

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN RE CONNECTONCALL.COM DATA
BREACH LITIGATION

ORDER
24-CV-8790-SJB-JMW

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BULSARA, United States District Judge:

IT IS HEREBY ORDERED¹:

1. **Settlement Class Certification:** Pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3), the following class is preliminarily certified as the Settlement Class:

All living individuals residing in the United States whose information may have been impacted in the Data Incident.

Excluded from the Settlement Class are all persons who are: (a) directors, officers, and employees of Defendants; and (b) the judges assigned to the Action, their immediate family, and Court staff.

2. **Settlement Fund:** The Settlement provides for a non-reversionary \$4,950,000 common Settlement Fund that Defendants shall pay or cause to be paid in the manner described in the Agreement. The Settlement Fund will be used to pay all Settlement Class Member² Benefits: Dark Web and Medical Data Monitoring, Cash Payments, Settlement Administration Costs, any Court-approved attorneys' fees and costs to Class

¹ The capitalized terms herein have the same meanings as those defined in the Amended Settlement Agreement, (Am. Settlement Agreement, attached to Decl. re Am. Mot. as Ex. A, Dkt. No. 58-1).

² Settlement Class Members means every member of the Settlement Class who does not validly and timely request exclusion from the Settlement Class.

Counsel, and any Court-approved Service Awards to the Class Representatives. The Settlement Fund will be created and funded subject to the terms of the Settlement.

3. **Preliminary Approval of the Settlement:** Court approval of a proposed class action settlement is governed by Fed. R. Civ. P. 23(e). “Under Rule 23(e), a court first grants preliminary approval of a class settlement. If preliminary approval is granted, plaintiffs are permitted to disseminate notice of a hearing to the class members where class members and settling parties are provided an opportunity to be heard on the question of final court approval.” *Hernandez v. Between the Bread 55th Inc.*, 496 F. Supp. 3d 791, 798 (S.D.N.Y. 2020) (citation omitted).

4. “[T]he granting of [preliminary approval] is not tantamount to a finding that the settlement is fair and reasonable. It is at most a determination that there is what might be termed ‘probable cause’ to submit the proposal to class members and hold a full-scale hearing as to its fairness.” *Lora v. To-Rise, LLC*, 452 F. Supp. 3d 5, 7 (E.D.N.Y. 2019) (alterations in original) (quoting *In re Traffic Exec. Ass’n-E. R.R.s.*, 627 F.2d 631, 634 (2d Cir. 1980)). This concept is embodied in Rule 23, which directs the Court to determine whether to disseminate notice of a class action settlement. Fed. R. Civ. P. 23(e)(1)(A) (“The parties must provide the court with information sufficient to enable it to determine whether to give notice of the proposal to the class.”). And the court “must direct notice . . . if giving notice is justified by the parties’ showing that the court will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal.” *Id.* R. 23(e)(1)(B); see also *Geiss v. Weinstein*

Co. Holdings LLC, 474 F. Supp. 3d 628, 633 (S.D.N.Y. 2020) (quoting Fed. R. Civ. P. 23(e)(1)(B)).

5. The Court preliminarily finds that the Settlement Class meets all requirements for class certification under Fed. R. Civ. P. 23(a) and 23(b)(3). As to Rule 23(a), the Court finds that: (a) the number of Settlement Class members is so numerous that joinder is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of the proposed Class Representatives are typical of the claims of the Settlement Class; and (d) the proposed Class Representatives and Class Counsel have and will fairly and adequately represent the interests of the Settlement Class.

6. As to Rule 23(b)(3), the Court finds that questions of law and fact common to the Settlement Class predominate over any questions affecting individual members. Also, a class action is superior to other available methods for fairly and efficiently adjudicating the Action taking into consideration: (i) the lack of evidence of any intent among the Settlement Class members to individually control the prosecution of separate actions; (ii) the Parties are not aware of any litigation concerning the controversy already begun by Settlement Class members other than the proposed Class Representatives; (iii) the small value of the claims of many of the individual Settlement Class members making the pursuit of individual actions cost prohibitive for most Settlement Class members; and (iv) the similarity of the Settlement Class members' claims involving substantially identical proofs. *See* Fed. R. Civ. P. 23(b)(3).

7. Rule 23(e)(2) provides that the Court may only approve a class settlement upon "finding that it is fair, reasonable, and adequate." *Moses v. N.Y. Times Co.*, 79 F.4th

235, 242 (2d Cir. 2023) (quoting Fed. R. Civ. P. 23(e)(2)). That determination must be made by the Court’s evaluation of four “primary procedural considerations and substantive qualities” that “always matter” in determining “whether to approve [a settlement] proposal.” *Id.* (alteration in original) (quoting Fed. R. Civ. P. 23(e)(2) Advisory Committee’s Note to 2018 Amendment). Those four considerations are whether: “(A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief provided for the class is adequate . . . [and] (D) the proposal treats class members equitably relative to each other.” Fed. R. Civ. P. 23(e)(2). The first two factors — all of which must be considered “holistically” — are “procedural in nature,” while “the latter two guide the substantive review of a proposed settlement.” *Moses*, 79 F.4th at 242–43.³ The Court is satisfied to the extend necessary for preliminary approval that the Settlement is fair and

³ Courts in the Second Circuit may no longer apply a presumption of fairness to proposed settlements that arise from arm’s-length negotiations. *Moses*, 79 F.4th at 243. The Court does not, therefore, presume that the settlement is fair based on the parties’ contention of arm’s-length negotiations, but rather reviews the negotiation history and dynamics holistically and in light of the Rule 23(e)(2) factors.

reasonable.⁴ *See, e.g., In re Canon U.S.A. Data Breach Litig.*, No. 20-CV-6239, 2023 WL 7936207, at *2-*3 (E.D.N.Y. Nov. 15, 2023).

8. **Appointment of Class Representatives and Class Counsel**: The Court hereby finds and concludes pursuant to Fed. R. Civ. P. 23(a)(4) that Plaintiffs who signed the Agreement are adequate representatives and appoints them as Class Representatives on behalf of the Settlement Class.

9. The Court appoints the following as Class Counsel to act on behalf of the Settlement Class and the Class Representatives with respect to the Settlement: Jason P. Sultzer of Sultzer & Lipari, PLLC, Jeff Ostrow of Kopelowitz Ostrow P.A., Mariya Weekes of Milberg Coleman Bryson Phillips Grossman PLLC, John A. Yanchunis of Morgan & Morgan, and Gerald D. Wells, III of Lynch Carpenter, LLP.

10. **Settlement Administrator**: The Court hereby approves Epiq Class Action & Claims Solutions, Inc. as the Settlement Administrator to supervise and administer the

⁴ In initially denying Plaintiffs' motion for preliminary approval, the Court noted the need to address the fairness of the settlement pursuant to the standards set forth in *Moses v. New York Times Company*, 79 F.4th 235 (2d Cir. 2023) and *Kurtz v. Kimberly-Clark Corporation*, 142 F.4th 112 (2d Cir. 2025), not just in granting final approval but also at the preliminary approval stage. *See In re Connectconcall.com Data Breach Litig.*, No. 24-CV-8790, 2026 WL 265323, at *1-*2 (E.D.N.Y. Jan. 29, 2026). This entails an evaluation of the proposed attorneys' fees and incentive awards. *See Moses*, 79 F.4th at 244 ("[W]hen reviewing the substantive fairness of a proposed settlement, the district court is required to review both the terms of the settlement and any fee award encompassed in a settlement agreement in tandem . . . [and] whether the proposal treats class members equitably relative to each other." (quotations omitted)); *see also In re Canon U.S.A. Data Breach Litig.*, 2023 WL 7936207, at *4. The Court has evaluated the fairness of the proposed attorneys' fees and service awards under the standards in *Moses* and *Kurtz* and is satisfied for purposes of preliminary approval. Plaintiffs do not further address these issues in their supplemental declaration submitted after a status conference before the Court. (*See* Suppl. Decl. dated June 3, 2026, Dkt. No. 58). But ultimately the determination of fees and awards rests with the Court.

Notice Program, as well as to administer the Agreement should the Court grant Final Approval.

11. **Approval of Notice Program and Notices:** The Court approves – as to form, content, and procedure – the Notice Program described in the Agreement, including the Email Notice, Postcard Notice, Publication Notice, and Long Form Notice, substantially in the forms attached as Exhibits to the Agreement. The Court finds that the Notice Program: (a) is the best notice practicable under the circumstances; (b) constitutes notice that is reasonably calculated, under the circumstances, to apprise Settlement Class members of the pendency of the Action, the terms of the Agreement, the effect of the proposed Agreement (including the Releases contained therein), and their right to opt out of or to object to the proposed Agreement and appear at the Final Approval Hearing; (c) constitutes due, adequate, and sufficient notice to all persons entitled to receive notice of the proposed Agreement. The date and time of the Final Approval Hearing shall be posted on the Settlement Website and included in the Email Notice, Postcard Notice, and Long Form Notice.

12. **Claim Form and Claims Process:** The Court approves the Claim Form substantially in the form attached as an Exhibit to the Agreement, and the Claims Process to be implemented by the Settlement Administrator.

13. **Dissemination of Notice and Claim Forms:** The Court directs the Settlement Administrator to disseminate the Notices and Claim Form as approved herein. Class Counsel and Defendants' counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Agreement that are

not materially inconsistent with this Order or the Agreement, including making, without the Court's further approval, minor form or content changes to the Notices and Claim Form they jointly agree are reasonable or necessary.

14. **Opt-Outs from the Settlement Class:** The Notice shall provide that any member of the Settlement Class who wishes to opt out from the Settlement Class must request exclusion in writing within the time and manner set forth in the Agreement, Long Form Notice, and Settlement Website. The Notices shall provide that opt-out requests must be sent to the Settlement Administrator and be postmarked no later than the Opt-Out Deadline which is 30 days before the initial scheduled Final Approval Hearing. The opt-out request must comply with the requirements outlined in the Settlement Agreement and the Long Form Notice.

15. Any Settlement Class member who timely and validly opts out from the Settlement Class shall, provided the Court grants Final Approval: (a) be excluded from the Settlement Class by Order of the Court; (b) not be a Settlement Class Member; (c) not be bound by the terms of the Settlement or any Final Approval order; and (d) have no rights under the Agreement, including to the Settlement Class Member Benefits. Any Settlement Class Member who does not timely and validly request to opt out shall be bound by the terms of the Agreement. If a Settlement Class Member submits both a Claim Form and a timely, valid exclusion request, the exclusion shall take precedence.

16. **Objections to the Settlement:** The Notice shall also provide that any Settlement Class Member who does not opt out from the Settlement Class may object to

the Agreement and/or the Application for Attorneys' Fees, Costs, and Service Awards. Objections must be filed with the Court and mailed to the Settlement Administrator, Class Counsel, and Defendants' Counsel. Objections must strictly comply with the requirements set forth in the Settlement Agreement and the Long Form Notice. For an objection to be considered by the Court, the objection must be submitted on behalf of a Settlement Class Member no later than the Objection Deadline which is 30 days before the initial scheduled Final Approval Hearing. When submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (e.g., Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

17. Settlement Class Members who fail to submit timely written objections in the manner specified in the Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objection to the Settlement by appearing at the Final Approval Hearing, or through appeal, collateral attack, or otherwise.

18. **Motion for Final Approval and Application for Attorneys' Fees, Costs, and Service Awards:** Class Counsel intends to seek an award of up to one-third of the Settlement Fund as attorneys' fees, as well as reimbursement of reasonable litigation costs, and Service Awards for the Class Representatives of \$ 2,500 each to be paid from the Settlement Fund. The Court will defer ruling on those awards until the Final

Approval Hearing when considering Class Counsel's Application for Attorneys' Fees, Costs, and Service Awards.

19. Class Counsel shall file their Motion for Final Approval and Application for Attorneys' Fees, Costs, and Service Awards no later than 45 days before the initial scheduled Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument in connection with Class Counsel's request for attorneys' fees and costs and Service Awards for the Class Representatives. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Agreement or to the Application for Attorneys' Fees, Costs, and Service Awards, provided the objector(s) submitted timely objections that meet all of the requirements listed in the Agreement, Long Form Notice, and in this Order.

20. **Termination**: If the Agreement is terminated, not approved, canceled, fails to become effective for any reason, or the Effective Date does not occur, this Order shall become null and void and shall be without prejudice to the rights of Plaintiffs, the Settlement Class, and Defendants, all of whom shall be restored to their respective positions in the Action as provided in the Agreement.

21. **Stay**: All pretrial proceedings in this Action are stayed and suspended until further order of this Court, except such actions as may be necessary to implement the Agreement and this Preliminary Approval Order.

22. **Jurisdiction**: For the benefit of the Settlement Class and to protect this Court's jurisdiction, this Court retains continuing jurisdiction over these proceedings to

ensure the effectuation thereof in accordance with the Agreement preliminarily approved herein and the related orders of this Court.

23. **Final Approval Hearing:** The Court will hold a Final Approval Hearing. The Final Approval Hearing will be conducted for the following purposes: (a) to determine whether the proposed Settlement, on the terms and conditions provided for in the Agreement, is fair, reasonable, and adequate, and should be approved by the Court; (b) to determine whether an order of final judgment should be entered dismissing the Action on the merits and with prejudice; (c) to determine whether the proposed plan of allocation and distribution of the Settlement Fund is fair and reasonable and should be approved; (d) to determine whether any requested award of attorneys' fees and costs to Class Counsel and Service Awards to the Class Representatives should be approved; and (e) to consider any other matters that may properly be brought before the Court in connection with the Settlement.

24. **Schedule**: The Court hereby sets the following schedule of events:

Notice Program Begins	Within 30 days after Preliminary Approval Order
Deadline to file Motion for Final Approval and Application for Attorneys' Fees, Costs, and Service Awards	45 days before Final Approval hearing
Opt-Out Deadline	30 days before Final Approval hearing
Objection Deadline	30 days before Final Approval hearing
Deadline to Respond to Objections	10 days before Final Approval hearing
Deadline to Submit Claim Forms	15 days before Final Approval hearing
Final Approval Hearing	November 17, 2026 at 10:00 A.M.

SO ORDERED.

/s/ Sanket J. Bulsara
SANKET J. BULSARA
United States District Judge

Date: July 27, 2026
Central Islip, New York