

**IN THE CIRCUIT COURT FOR THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA
CIVIL ACTION**

**JESSICA KOHL and MATTHEW
KOHL, individually, and on behalf of
a class of persons similarly situated,**

Case No.: 2020-CA-004390-O

Plaintiffs,

vs.

**PLURIS WEDGEFIELD, LLC,
PLURIS HOLDINGS, LLC, and
PLURIS WEDGEFIELD, INC.,**

Defendants.

**ORDER PRELIMINARILY APPROVING SETTLEMENT AND DIRECTING
NOTICE TO THE CLASS**

The parties have reached a settlement in this case. Through an unopposed motion for preliminary approval of class settlement, they seek, among other things, that the Court (1) certify the proposed class for settlement purposes; (2) grant preliminary approval of the Class Action Settlement Agreement; (3) direct notice to the settlement class; and (4) set a final fairness hearing. For the reasons stated below, the motion is granted.

Plaintiffs Jessica Kohl and Matthew Kohl, individually, and on behalf of the proposed Settlement Class, and Pluris Wedgefield, LLC, Pluris Holdings, LLC, and Pluris Wedgefield, Inc. (“Pluris” or “Defendants”) have agreed, subject to approval by the Court, to settle this Action upon the terms and conditions in the Settlement

Agreement (“Agreement”), filed with the Court on December 21, 2022; and

The parties have made an application for preliminary approval of the Settlement of this Action, as set forth in the Agreement; and

The Court has read and considered the Agreement and the exhibits thereto and has read and considered all other papers filed and proceedings had herein, and is otherwise fully informed, and with good cause appearing,

IT IS HEREBY ORDERED:

1. This Preliminary Approval Order incorporates by reference the definitions in the Agreement.

2. The Court has jurisdiction over the subject matter of this Action and over all Parties to this Action, including the Named Plaintiffs, all Settlement Class Members and Defendants.

3. The Court preliminarily approves the Agreement, and preliminarily finds the Settlement to be fair, reasonable, and adequate to the Settlement Class, but such finding is not to be deemed an admission of liability or fault by Defendants or by any other person, or a finding of the validity of any claims asserted in the Action or of any wrongdoing or of any violation of law by Defendants. Defendants shall retain all rights to assert that the Action may not be certified as a class action except for settlement purposes. Neither the Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by the Released Persons of the truth of any of the allegations made in the Action, or of any liability, fault, or wrongdoing of any kind whatsoever on the part of

the Released Persons, except that Defendants may file this Order in any action that may be brought against it in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

4. The Court appoints Jessica Kohl and Matthew Kohl as Class Representatives, and Matthew Mokwa from The Maher Law Firm, P.A., Timothy Davis from Henninger Garrison Davis, LLC and Ed Normand from Normand, PLLC as Class Counsel.

5. The Court approves, as to form and content, the Summary Notice and Long-Form Notice.

6. All dates that are set forth in or that otherwise flow from the Preliminary Approval Order shall be added to the Summary Notice and the Long-Form Notice before they are sent to Class Members or made available on the settlement website.

7. The Court finds the Class Notice constitutes the best notice practicable under the circumstances, by providing individual notice to all Class Members who can be identified through reasonable effort and constitutes valid and sufficient notice to all persons entitled thereto, complying fully with the requirements of Fla. R. Civ. P. 1.220(d)(2) and due process.

8. The Court approves the Long-Form Notice and the Summary Notice, the content of which is without material alteration from Exhibit 1 and Exhibit 2 to the Agreement, respectively, to be sent to the Persons described in Section 1.1(ee.) of the

Agreement, and directs its mailing by first-class mail to the address and its emailing to the email address for each such Person as set forth in Section 7.4 of the Agreement, and, for mailed Notices returned, directs the Settlement Administrator to follow the procedures set forth in Section 7.8 of the Agreement.

9. The Court approves the settlement website as described in Section 7.6 of the Agreement, which may be amended during the course of the settlement as appropriate and agreed to by the Parties, and which shall be maintained for at least 30 days after the end of the final distribution and final Settlement Report is provided to the Parties.

10. The Court appoints KCC as the Settlement Administrator, and orders that none of the Parties shall be responsible for any acts, or failures to act, by the Settlement Administrator.

11. The Court directs the Settlement Administrator to create, maintain, and establish the website described in 7.6 of the Agreement and approved herein. The website shall be “live” or accessible on or before the date on which Notice is sent.

12. The Court directs the Settlement Administrator to maintain a toll-free IVR telephone system containing recorded answers to frequently asked questions, along with an option permitting potential Settlement Class Members to record a message to be returned by the Settlement Administrator.

13. The Settlement Administrator shall file proof of sending of the Notice at least ten (10) days before the Final Approval Hearing, along with the Opt-Out List, which shall be a list of all Persons who timely and properly requested exclusion from

the Settlement Class, and an affidavit attesting to the accuracy of the Opt-Out List.

14. Each Settlement Class Member who wishes to exclude himself or herself from the Settlement Class must submit an appropriate, timely request for exclusion, postmarked no later than thirty (30) days before the Final Approval Hearing, to the Settlement Administrator at the address in the Notice, and that complies with the requirements in Section 11 of the Agreement. Any exclusion must be exercised individually by a Settlement Class Member, not as or on behalf of a group, class, or subclass, except that such exclusion requests may be submitted by a Settlement Class Member's Legally Authorized Representative.

15. Any Settlement Class Member who does not submit a timely, written request for exclusion from the Settlement Class will be bound by all proceedings, orders, and judgments in the Action, even if such Settlement Class Member never received actual notice of the Action or this Proposed Settlement.

16. Preliminary certification of the Settlement Class and all actions associated with preliminary certification are undertaken on the condition that the certification and designations shall be automatically vacated if the Agreement is terminated or is disapproved in whole or in part by the Court, the Court of Appeals or the Supreme Court, or if the agreement to settle is revoked pursuant to Section 16 of the Agreement, in which event the Agreement and the fact that it was entered into shall not be offered, received, or construed as an admission or as evidence for any purpose, including but not limited to an admission by any Party of liability or of the certifiability of any class, or as any form of precedent in any matter.

17. Each Settlement Class Member who has not submitted a timely request for exclusion from the Settlement Class, and who wishes to object to the fairness, reasonableness, or adequacy of this Agreement or any term or aspect of the Proposed Settlement or to intervene in the Action, must follow the procedures set forth in Section 11 of the Agreement.

18. Any Settlement Class Member, or attorney hired by a Settlement Class Member, objecting to any term or aspect of the Agreement or to the Proposed Settlement or intervening in the Action must provide to the Settlement Administrator (who shall forward it to Class Counsel and Counsel for Defendants) and file with the Clerk of the Court a notice of appearance no later than thirty (30) days before the Final Approval Hearing.

19. The right to object to the Proposed Settlement or to intervene must be exercised individually by a Settlement Class Member or his or her attorney, and not as a member of a group, class, or subclass, except that such objections and motions to intervene may be submitted by a Settlement Class Member's Legally Authorized Representative.

20. To be timely and valid, an objection (a) must be sent to the Court, Class Counsel, and Defense Counsel (via U.S. Mail); (b) must be post-marked on or before the Objection Deadline; and (c) must include (i) the full name and current address and telephone number of the Settlement Class Member; (ii) if not their current address, their prior address in the Wedgefield Community; (iii) all of the Settlement Class Member's objections, the reasons therefore, and all supporting papers, including,

without limitation, all briefs, written evidence, and declarations; (iv) a statement of whether the Settlement Class Member intends to appear at the Final Approval Hearing; and (v) the Settlement Class Member's signature and the signature of any attorney representing the Settlement Class Member. Neither an objection signed by counsel alone nor any "mass" or "class" objections shall be valid.

21. The Parties shall have the same right to seek discovery from any objecting Settlement Class Member as they would if the objector was a named party in the Action. A Settlement Class Member who does not submit a timely and valid objection, does not respond to discovery, or does not make himself or herself available for deposition shall be deemed to have waived, and shall be forever foreclosed from making, any objection to the Agreement and the settlement reflected in the Agreement (whether by appeal or otherwise) and shall not be permitted to present objections or otherwise be heard at the Final Approval Hearing.

22. Only Settlement Class Members who state in their objections that they intend to appear at the Final Approval Hearing will have the right to present their objections orally at the Final Approval Hearing.

23. Unless otherwise ordered by the Court, any Settlement Class Member who does not make his, her, or its objection in the manner provided for herein, shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the foregoing matters.

24. The Settlement Administrator shall receive requests for exclusion, objections, notices of intention to appear, and any other settlement-related

communications, and only the Settlement Administrator, the Court, the Clerk of the Court, and their designated agents shall have access to these documents, except as otherwise expressly provided in the Agreement.

25. The Settlement Administrator shall promptly furnish to Class Counsel and Counsel for Defendants copies of any and all objections, written requests for exclusion, motions to intervene, notices of intention to appear, or other communications that come into its possession, as set forth in the Agreement.

26. The Court hereby stays all proceedings in the Action until further order of the Court, except that the Parties may conduct such limited proceedings as may be necessary to implement the Proposed Settlement or to effectuate the terms of the Agreement.

27. Consistent with the Agreement, the Court conditionally approves the following Settlement Class:

All residential customers who paid for potable water distributed by Pluris Wedgefield, LLC and Pluris Wedgefield, Inc. from April 12, 2016 through the date on which the Preliminary Settlement Approval Order is entered. Excluded from the Class are Defendants, any Released Persons, Class Counsel, and any judge, clerk, deputy, and/or employee of the Court in which this case is pending

28. For purposes of Settlement, the threshold requirements and Rule 1.220 requirements for class certification are met. Plaintiffs possess standing and the proposed Settlement Class is adequately defined and clearly ascertainable.

29. For purposes of settlement, the Class is sufficiently numerous (comprised of approximately 2,000 members), there are questions of law and fact common to the

Settlement Class, Plaintiffs' claim is typical of the Settlement Class, and both Plaintiffs and Class Counsel are adequate representatives of the Settlement Class. *See Sosa v. Safeway Premium Fin. Co.*, 73 So. 3d 91, 106 (Fla. 2011) (to certify a class, Rule 1.220(a) requirements of numerosity, commonality, typicality, and adequacy must be satisfied).

30. For purposes of settlement, questions common to the class predominate over any individual questions, and class treatment is superior to alternative forms of adjudication. *See id.* at 106-07 (predominance and superiority requirements must be met to certify a class under Rule 1.220(b)(3)).

31. That the Court preliminarily finds the proposed Settlement Class is certifiable in no way portends this Court's analysis at final approval, nor does it have any applicability to the certifiability of any litigated class should the Agreement not be approved or otherwise fail to be effectuated. Defendants maintain all defenses to certification of a litigated Class, and this Order shall not be used as evidence or in any way relevant to whether a litigation Class should or could be certified for class treatment.

32. If final approval of the Proposed Settlement is not obtained, this certification order, including the above description of the Settlement Class, shall be vacated and of no further force or effect.

33. A hearing shall be held on April 3, 2023, at 9:00 a.m., before the Honorable Margaret Schreiber, at Orange County, Florida, for the purpose of determining (a) whether the proposed Settlement as set forth in the Agreement is fair, reasonable and adequate and should be finally approved by the Court; (b) whether a

Final Judgment, granting final approval of the Agreement and dismissing the Action with prejudice should be entered; (c) whether the Class Representative should receive an incentive award and in what amount; (d) whether Class Counsel should receive a fees and costs award and in what amount; and (e) such other matters as the Agreement contemplates and as the Court may deem just and proper.

34. Any application by Class Counsel for Attorneys' Fees and Costs, and all papers in support thereof, and any application for a Class Representative Award, shall be filed with the Court no later than fifteen (15) days prior to the Objection Deadline.

35. All other papers in support of the Settlement or responding to objections or motions to intervene shall be filed no later than ten (10) days before the Final Approval Hearing.

36. The Court may adjourn the Final Approval Hearing from time to time and without further notice to the Settlement Class Members. The Court reserves the right to approve the Settlement at or after the Final Approval Hearing with such modifications as may be consented to by the Parties and without further notice to the Settlement Class Members.

37. Pending final determination as to whether the Settlement, as set forth in the Agreement, should be approved, no Settlement Class Member shall commence, prosecute, pursue, or litigate any Released Claims against any Released Person, whether directly, representatively, or in any capacity, and regardless of whether or not any such Settlement Class Member has appeared in the action.

38. The following schedule is established to guide the Parties in conducting

the Notice and settlement administration process:

PROPOSED PRELIMINARY SCHEDULE

#	Action	Deadline
1	Website Notice Posted by Settlement Administrator	Month, Day, Year [thirty (30) days after entry of the Preliminary Approval Order (“PAO”)]
2	Deadline for Settlement Administrator to mail out direct notice and to email notice	Month, Day, Year [thirty (30) days after entry of the PAO]
3	Deadline for Class Counsel to petition the Court for attorneys’ fees and for reimbursement of costs	February 20, 2023
4	Deadline to file written notice of objection to the Settlement Agreement (“Objection Deadline”)	March 6, 2023
5	Deadline for Settlement Class Members to submit request to opt-out of the Settlement (“Opt-Out Deadline”)	March 6, 2023
6	Deadline for Class Counsel to file their Motion for Final Approval of the Settlement, application for attorneys’ fees and expenses, and for a service award of the Named Plaintiffs	March 13, 2023
7	Deadline for Settlement Administrator to file proof of completion of Notice, along with complete and accurate Opt-Out list	March 24, 2023
8	Final Approval Hearing	April 3, 2023, at 9:00 AM

IT IS SO ORDERED.

DATED: _____



eSigned by Paetra Brownlee 12/29/2022 10:32:44 ZUIMXwEV

Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court this _____ day of _____, 2022 by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorney(s)/interested parties identified on the EPortal Electronic Service List, via transmission of Notices of Electronic Filing generated by the EPortal System.