

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

VALESKA SCHULTZ, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:16-cv-1346-JAR
)	
EDWARD D. JONES & CO., L.P., <i>et al.</i> ,)	
)	
Defendants.)	

**PLAINTIFFS’ MOTION FOR FINAL APPROVAL OF SETTLEMENT,
CERTIFICATION OF SETTLEMENT CLASS AND APPROVAL OF CLASS NOTICE**

Plaintiffs Valeska Schultz, Melanie Waugh, and Rosalind Staley (collectively, “Named Plaintiffs” or “Plaintiffs”), respectfully file this Motion under Rule 23 of the Federal Rules of Civil Procedure for final approval of a Class Settlement, certification of the Settlement Class and approval of the Notice that was sent to the Class this Court previously certified [Doc. 97]. In support of this Motion, Plaintiffs state:

1. The action was originally filed on August 19, 2016. Plaintiffs allege that the Defendants breached their fiduciary duties under ERISA by, among other things, selecting and maintaining investments in Edward Jones’ 401(k) plan for the benefit of Edward Jones and its corporate partners.
2. On December 11, 2018, after months of arm’s-length negotiation, the Parties entered into a Settlement Agreement. A copy of the Settlement Agreement is attached as Exhibit A.
3. On December 11, 2018, Plaintiffs filed an unopposed motion for preliminarily approval of the Settlement Agreement, preliminarily certification of the Settlement Class,

appointment of Class Counsel, approval of Class Notice and to schedule a Fairness Hearing (the “Preliminary Approval Motion”). Doc. 93.

4. On December 13, 2018, the Court granted the Preliminary Approval Motion.

Doc. 97. In doing so, the Court preliminarily certified the following Class:

All current and former participants in the Plan who maintained a balance of any amount in the Plan at any point during the period from January 1, 2010 to the date of the entry of the Preliminary Approval Order.

Id. at ¶ 8.

5. In its Order, the Court also appointed Bailey Glasser LLP, Izard, Kindall & Raabe, LLP and Kessler Topaz Meltzer & Check LLP as Class Counsel, approved the proposed form of Notice to the Class and scheduled a Fairness Hearing for April 18, 2019. *Id.* at ¶¶ 10-16.

6. Plaintiffs respectfully submit that the Court should grant final approval to the Settlement Agreement under Rule 23. The Settlement Agreement is “fair, adequate and reasonable” under Rule 23(e) and *In re Uponor, Inc.*, 716 F.3d 1057 (8th Cir. 2013), as it provides a substantial benefit to the members of the Class in the creation of a \$3.175 Settlement Fund, an amount that represents more than half of the Class’s potential damages. The Settlement Agreement also meets the factors in the recent amendments to Rule 23(e)(2), which instruct courts to consider, among other things, if the class representatives and class counsel have adequately represented the class and if the settlement agreement was negotiated at arm’s-length.

7. As this Court previously found in its Order granting the Preliminary Approval Motion, the Settlement Class meets each element for certification under Rule 23(a) and the requirements of Rule 23(b)(1)(A) and (B). Accordingly, the Court should confirm its certification of the Class, its appointment of Plaintiffs as Class Representatives, and its appointment of Plaintiffs’ counsel as Class Counsel.

8. The Court should also find that Notice was given to the Class in accordance with the Court's order on the Preliminary Approval Motion. Doc. 97 at ¶¶ 11-15. As set forth in the accompany declaration from Rachel Christman of KCC (attached as Exhibit B to the Declaration of Gregory Y. Porter), KCC mailed the Notice to 40,900 members of the Class and e-mailed it to 33,121 Class Members.

9. In support of this Motion, Plaintiffs submit to the Court a Memorandum of Law, and the attached declarations of Gregory Y. Porter, Robert A. Izard and Mark J. Gyandoh. Plaintiffs also submit a proposed Order.

WHEREFORE, Plaintiffs request the following relief:

- A. The Court grant final approval to the Settlement Agreement under Rule 23(e) of the Federal Rules of Civil Procedure;
- B. The Court certify the Settlement Class and appoint Valeska Schultz, Melanie Waugh, and Rosalind Staley as Class Representatives and Bailey Glasser LLP, Izard, Kindall & Raabe, LLP and Kessler Topaz Meltzer & Check LLP as Class Counsel; and
- C. The Court approve the Notice that was sent to the members of the Class.

Dated: March 19, 2019

Respectfully submitted,

/s/ Mark G. Boyko

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CERTIFICATE OF SERVICE

I, Mark G. Boyko, hereby certify that on this 19th day of March, 2019, a true and correct copy of the foregoing was served upon all counsel of record by operation of this Court's CM/ECF system.

/s/ Mark G. Boyko
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