

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

WYATT B. et al.

Civ. No. 6:19-cv-00556-AA

Plaintiffs,

OPINION & ORDER

v.

TINA KOTEK et al.,

Defendants.

AIKEN, District Judge.

This class action comes before the Court on Plaintiffs’ Unopposed Motion to Remove Class Representative Ruth T. ECF No. 478. Plaintiffs represent that, although Ruth T. has given verbal assent to the proposed settlement agreement, she has been unable to communicate with class counsel or participate meaningfully in the finalization of the settlement agreement. As a result, Plaintiffs seek to remove Ruth T. as a class representative in this case.

“The Court ‘in its discretion may remove a named plaintiff as a class representative, should it be demonstrated that the named plaintiff does not meet the criteria of Rule 23(a),’ unless such removal ‘would unfairly prejudice the parties or the class.’” *Waldrup v. Countrywide Fin. Corp.*, Case No. 2:13-CV-08833-CAS (AGRx); 2:16-CV-04166-CAS (AGRx), 2020 WL 1529257, at *2 (C.D. Cal. Mar. 30, 2020) (quoting *Lancaster v. Tilton*, No. C79-01639 WHA, 2007 WL 1897953, at *2

(N.D. Cal. June 21, 2007). Federal Rule of Civil Procedure 23(a)(4) requires that a class representative “fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). As part of this requirement, a class representative must “prosecute the action vigorously on behalf of the class.” *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 566 (9th Cir. 2019).

In this case, Ruth T.’s inability to maintain communications with class counsel or meaningfully participate in the settlement process means that she is unable to fairly and adequately protect the interests of the class. The remaining named Plaintiffs have signed the settlement agreement and will be able to represent the class adequately. The removal of Ruth T. as a class representative would not unfairly prejudice the parties or the class. The Court therefore GRANTS Plaintiffs’ Motion, ECF No. 478, and removes Ruth T. as a class representative in this case.

It is so ORDERED and DATED this 23rd day of May 2024.

/s/Ann Aiken
ANN AIKEN
United States District Judge