

UNITED STATES OF AMERICA


STATE OF ILLINOIS

COUNTY OF DU PAGE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

<u>ALEXANDER CLARKE ET AL.</u>	Plaintiff
-VS-	
<u>LEMONADE INC ET AL.</u>	Defendant

2022LA000308  
CASE NUMBER

**FILED**  
**22 Aug 25 AM 09: 47**  
  
 CLERK OF THE  
 18TH JUDICIAL CIRCUIT  
 DUPAGE COUNTY, ILLINOIS

ORDER

FINAL JUDGMENT AND

ORDER OF DISMISSAL WITH PREJUDICE

WHEREAS, a class action is pending before the Court entitled *Clarke et al. v. Lemonade, Inc. et al.*, No. 2022LA000308; and

WHEREAS, Plaintiffs Alexander Clarke, Milton Citchens, Andrew Garcia, Ebony Jones, Kyle Swerdlow, Marla Walker, and Ryan Webb (collectively, "Plaintiffs"), and Lemonade, Inc., Lemonade Insurance Company, Lemonade Insurance Agency, LLC, Lemonade, Ltd., and Lemonade Life Insurance Agency, LLC (collectively "Defendants" and together with Plaintiff the "Parties") have entered into a Class Action Settlement Agreement, which, together with the exhibits attached thereto, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice as to Defendants upon the terms and conditions set forth therein (the "Settlement Agreement"); and

WHEREAS, on May 25, 2022, the Court granted Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"), conditionally certifying two Classes ("Settlement Classes") pursuant to 735 ILCS 5/2-801:

- a. **Nationwide Settlement Class.** All Defendants' policyholders in the United States who, between June 25, 2019 and May 27, 2021, provided first notice of loss through a video claim submission from which Defendants or Released Parties could have collected, captured, received, or otherwise obtained or disclosed data or information that could be construed as biometric identifiers of any kind (including, but not limited to retina or iris scan, fingerprint, voiceprint, scan of hand, scan of face geometry, or measurement of any biological feature) and/or biometric information of any kind (including, but not limited to, any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual).
- b. **Illinois Settlement Sub-Class.** All Defendants' policyholders in the State of Illinois who, between June 25, 2019 and May 27, 2021, provided first notice of loss through a video claim submission from which Defendants or Released Parties could have collected, captured, received, or otherwise obtained or disclosed data or information that could be construed as biometric identifiers of any kind (including, but not limited to retina or iris scan, fingerprint, voiceprint, scan of hand, scan of face geometry, or measurement of any biological feature) and/or biometric information of any kind (including, but not limited to, any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual); and

WHEREAS, the Court has considered the Parties' Class Action Settlement Agreement, as well as Plaintiffs' Motion and Memorandum in Support of Final Approval of Class Action Settlement Agreement, Plaintiffs' Motion for Attorneys' Fees, Costs, Expenses, And Incentive Awards, together with all exhibits thereto, the arguments and authorities presented by the Parties and their counsel at the Final Approval Hearing held on August 25, 2022, and the record in the Action, and good cause appearing;

IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:


1. Terms and phrases in this Final Judgment shall have the same meaning as ascribed to them in the Settlement Agreement.
2. This Court has jurisdiction over the subject matter of the Action and over all Parties to the Action, including all Settlement Class members.
3. The Preliminary Approval Order outlined the form and manner by which Plaintiffs would provide the Settlement Classes with notice of the Settlement Agreement, the Final Approval Hearing, and related matters: (i) direct notice via the Lemonade Application; (ii) direct notice via email, with backup direct notice via U.S. mail; and (iii) a settlement website maintained by the Settlement Administrator. Consistent with the Preliminary Approval Order, the notice provided to the Settlement Classes fully complied with the requirements of 735 ILCS 5/2-803 and due process and was reasonably calculated under the circumstances to apprise the Settlement Classes of the pendency of the Action, their right to object to or to exclude themselves from the Settlement Agreement, and their right to appear at the Final Approval Hearing.
4. This Court now gives final approval to the Settlement Agreement, and finds that the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Classes. The settlement consideration provided under the Settlement Agreement constitutes fair value given in exchange for the release of the Released Claims against the Released Parties. The Court finds that the consideration to be paid to members of the Settlement Classes is reasonable, and in the best interests of the Settlement Class Members, considering the total value of their claims compared to (i) the disputed factual and legal circumstances of the Action, (ii) affirmative defenses asserted in the Action, and (iii) the potential risks and likelihood of success of pursuing litigation on the merits. The complex legal and factual posture of this case, the amount of discovery completed, and the fact that the Settlement is the result of arm's-length negotiations between the Parties support this finding. The Court finds that these facts, in addition to the Court's observations throughout the litigation, demonstrate that there was no collusion present in the reaching of the Settlement Agreement, implicit or otherwise.
5. The Court has specifically considered the factors relevant to class action settlement approval, including:

(1) the strength of the case for the plaintiff on the merits, balanced against the money or other relief offered in settlement; (2) the defendant's ability to pay; (3) the complexity, length and expense of further litigation; (4) the amount of opposition to the settlement; (5) the presence of collusion in reaching a settlement; (6) the reaction of members of the class to the settlement; (7) the opinion of competent counsel; and (8) the stage of proceedings and the amount of discovery completed.

*City of Chicago v. Korshak*, 206 Ill. App. 3d 968, 972 (1st Dist. 1990).

1. The Court finds that the Class Representatives and Class Counsel adequately represented the Settlement Classes for the purposes of litigating this matter and entering into and implementing the Settlement Agreement.
2. Accordingly, the Settlement Agreement is hereby finally approved in all respects.
3. The Settlement Classes provisionally certified by the Court in the Preliminary Approval Order are hereby certified as classes pursuant to 735 ILCS 5/2-801.
4. The Parties are hereby directed to implement the Settlement Agreement according to its terms and provisions. The Settlement Agreement is hereby incorporated into this Final Judgment in full and shall have the full force of an Order of this Court.
5. This Court hereby dismisses the Action, as identified in the Settlement Agreement, on the merits and with prejudice.
6. Upon the Effective Date of this Final Judgment, Plaintiffs and each and every Settlement Class Member who did not opt out of the Settlement Classes, including the Releasing Parties shall be deemed to have released Defendants, as well as the Released Parties from all claims, liabilities, demands, causes of action, or lawsuits of the Plaintiffs and Settlement Class Members, whether known or unknown, whether legal, statutory, equitable, or of any other type or form, whether under federal, state, or local law, and whether brought in an individual, representative, or any other capacity, of every nature and description whatsoever that were or could have been brought in any of the actions filed (or to be filed) by Plaintiffs relating to all biometric identifiers of any kind or biometric information contained in images, audio, and video submitted to Defendants and Released Parties, including, but not limited to, claims under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.*, New York's Uniform Deceptive Trade Practices Act Section 349, California Unfair Competition Law, Bus. & Prof. Code § 17200, any other federal, state, or local law, regulation, or ordinance, or common law, and any claims asserted or that could have been asserted in the Actions relating to biometric identifiers of any kind (including, but not limited to retina or iris scan, fingerprint, voiceprint, scan of hand, scan of face geometry, or measurement of any biological feature) and/or biometric information of any kind (including, but not limited to, any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual) of policyholders of which Lemonade came into possession between June 25, 2019 and May 27, 2021.
7. Upon the Effective Date of this Final Judgment, the above release of claims and the Settlement Agreement will be binding on, and will have *res judicata* and preclusive effect on, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiff and all other Settlement Class Members and Releasing Parties. All Settlement Class Members are hereby permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any lawsuit or other action in any jurisdiction based on or arising out of any of the Released Claims.
8. The Court has also considered Plaintiffs' Motion For Attorneys' Fees, Costs, Expenses, And Incentive Awards, as well as the supporting memorandum and declarations, and adjudges that the payment of attorneys' fees, costs, and expenses in the amount of \$2,500,000 is reasonable in light of the multi-factor test used to evaluate fee awards in Illinois. *See McNiff v. Mazda Motor of Am., Inc.*, 384 Ill. App. 3d 401, 407 (4th Dist. 2008). Such payment shall be made pursuant to and in the manner provided by the terms of the Settlement Agreement.
9. The Court has also considered Plaintiffs' Motion, memorandum of law, and supporting declarations for incentive awards to the Class Representatives, Alexander Clarke, Milton Citchens, Andrew Garcia, Ebony Jones, Kyle Swerdlow, Marla Walker, and Ryan Webb. The Court adjudges that the payment of incentive awards in the amount of \$2,500 to each Class Representative to compensate them for their efforts and commitment on behalf of the Settlement Classes, is fair, reasonable, and justified under the circumstances of this case. Such payment shall be made pursuant to and in the manner provided by the terms of the Settlement Agreement.
10. All payments made to Settlement Class Members pursuant to the Settlement Agreement that are not cashed within one hundred and eighty (180) days of issuance shall revert to the Chicago Bar Foundation, which the Court approves as an appropriate *cy pres* recipient.
11. Except as otherwise set forth in this Order, the Parties shall bear their own costs and attorneys' fees.
12. The Parties, without further approval from the Court, are hereby permitted to agree and adopt such amendments, modifications, and expansions of the Settlement Agreement and its implementing documents (including all exhibits to the Settlement Agreement) so long as they are consistent in all material respects with this Final Judgment and do not limit the rights of Settlement Class Members.
13. Without affecting the finality of this Final Judgment for purposes of appeal, until the Effective Date the Court shall retain jurisdiction over all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement.
14. The Court finds that there is no just reason to delay, and therefore directs the Clerk of Court to enter this Final Approval Order and Judgment as the judgment of the Court forthwith.

Submitted by: GARY M. KLINGER  
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