

UNITED STATES OF AMERICA

STATE OF ILLINOIS

COUNTY OF DU PAGE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

ROBERT CANNON	Plaintiff
-VS-	
FIC AMERICA CORP	Defendant

2020L000121
CASE NUMBER

FILED

24 Jan 24 PM 01: 36

Candice Adams
CLERK OF THE
18TH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS

ORDER

PRELIMINARY APPROVAL ORDER

This matter having come before the Court on Plaintiffs’ Unopposed Motion and Memorandum for Preliminary Approval of Class Action Settlement (“the Motion”), the Court having reviewed and considered the Motion, the supporting Memorandum of Law and attached exhibits, including the Class Action Settlement Agreement (“Settlement” or “Settlement Agreement”) and its attachments, and the Court being fully advised in the premises,

IT IS ORDERED AS FOLLOWS:

1. Capitalized terms not defined in this Order are defined in the Parties’ Settlement Agreement.
2. The Court finds, on a preliminary basis, that the settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class.
3. The Settlement Agreement was negotiated at arm’s length between counsel for the Parties who are experienced in class action litigation.
4. The Court hereby conditionally certifies, pursuant to Section 2-801 of the Illinois Code of Civil Procedure, and for the purposes of settlement only, a Settlement Class of the following:
5. All individuals who worked or are currently working for Defendant in the State of Illinois who had their Biometric Identifiers and/or Biometric Information collected, captured, received or otherwise obtained or disclosed by Defendant or its agents without first signing a written consent regarding same between January 30, 2015, and the date of the preliminary approval order.

In addition to persons who timely signed a written consent, excluded from the Settlement Class are (1) any Judge or Magistrate presiding over this action and members of their families, (2) Defendant, Defendant’s subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest, (3) persons who properly execute and file a timely request for exclusion from the Settlement Class, and (4) the legal representatives, successors or assigns of any such excluded persons.
6. For purposes of settlement, the Court finds on a preliminary basis that the settlement and Settlement Class satisfy the requirements of Section 2-801 of the Illinois Code of Civil Procedure, specifically that: (a) the class is so numerous that joinder of all members is impracticable; (b) there are questions of fact or law common to the class, which common questions predominate over any questions affecting only individual members; (c) the representative parties will fairly and adequately protect the interests of the class; and (d) class action is an appropriate method for the fair and efficient adjudication of this controversy. 735 ILCS 5/2-801.
7. The Court recognizes that, pursuant to the Settlement Agreement, Defendant retains all rights to object to the propriety of class certification in this matter in all other contexts and for all other purposes should the Settlement not be finally approved. Therefore,

- if the Settlement is not finally approved, and litigation resumes, this Court's preliminary findings regarding the propriety of class certification shall be of no further force or effect whatsoever, this Preliminary Approval Order will be vacated in its entirety, and the Parties shall revert to their positions in the litigation as if no settlement had occurred.
8. The Court finds that distribution of notice to the proposed Settlement Class Members is justified because Plaintiffs have shown that the Court will likely be able to (i) approve the Settlement under Section 2-801 of the Illinois Code of Civil Procedure and (ii) certify the proposed class for purposes of settlement.
 9. For settlement purposes only, the Court appoints Robert Cannon and Tonia Lewis as the Settlement Class Representatives and finds that they will adequately protect the interests of the Settlement Class.
 10. For settlement purposes only, the Court appoints as Settlement Class Counsel David Fish and Mara Baltabols of Fish Potter Bolaños, P.C. and Douglas M. Werman of Werman Salas PC as Class Counsel. The Court finds that Class Counsel is competent, capable, and will adequately represent the interest of the Settlement Class.
 11. The Court appoints Analytics Consulting LLC as the Settlement Administrator to perform all duties described in the Settlement Agreement and ordered by this Court.
 12. The Court finds that distribution of the proposed Notice of Class Action Settlement ("Notice") by mail as well as creation of a settlement website (containing Notice forms, the Settlement Agreement, the Motions for Preliminary and Final Approval of Class Settlement, Plaintiffs' fee petition, any Q&A and all orders) are the best practicable means of providing notice under the circumstances and when completed, shall constitute due and sufficient notice of the settlement terms, the right to object, the right to exclude themselves from the Class, and of the Final Approval Hearing to all persons affected by or entitled to participate in the Settlement, in full compliance with the notice requirements of Section 2-803 of the Illinois Code of Civil Procedure, due process, the Constitution of the United States, the Illinois Constitution, and other applicable laws. The proposed Notice is accurate, objective, and informative. It provides Class Members with all of the information necessary to protect the interests of the class and the parties, and allows the Class Members to evaluate the fairness of the settlement and to make an informed decision regarding whether to participate in the Settlement. The Class Notice meets all applicable legal requirements. The parties, by agreement, may revise the Notice in non-material ways or to update the documents for purposes of accuracy or formatting for publication.
 13. Any Settlement Class Member may request to be excluded from the settlement by submitting a written request for exclusion to the Settlement Administrator as described in the Notice by May 10, 2024. A request for exclusion that does not include all of the information required by the Notice or that is not postmarked and sent via U.S. Mail by the Exclusion Deadline will be invalid and the person will be deemed to remain a Settlement Class Member and bound by the Settlement Agreement, if approved.
 14. Any Settlement Class Member who excludes himself or herself from the settlement will not be entitled to any recovery under the settlement and will not be bound by the settlement or have any right to object, appeal, or comment on it.
 15. Any Settlement Class Member who does not request to be excluded from the Settlement may object to the settlement by filing his or her objection, the specific grounds for said objection, supporting documentation and all papers to be presented to the Court at the Final Approval Hearing (as more thoroughly described below) with the Clerk of the Court and by delivering timely-postmarked copies of said objection to Class Counsel and the Settlement Administrator by May 10, 2024. Any such objection must comply with the requirements set forth in the Settlement Agreement, including by providing: (i) their full name, address, and current telephone number; (ii) the case name and number of this action; (iii) the date range during which he/she was employed or engaged by FIC in Illinois; (iv) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (v) the identification of any other objections they have filed, or have had filed on their behalf, in any other class action cases in the last five years; and (vi) the objector's signature. If represented by counsel, the objecting Settlement Class Member must also provide the name, address, email address and telephone number of his or her counsel. If the objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, they must state as such in the written objection, and must also identify any witnesses they may call to testify at the Final Approval Hearing and all exhibits they intend to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, the written objection. All written objections must be served on Class Counsel, who will promptly provide a list of the written objections and supporting documentation to defense counsel. Failure to timely object in compliance with these requirements will waive any objections to the settlement.
 16. Settlement Class Members and other Releasors shall be bound by all determinations and orders pertaining to the Settlement, including the release of the Releasees from all Released Claims as set forth in the Settlement Agreement, whether favorable or unfavorable, unless such persons request exclusion from the Settlement in a timely and proper manner as provided herein. Settlement Class Members who do not timely and validly request exclusion shall be bound by the Settlement, including the release of all Released Claims, even if they have previously initiated or subsequently initiate litigation or other proceedings against Defendants or Releasees for any Released Claims.
 17. Class Counsel may file any motion seeking an award of attorneys' fees and costs not to exceed 38% of the Settlement Fund in attorneys' fees, plus their reasonable costs and expenses, as well as a Service Award to each of the Named Plaintiffs no later than

seven (7) days prior to the Final Approval Hearing.

- 18. All papers in support of the final approval of the proposed Settlement shall be filed no later than seven (7) days prior to the Final Approval Hearing.
- 19. The Court schedules a Final Approval Hearing for May 21, 2024 at 9:30 a.m. in Room 2016, in person to consider, among other things, (1) whether to finally approve the settlement and whether it is fair, reasonable, and adequate; (2) whether to approve Class Counsel’s request for attorney fees and litigation costs; (3) whether to approve the Settlement Administrator’s costs; (4) whether to approve the Class Representatives’ request for an Incentive Award; and (5) whether a judgment and order of dismissal with prejudice should be entered. Settlement Class Members may, but are not required to, appear at the Final Approval Hearing and request to speak in favor or against the settlement.
- 20. The Final Approval Hearing may be postponed, adjourned, transferred, or continued by order of the Court without further notice to Settlement Class Members. At or following the Final Approval Hearing, the Court may enter a Final Judgment approving the settlement and entering a Final Approval Order in accordance with the settlement that adjudicates the rights of all Settlement Class Members.
- 21. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.
- 22. All discovery and other proceedings in the Litigation as between Plaintiffs and Defendant are stayed and suspended until further order of the Court except such actions as may be necessary to implement the Settlement Agreement and this Order.
- 23. If the Settlement Agreement fails to become effective, is overturned on appeal, or does not become final for any reason, the parties shall be restored to their respective positions in this action as of the date preceding the signing of the Settlement Agreement.
- 24. For clarity, the deadlines set forth above and in the Settlement Agreement are as follows:

Class List Sent to Administrator: 2/23/24 (30 days from preliminary order)

Notice to be completed by: 3/11/24 (45 days from preliminary order)


Objection Deadline: 5/10/24 (60 days from notice date)

Exclusion Request Deadline: 5/10/24 (60 days from notice date)

Final Approval Submissions: 5/14/24 (7 days before final approval hearing)

Final Approval Hearing: 5/21/24 at 9:30 a.m., in Room 2016, in person

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Entered: 
 File Date: 01/24/2024
 JUDGE NEAL W CERNE
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 Date: 01/24/2024