

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

TERRY BROWN, *on behalf of himself and* :
all similarly situated individuals, :

Plaintiff, :

v. :

Civil Action No. 1:20-cv-482-AJT-JFA

RP ON-SITE, LLC, :

Defendant. :

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

The Court, having reviewed the Settlement Agreement entered by the parties, hereby
Orders that:

1. The Court has considered the proposed settlement of the claim asserted under the
Fair Credit Reporting Act ("FCRA") by a class of consumers defined as follows (the "Date of
Birth Settlement Class"):

All persons residing in the United States of America (including its territories and
Puerto Rico) who, from September 1, 2017 through February 10, 2021, were the
subject of a report sold by Defendant that included a record from a sex offender
registry where, after further review, the date of birth of the individual in the sex
offender registry differed from the date of birth of the applicant who was the subject
of the report.

2. The Settlement Agreement entered between the parties as of May 9, 2021 (Dkt.
68-1
No. __), appears, upon preliminary review, to be fair, reasonable, and adequate to the Date of
Birth Settlement Class. Accordingly, for settlement purposes only, the proposed settlement is
preliminarily approved, pending a Final Approval Hearing, as provided for herein.

3. The prerequisites to a class action under Fed. R. Civ. P. 23(a) have been
preliminarily satisfied, for settlement purposes only, in that:

(a) The Date of Birth Settlement Class consists of approximately 1,200 members;

(b) the claims of the Named Plaintiff are typical of those of the other members of the Date of Birth Settlement Class;

(c) there are questions of fact and law that are common to all members of the Date of Birth Settlement Class; and

(d) the Named Plaintiff will fairly and adequately protect the interests of the Date of Birth Settlement Class and has retained Class Counsel experienced in consumer class action litigation who have and will continue to adequately represent the Date of Birth Settlement Class.

4. For settlement purposes only, the Court finds that this action is preliminarily maintainable as a class action under Fed. R. Civ. P. 23(b)(3) because: (1) a class action is a fair and efficient adjudication of this controversy; and (2) questions of fact and law common to the members of the Date of Birth Settlement Class predominate over any questions affecting only individual members.

5. If the Settlement Agreement is not finally approved, is not upheld on appeal, or is otherwise terminated for any reason, then the Date of Birth Settlement Class shall be decertified; the Settlement Agreement and all negotiations, proceedings, and documents prepared, and statements made in connection therewith, shall be without prejudice to any Party and shall not be deemed or construed to be an admission or confession by any Party of any fact, matter, or proposition of law; and all Parties shall stand in the same procedural position as if the Settlement Agreement had not been negotiated, made, or filed with the Court.

6. The Court appoints Terry Brown as the class representative. The Court also appoints Kristi Kelly, Andrew Guzzo, and Casey Nash of Kelly Guzzo, PLC as counsel for the Class ("Class Counsel").

7. The Court appoints Continental DataLogix, LLC as the Settlement Administrator.

8. The Court will hold a Final Approval Hearing pursuant to Fed. R. Civ. P. 23(e) on October 13, 2021 (*at least 120 days after entry of Preliminary Approval Order*) at the United States District Court, Eastern District of Virginia, at 401 Courthouse Square Alexandria, VA 22314, at 10 a.m. for the following purposes:

(a) To determine whether the proposed settlement is fair, reasonable, and adequate and should be granted final approval by the Court;

(b) To determine whether a final judgment should be entered dismissing the claims of the Date of Birth Settlement Class with prejudice, as required by the Settlement Agreement;

(c) To consider the application of Class Counsel for an award of attorney's fees, costs, and expenses, and for a service award to the class representative; and

(d) To rule upon other such matters as the Court may deem appropriate.

9. (a) As is provided in Section 4.2.1 of the Settlement Agreement, Class Counsel and Defendant shall provide a Class List of the Date of Birth Settlement Class Members to the Settlement Administrator, who shall send the agreed upon Notices to the Date of Birth Settlement Class Members in accordance with the Date of Birth Settlement Class Notice Plan set forth in the Settlement Agreement no later than July 14, 2021. The Court also approves the parties' Notice, which is attached to the Settlement Agreement as Exhibit C. To the extent the parties or Settlement Administrator determine that ministerial changes to the Notice are necessary before disseminating

it to the Date of Birth Settlement Class Members, they may make such changes without further application to the Court.

(b) Not later than forty-five (45) days before the Final Approval Hearing, the Settlement Administrator will cause a declaration to be filed with the Court that the Notice described above was given as required herein.

10. The Court finds this manner of giving notice fully satisfies the requirements of Fed. R. Civ. P. 23 and due process, constitutes the best notice practicable under the circumstances, including its use of individual notice to all members who can be identified through reasonable effort, and shall constitute due and sufficient notice to all persons entitled thereto.

11. If a Date of Birth Settlement Class Member chooses to opt-out of the class, such class member is required to submit a request for exclusion to the Settlement Administrator, post-marked on or before the date specified in the Notice, which shall be no later than thirty (30) days before the date of the Final Approval Hearing. The request for exclusion must include the items identified in the Settlement Agreement pertaining to requests for exclusion. A Date of Birth Class Member who submits a valid request for exclusion using the procedure identified above shall be excluded from the class for any and all purposes. No later than fourteen (14) days prior to the Final Approval Hearing, the Settlement Administrator shall prepare a declaration listing all of the valid opt-outs received and shall provide the declaration and list to Class Counsel and Defendant's counsel, with Class Counsel then reporting the names appearing on this list to the Court before the Final Approval Hearing.

12. A Date of Birth Settlement Class Member who does not file a timely request for exclusion shall be bound by all subsequent proceedings, orders, and judgments in this action.

13. (a) Any Date of Birth Settlement Class Member who wishes to be heard orally at the Final Approval Hearing, and/or who wishes for any objection to be considered, must file a written notice of objection to be filed with the Court no later than thirty (30) days prior to the Final Approval Hearing. The notice of objection shall be sent by First Class United States Mail to the Settlement Administrator and the Clerk of the Court.

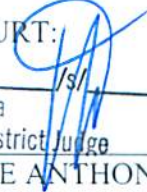
(b) The objection must include the following: (1) the Date of Birth Settlement Class Member's full name, address and current telephone number; (2) if the individual is represented by counsel, the name and telephone number of counsel, if counsel intends to submit a request for fees, and all factual and legal support for that request; (3) all objections and the basis for any such objections stated with specificity, including a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (4) the identity of any witnesses the objector may call to testify; (5) a listing of all exhibits the objector intends to introduce into evidence at the Final Approval Hearing, if any, as well as true and correct copies of such exhibits; and, (6) a statement of whether the objector intends to appear at the Final Approval Hearing, either with or without counsel. Any Date of Birth Settlement Class Member who fails to timely file and serve a written objection pursuant to the terms of this paragraph shall not be permitted to object to the approval of the settlement or the Settlement Agreement and shall be foreclosed from seeking any review of the settlement or the terms of the Settlement Agreement by appeal or other means.

14. All briefs, memoranda, petitions and affidavits to be filed in support of an individual award to the Named Plaintiff and in support in support of Class Counsel's application for fees, costs and expenses, shall be filed not later than forty-five (45) days before the Final Approval Hearing. All other briefs, memoranda, petitions and affidavits that Class Counsel

intends to file in support of final approval shall be filed not later than twenty-one (21) days before the Final Approval Hearing.

14. Neither this Preliminary Approval Order, nor the Settlement Agreement, shall be construed or used as an admission or concession by or against the Defendant or any of the Released Parties of any fault, omission, liability, or wrongdoing, or the validity of any of the Date of Birth Settlement Released Claims. This Preliminary Approval Order is not a finding of the validity or invalidity of any claims in this lawsuit or a determination of any wrongdoing by the Defendant or any of the Released Parties. The preliminary approval of the Settlement Agreement does not constitute any opinion, position, or determination of this Court, one way or the other, as to the merits of the claims and defenses of Plaintiff, the Date of Birth Settlement Class Members, or the Defendant.

15. The Court retains exclusive jurisdiction over this action to consider all further matters arising out of or connected with the Settlement Agreement.

BY THE COURT: 

Anthony J. Trenga
United States District Judge

HONORABLE ANTHONY J. TRENGA
UNITED STATES DISTRICT JUDGE

Dated: June 7, 2021