASE NO. 4:16-cv-00371-BSM  
JURY DEMAND

**MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT, FOR  
CERTIFICATION OF A SETTLEMENT CLASS, AND FOR PERMISSION TO  
DISSEMINATE CLASS NOTICE**

Plaintiff Davis Neurology, P.A. (“Plaintiff”), individually and on behalf of all others similarly situated, respectfully moves for preliminary approval of a settlement reached with First Arkansas Bank & Trust (“First Arkansas”) including other Released Parties (collectively, “Defendants”). For the reasons set forth in the Plaintiffs’ Memorandum of Law filed in support of this Motion, together with all of the exhibits filed in support thereof as attachments to the accompanying Declaration of Joe P. Leniski, Jr. (the “Leniski Declaration”), Plaintiffs respectfully request that the Court enter the [Proposed] Preliminary Approval Order, substantially in the form attached to the Settlement Agreement,<sup>1</sup> requesting the following relief:

1. Preliminarily approving the terms of the Settlement Agreement, attached as Exhibit 2 to the Leniski Declaration;

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<sup>1</sup> All capitalized terms have the same meaning as defined in the Settlement Agreement.

2. Staying all proceedings other than those necessary to administer and evaluate the Settlement under Rule 23;

3. Provisionally certifying a Settlement Class under Rule 23(a), 23(b)(3), and 23(b)(2) for settlement purposes only, as follows:

All persons within the United States who on or after four years prior to the filing this Action, were successfully sent a facsimile transmission advertising the commercial availability or quality of any property, goods, or services by or on behalf of Defendants related to “Doctors Club” credit cards. Excluded from the Settlement Class are First Arkansas and Dental Equities, and any affiliate, subsidiary or division of First Arkansas and Dental Equities, along with any employees thereof, and any entities in which any of such companies have a controlling interest, as well as all persons who validly opt-out of the Settlement Class.

4. Provisionally appointing Davis Neurology, P.A. as the Settlement Class Representative.

5. Finding preliminarily that for purposes of the Settlement only, the prerequisites for a class action under Rules 23(a), (b)(3), and (b)(2) have been satisfied.

6. Provisionally appointing Joe P. Leniski, Jr. of Branstetter, Stranch & Jennings, PLLC and James A. Streett of Streett Law Firm, P.A. as Class Counsel for the Settlement Class under Rule 23(g).

7. Provisionally appointing Garden City Group, LLC as the Claims Administrator to carry out the Notice Plan and other claims administration tasks set forth in the Settlement Agreement, agreed to by Class Counsel and Defendants, or as otherwise ordered by the Court;

8. Approving the form, substance, and requirements of (a) the Fax Notice, (b) the Website Notice, and (c) the Claim Form.

9. Finding that the form and method of notifying the Settlement Class of the Settlement and its terms and conditions meets the requirements of due process and Rule 23,

constitutes the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled thereto.

10. Directing the Claims Administrator to carry out the tasks set forth in the Notice Plan.

11. Scheduling a Final Approval Hearing under Rule 23(e) to be held before the Court to (a) finally determine whether this case satisfies the applicable Rule 23(a) and (b) factors; (b) finally determine whether the Settlement is fair, reasonable, and adequate, (c) determine whether the proposed Final Order and Judgment Approving Settlement should be entered, the case dismissed with prejudice, and the releases by the Releasees ordered; (d) set the amount of the Incentive Award to the Settlement Class Representative; (e) enter a permanent injunction against future TCPA violations by the Defendants, (f) determine whether an application by Class Counsel for attorney's fees and expenses should be granted and in what amount; and (g) rule on any other matters the Court deems appropriate.

DATED: October 11, 2016

Respectfully submitted,

/s/ James A. Streett

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**CERTIFICATE OF SERVICE**

I, James A. Streett, hereby certify that I am an attorney for the Plaintiffs, and on this day I caused this filing to be served on all counsel of record in this proceeding via CM/ECF.

DATED: October 11, 2016

/s/ James A. Streett  
JAMES A. STREETT