

**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

**ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

The Court having held a final approval hearing on August 22, 2023, notice of the hearing and the Settlement having been duly given in accordance with this Court's order (1) preliminarily approving Settlement, (2) certifying the Settlement Class, (3) approving notice plan and (4) setting the final approval hearing, and having considered all matters submitted at the final approval hearing and otherwise, and finding no just reason for delay in entry of this final order

It is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. The Settlement Agreement dated March 9, 2023, including its Exhibits (the "Agreement"), and the definition of words and terms contained therein, are incorporated by reference and are used hereafter. The terms and definitions of this Court's Preliminary Approval Order are also incorporated by reference into this Final Approval Order.

2. This Court has jurisdiction over Forman Mills Inc. ("Forman Mills") and the Settlement Class Members, certified in the Court's preliminary approval order, who did not timely request exclusion.

3. The Court hereby finds that the Agreement is the product of arm's length settlement negotiations between Plaintiff and Forman Mills.

4. The Court hereby finds Notice of the Settlement was disseminated to persons in the Settlement Class in accordance with the Court's preliminary approval order, was the best notice practicable under the circumstances, and that the Notice satisfied the requirements of Due Process and Section 2-803 of the Illinois Code of Civil Procedure.

5. There were no objections to the Agreement.

6. The Court hereby finally approves the Agreement, finding it fair, reasonable and adequate as to all members of the Settlement Class in accordance with Section 2-806 of the Illinois Code of Civil Procedure.

7. The Court hereby finally certifies the Settlement Class for settlement purposes. The Court finds for settlement purposes that the Settlement Class satisfies all the requirements of Section 2-801 of the Illinois Code of Civil Procedure.

8. The Court hereby approves the plan of distribution for the Settlement Fund as set forth in the Agreement. The Claims Administrator is hereby ordered to comply with the terms of the Agreement with respect to satisfaction of claims, and any remaining funds.

9. As of the Effective Date, the Plaintiff and every Settlement Class Member hereby releases all Released Parties from the Released Claims, as stated in the Agreement.

10. This Final Approval Order will settle and resolve with finality on behalf of the Plaintiffs and the Settlement Class, 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 Effective Date, the 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 do 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 Agreement, and the Released Parties may file the Agreement and/or the 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.

11. Class Counsel has moved for an award of attorneys' fees and reimbursement of expenses. In approving this request, this Court makes the following findings of fact and conclusions of law:

(a) The Settlement confers substantial benefits on the members of the Settlement Class;

(b) The value conferred on the Settlement Class is immediate and readily quantifiable, in that members of the Settlement Class will receive cash payments that represent a significant portion of the damages available to them were they to prevail in an individual action under the Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* ("BIPA");

(c) Class Counsel vigorously and effectively pursued the Settlement Class Members' claims before this Court in this complex case;

(d) The Settlement was obtained as a direct result of Class Counsel's advocacy;

(e) The Settlement was reached following extensive negotiations between Class Counsel and Counsel for Forman Mills, and was negotiated in good-faith and without collusion;

(f) Members of the Settlement Class were advised in the Notice approved by the Court that Class Counsel intended to apply for an award of attorneys' fees equal to forty percent of the Settlement Funds in the amount of \$954,930.00, plus expenses, to be paid from the Settlement Funds;

(g) A copy of Plaintiff's motion for an award of attorneys' fees and expenses and any incentive award was made available for inspection in the Court's file and on the settlement website during the period class members had to submit any objections;

(h) No member(s) of the Settlement Class submitted written objection(s) to the award of attorneys' fees and expenses;

(i) "It is now well established that 'a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole.'" *Scholtens v. Schneider*, 173 Ill.2d 375, 385 (1996) (quoting *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)); see also *Ryan v. City of Chicago*, 274 Ill. App. 3d 913, 923-924 (1st Dist. 1995); and

(j) The requested fee award is consistent with other fee award.

12. Accordingly, Class Counsel are hereby awarded \$954,930.00 for attorney fees and \$5,427.15 for reimbursed expenses from the balance of the Settlement Fund, which the Court finds to be fair and reasonable, and which amount shall be paid to Class Counsel from the Settlement Fund in accordance with the terms of the Agreement.

13. The Class Representative, Portia Heidelberg, is hereby compensated in the amount of \$10,000.00 for her efforts in this case.

14. This Court hereby dismisses this case with prejudice, except the Court retains jurisdiction to supervise the administration of the Settlement, enforce the Agreement, and resolve any disputes relating to the same.

**IT IS SO ORDERED,
ADJUDGED AND DECREED.**

Judge Joel Chupack

AUG 22 2023

Dated:

August 22, 2023

Circuit Court - 2227

Honorable Joel Chupack

Courtroom 2601

Email: ccc.chancerycalendar2@cookcountyil.gov

Phone: (312) 603-5415