

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
CHANCERY DIVISION

PORCHIA HEIDELBERG, *individually and  
on behalf of all others similarly situated,*

Plaintiff,

v.

FORMAN MILLS INC.,  
Defendant.

Case No. 2020CH04079

Hon. Joel Chupack  
Presiding Judge

*gc* ~~PROPOSED~~ ORDER CERTIFYING SETTLEMENT CLASS, PRELIMINARILY  
APPROVING CLASS ACTION SETTLEMENT, and APPROVING NOTICE PLAN

This matter having come before the Court on Plaintiff's Unopposed Motion for and Memorandum in Support of Preliminary Approval of Class Action Settlement of the above-captioned matter (the "Action") between Plaintiff Porchia Heidelberg ("Plaintiff") and Forman Mills Inc. ("Defendant"), as set forth in the Stipulation of Class Action Settlement, between Plaintiff and Defendant (the "Settlement Agreement"), and the Court having duly considered the papers and arguments of counsel, the Court hereby finds and orders as follows:

1. Settlement Terms. Unless defined herein, all defined terms in this Order shall have the respective meanings ascribed to the same terms in the Settlement Agreement. The Court adopts and incorporates the Settlement Agreement as though it is fully set forth herein.

2. Preliminary Approval of Proposed Agreement. The Court has conducted a preliminary evaluation of the Settlement as set forth in the Agreement. Based on this preliminary evaluation, the Court finds that: (a) the Agreement is fair, reasonable and adequate, and within the range of possible approval; (b) the Agreement has been negotiated in good faith at arm's length between experienced attorneys familiar with the legal and factual issues of this case; and (c) the proposed forms and method of distributing notice of the Settlement to the Settlement Class are appropriate and warranted. Therefore, the Court grants preliminary approval of the

Settlement.

3. Class Certification for Settlement Purposes Only. The Court, pursuant to Section 2-801 of the Illinois Code of Civil Procedure, and for settlement purposes only, certifies the following Settlement Class:

The approximately 3,435 individuals employed by Defendant Forman Mills Inc. in the State of Illinois who logged onto, interfaced with, or used any software, systems, or devices that used the individual's finger, hand, or any biometric identifier of any type ("Biometric Systems") at a Forman Mills location in Illinois between May 5, 2015 and September 1, 2020 without first giving written consent.

The following are excluded from the Settlement Class: (1) the judge presiding over this case; (2) the judges of the Illinois Appellate Court; (3) the immediate families of the preceding person(s); (4) any Released Party; and (5) any Settlement Class Member who timely opts out of this Action

4. In connection with granting class certification, the Court makes the following preliminary findings:

(a) The Settlement Class include 3,435 members, and thus the class is so numerous joinder of all members is impracticable;

(b) There appear to be questions of law or fact common to the Settlement Class for purposes of determining whether the Settlement should be approved, including, but not limited to, whether Defendant captured, collected, and/or obtained the Settlement Class Members' biometric information via Defendant's timekeeping system, and these questions appear to predominate over any alleged individual questions;

(c) Plaintiff and her counsel are adequate to represent the class. Plaintiff appears to have the same interests as the Settlement Class, she does not have any apparent conflicts of interest with the Settlement Class, and her attorneys have extensive experience litigating class action cases, including class actions arising under BIPA; and

(d) Certification of the Settlement Class is an appropriate method for the fair and efficient adjudication of the controversy.

5. Class Representative. The Court appoints Porchia Heidelberg as representative of the Settlement Class pursuant to Section 2-801 of the Illinois Code of Civil Procedure.

6. Class Counsel. The Court appoints Keith J. Keogh and Gregg M. Barbakoff as Class Counsel pursuant to Section 2-801 of the Illinois Code of Civil Procedure.

7. Settlement Claims Administrator. Kroll is hereby appointed as the Settlement Administrator. The Settlement Administrator shall be responsible for providing notice of the Settlement (“Notice”) to the Settlement Class as provided in the Agreement and this Order, as well as services related to administration of the Settlement.

8. Class Notice. The Class Administrator shall provide Notice via First Class Mail in accordance with the Agreement.

9. Opt-Outs and Objections. Persons in the Settlement Class who wish to object to the Settlement or request exclusion from the Settlement Class, must do so in accordance with the Notice. A class member who opts out may not also submit an objection, unless the class member confirms their intent to withdraw their opt-out in writing by no later than the opt-out deadline.

10. Claims Administrator to Maintain Records. The Claims Administrator shall maintain copies of all objections, and opt-outs received. The Claims Administrator shall provide copies of all objections and opt-outs to the parties.

11. Objections to the Settlement. Any Settlement Class Member who wishes to be heard orally at the Final Approval Hearing, or who wishes for any objection to be considered, must file a written notice of objection in accordance with the Notice, Agreement, and this Order. To be considered, the objection: (A) must be personally signed by the objecting class member,

(B) it must include (i) the class member's full name, current address, and current telephone number; (ii) documentation sufficient to establish membership in the Settlement Class; (iii) a statement of reasons for the objection, including the factual and legal grounds for the objector's position; and (iv) copies of any other documents the objecting Settlement Class Member wishes to submit in support of his/her/its position, and (C) it must be filed with the Court and sent to Plaintiff's and Defendant's counsel as stated in the Notice, by no later than the Opt-Out and Objection deadline stated below. Objections that are untimely or do not include the required information above shall be deemed waived.

12. Appearing at Final Approval Hearing. An objecting Settlement Class Member does not need to appear in at the Final Approval Hearing, but may do so by filing a notice of intention to appear in accordance with the Notice, Agreement, and this Order no later than the Opt-Out and Objection deadline below.

13. Reasonable Procedures to Effectuate the Settlement. Unless otherwise ordered by the Court, the parties are authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with this Order or the Agreement, including making minor changes to the form or content of the Notice or exhibits to the Agreement they agree are reasonable and necessary.

14. Final Approval Hearing. At the date and time provided below, or at such other date and time later the Court sets, this Court will hold a Final Approval Hearing on the fairness, adequacy and reasonableness of the Agreement and to determine whether (a) final approval of the Settlement embodied by the Agreement should be granted, and (b) Class Counsel's application for an award of attorneys' fees and expenses, and any service award to Plaintiff, should be granted, and in what amounts. The Final Approval Hearing will be held at 9:30 a.m.

on August 22,2023 in Courtroom 2601, Circuit Court of Cook County, 50 W. Washington, Chicago, Illinois 60602 or such other location as the Court may order. The Court may also order the hearing to take place remotely via Zoom or such other remote communication system as the Court may direct.

15. Plaintiff shall file her motion in support of Class Counsel's application for attorneys' fees and expenses, and any service award, no later than the Notice Deadline below.

16. Plaintiff shall file her: (a) motion in support of final approval of the Settlement; (b) response to any objections to the Settlement, no later than the date stated for the same in the Schedule of Events below.

17. Final Approval of this Settlement Agreement will settle and resolve with finality on behalf of the Plaintiff and the other Settlement Class Members, the Action and the Released Claims against the Released Parties by the Plaintiff and the other Settlement Class Members in the Action. As of the Settlement Effective Date, the Settlement Agreement and the above-described release of the Released Claims will be binding on, and have res judicata preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and all other Settlement Class Members who did not validly and timely exclude themselves from the Settlement, and their respective predecessors, successors, affiliates, spouses, heirs, executors, administrators, agents and assigns of each of the foregoing, as set forth in the Settlement Agreement, and the Released Parties may file the Settlement Agreement and/or Final Approval Order in any action or proceeding that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

18. Schedule of Events. Based on the foregoing, the Court hereby orders the resolution of this matter shall proceed on the following schedule:

May 8, 2023	Deadline for the Claims Administrator to send notice to the Settlement Class in accordance with the Agreement and this Order (Notice Deadline)
May 8, 2023	Deadline for Plaintiff to file her Motion for Attorneys' Fees and Expenses, and any Incentive Award
July 10, 2023	Deadline for any member of the Settlement Class to request exclusion from the Settlement or object to the Settlement in accordance with the Notice and this Order (Opt-Out and Objection Deadline)
July 31, 2023	Deadline for Plaintiff to file:  (1) Motion and memorandum in support of final approval, including proof of class notice; and (2) Response to any objections.
August 22, 2023 at 9:30 a.m.	Final Approval Hearing ( <b>Meeting ID: 940 2104 4687 Passcode: 296476</b> )

**Judge Joel Chupack**  
IT IS ORDERED.

APR 07 2023

Circuit Court - 2227

ENTERED: April 7, 2023

JUDGE: Joel Chupack 2027