

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

WILFRED BERMUDEZ,

Plaintiff,

v.

Case No. 6:19-cv-1847-Orl-37DCI

CFI RESORTS MANAGEMENT, INC.,

Defendant.

PRELIMINARY APPROVAL ORDER

This matter is before the Court on Plaintiff's Unopposed Motion for Preliminary Approval of Settlement and Notice to the Settlement Class. (Doc. 42 ("**Motion**").) On review and after a hearing (Doc. 48), the Court grants the Motion.

Plaintiff alleges violations of the Fair Credit Reporting Act ("**FCRA**"). (Doc. 21.) The FCRA makes it illegal to obtain a consumer report for an employment related purpose, unless the party strictly complies with the statute's disclosure requirements. 15 U.S.C. § 1681b; (Doc. 21, ¶ 28.) Plaintiff claims Defendant violated the FCRA by obtaining consumer reports for employees and applicants without making the statutorily required disclosures and used the information in the reports for adverse employment actions. (Doc. 21, ¶¶ 2, 5-7, 20-23, 31, 66-99.)

Now, Plaintiff represents the parties reached a settlement after arms-length negotiation and mediation. (Doc. 42, pp. 2, 5.) So they request: (1) preliminary approval of the Stipulation of Settlement (Doc. 42-1, pp. 2-28 ("**Settlement Agreement**")); (2)

certification, for settlement purposes only, of a class of Defendant's employees and job applicants for whom Defendant obtained a consumer report from September 25, 2017 to March 6, 2020 ("**Settlement Class**") (*id.* at 21); and (3) approval of the Notice of Action Settlement (*id.* at 32-33 "**Notice**") for distribution to members of the Settlement Class. (Doc. 42.)

Federal Rule of Civil Procedure 23(e) requires judicial approval of a class action settlement. Before granting such approval, a court should ensure the settlement "is fair, adequate and reasonable and is not the product of collusion between the parties." *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984) (citation omitted). "Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial." *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). But the Court must give heightened scrutiny to the other Rule 23 requirements because the Court will lack the normal opportunity to adjust the class based on information revealed during the proceedings. *Id.*; *see* Fed. R. Civ. P. 23.

Having reviewed the factors set forth in Fed. R. Civ. P. 23(e)(2), the parties' argument at the hearing (*see* Doc. 48), the Settlement Agreement, Notice, and additional exhibits (*see* Docs. 42-1), the Court preliminarily approves the settlement set forth in the parties' Settlement Agreement (Doc. 42-1, pp. 2-28) as being a fair, reasonable, and adequate resolution of the pending class action claims.

Accordingly, it is **ORDERED AND ADJUDGED**:

1. Plaintiff's Unopposed Motion for Preliminary Approval of Settlement and

Notice to Settlement Class (Doc. 42) is **GRANTED**.

Class Certification

2. Solely for settlement purposes, and pursuant to Federal Rules of Civil Procedure 23(b)(3) and (e), the Court provisionally certifies a Settlement Class in this matter as:
 - a. All individuals who were subject to at least one consumer report procured for employment purposes by Defendant between September 25, 2017 through March 6, 2020.
3. The named Plaintiff Wilfred Bermudez shall be the Class Representative of the Settlement Class. The Court preliminary finds that he will fairly represent and protect the interests of the absent Settlement Class members.
4. The Court approves Marc Edelman of Morgan & Morgan, PA and Chad Justice of Justice for Justice LLC as Class Counsel. The Court preliminary finds that they are competent, capable of exercising all responsibilities of Class Counsel, and will fairly and adequately represent and protect the interest of the absent Settlement Class members.
5. In compliance with the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b), Class Counsel will provide confirmation that Defendant served written notice of the proposed class settlement on an “appropriate Federal official” and “appropriate State official.”

Notice and Administration

6. The Court approves, as to form and content, the Notice of Class Action

Settlement. (Doc. 42-1, pp. 32-33.)

7. The Court finds the proposed distribution procedures for the Notice, as set forth in the Settlement Agreement, are reasonable under the circumstances and constitute sufficient notice to Settlement Class Members. The proposed form and method for notifying the Settlement Class Members of the settlement and its terms and conditions meet the requirements of Federal Rule of Civil Procedure 23(c)(2)(B) and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled to the notice. The Court finds that the proposed notice is clearly designed to advise the Settlement Class Members of their rights.
8. The Court appoints American Legal Claims Services as the Settlement Administrator. Within fifteen (15) days after this Order, the Settlement Administrator shall mail the Notice approved by the Court to each Class Member.

Claim, Opt-Out, and Objection

9. Any Settlement Class Member who wishes to receive a portion of the settlement fund must submit a claim form on the settlement website, by fax or by mail, within sixty (60) days from the mailing of the Notice.
10. Any Settlement Class Member who wishes to opt-out of the Settlement Class must send, by first-class U.S. mail, written notice addressed to the Settlement Administrator indicating his or her name and address and

stating that he or she desires to opt-out of the settlement within thirty (30) days from the mailing of the Notice.

11. Any Settlement Class Member who wishes to object to the settlement must return by U.S. mail to the Settlement Administrator a timely written statement of objection no later than thirty (30) days from the mailing of the Notice.

Fairness Hearing

12. At least fourteen (14) days prior to the Fairness Hearing, the parties will file jointly a motion for final approval of the Settlement. In connection with that motion, the Parties shall file with that motion a declaration by the Settlement Administrator outlining the completion of the notice distribution plan. The Parties shall also file with that motion lists of the names of (1) the Non-Participating Class Members who requested to be excluded from the Settlement Class as provided in the Notice, and (2) the Class Members who submitted objections as provided in the Notice. The Parties shall also file with that motion copies of any requests for exclusion and copies of any objections.
13. The Fairness Hearing will take place on Thursday, **November 12, 2020** at **1:30 p.m.** in Courtroom 4A at the United States District Courthouse, 401 West Central Boulevard, Orlando, Florida 32801 before the Honorable Roy B. Dalton, Jr. At the Fairness Hearing, the Court will address the joint motion for final approval and any pending objections to the Settlement

Agreement.

14. The preliminary approved Settlement Agreement shall be administered according to this Order pending the Fairness Hearing. Deadlines arising under the Settlement Agreement and this Order include but are not limited to:

Settlement Administrator mails Notice	No later than 15 days after this Order
Opt-out and Objections Deadline	30 days after the Notice is mailed
Claim Deadline	60 days after the Notice is mailed
Deadline for motion for attorney’s fees and costs, class settlement administrative costs, and incentive award for Plaintiff	14 days before Fairness Hearing
Deadline for motion for final approval	14 days before Fairness Hearing
Fairness Hearing	Thursday, November 12, 2020 10:30 a.m.

DONE AND ORDERED in Chambers in Orlando, Florida, on August 3, 2020.




 ROY B. DALTON JR.
 United States District Judge

Copies to:
 Counsel of Record