

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VICTOR ALFONSO RODRIGUEZ	:	CIVIL ACTION
QUEZADA, On Behalf of Himself and	:	
All Others Similarly Situated, BRENDAN	:	
MONAGHAN, On Behalf of himself and	:	
All Others Similarly Situated, KEVIN	:	
SCHMID, On Behalf of Himself and All	:	
Others Similarly Situated and JOHN	:	
SCHMID, On Behalf of Himself and All	:	
Others Similarly Situated	:	
	:	
	:	
v.	:	
	:	
	:	
ARBITERSPORTS, LLC	:	NO. 20-5193

ORDER

NOW, this 19th day of July, 2021, upon consideration of the Plaintiffs' Unopposed Motion for an Order Preliminarily Approving Class Action Settlement, Provisionally Certifying Settlement Class and Directing Notice (Document No. 28) and after a hearing, it is **ORDERED** that the motion is **GRANTED**.

IT IS FURTHER ORDERED as follows:

1. The Settlement Agreement (Document No. 28-4) entered into between the Plaintiffs Victor Alfonso Rodriguez Quezada, Brendan Monaghan, Kevin Schmid and John Schmid ("Plaintiffs" or "Class Representatives") on behalf of themselves and the proposed settlement class, and the Defendant Arbitersports, LLC ("Arbitersports") on June 18, 2021, and as amended on July 14, 2021 (Document No. 32-1), is preliminarily approved.

2. The terms and conditions of the Settlement Agreement are incorporated in this Order.

3. The following Settlement Class is preliminarily certified for settlement purposes only, pursuant to Fed. R. Civ. P. 23(a) and (b)(3), as follows:

All individuals to whom ArbiterSports sent notification that their personal information may have been exposed to unauthorized third parties as a result of the data security incident announced by ArbiterSports on or around August 24, 2020 (“Data Security Incident”).

4. In the First Amended Class Action Complaint, the Plaintiffs alleged that in July of 2020, cyber-criminals accessed the ArbiterSports Database, obtaining the confidential personal information of ArbiterSports’ individual users, who are primarily sports officials officiating at all levels. Plaintiffs asserted claims for negligence, gross negligence, negligence *per se*, breach of implied contracts, violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 Pa.C.S. §§ 201-1 *et seq.*, violation of New Jersey Consumer Fraud Act, N.J. Stat. Ann. § 56:8-1, *et seq.*, violation of the New Jersey Customer Security Breach Disclosure Act, N.J. Stat. Ann. §§ 56:8-163, *et seq.* and for declaratory relief. They claimed that despite the foreseeability of a data breach, ArbiterSports failed to implement adequate data security measures to protect the sensitive personal information entrusted to it by its users; and despite learning of the Data Security Incident in July 2020, it failed to promptly notify the individuals whose information was impacted.

5. Plaintiffs alleged that as a result of the Data Security Incident, Class Members suffered and will continue to suffer tangible injury, including the misuse of their personal information, the loss of their legally protected interest in the confidentiality and privacy of their personal information, the decreased value of their personal information, the loss of significant time and expense responding to the Data Security Incident, and an

increased, imminent risk of future misuse of their personal information.

6. The Settlement Agreement resolves the claims as follows:

a. ArbiterSports shall reimburse each Settlement Class Member eligible to recover as reimbursement for their documented out-of-pocket expenses up to \$350.00 incurred as a result of the Data Security Incident, or, up to \$5,000.00 if extraordinary circumstances exist that warrant an increase in the individual reimbursement cap;

b. ArbiterSports shall reimburse each Settlement Class Member eligible to recover for up to five hours of lost time spent as a result of the Data Security Incident compensated at a rate of \$20.00 per hour, comprised of up to three hours of undocumented lost time and up to two additional hours of documented lost time;

c. If the claims rate for undocumented lost time claims is below 2%, ArbiterSports will distribute to Settlement Class Members who have submitted a Valid Claim for undocumented lost time an amount equal to a 2% claims rate for undocumented lost time on a per-hour-claimed-*pro-rata* basis;

d. ArbiterSports shall pay for eighteen (18) months of free comprehensive credit monitoring and credit restoration protections, a \$300 value, for each Settlement Class Member;

e. ArbiterSports shall implement security-system and practices enhancements, as well as undertake, at its own expense, third-party IT security audits to ensure compliance with applicable certifications for the next two years following approval of the Settlement;

f. ArbiterSports shall pay all notice and administration costs; and

g. ArbiterSports shall pay any class representative incentive award and award for attorneys' fees and costs approved by the Court.

7. The Settlement Agreement is likely to be approved as fair, reasonable and adequate to the Settlement Class after a final approval hearing.

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

a. there are approximately 539,200 members of the Settlement Class;

b. there are questions of fact and law that are common to all members of the Settlement Class;

c. the claims of the class representatives are typical of those of the other members of the Settlement Class;

d. the class representatives will fairly and adequately protect the interests of the Settlement Class; and

e. counsel for the Settlement Class, experienced in complex commercial and class action litigation, have and will continue to adequately represent the Settlement Class.

9. This action is maintainable as a class action under Fed. R. Civ. P. 23(b)(3) for settlement purposes because:

a. a class action is superior to other available methods for the fair and efficient adjudication of this controversy; and

b. questions of fact and law common to members of the Settlement Class predominate over any questions affecting only individual members.

10. Plaintiffs Victor Alfonso Rodriguez Quezada, Brendan Monaghan, Kevin Schmid and John Schmid are appointed Class Representatives.

11. Scott H. Wolpert, Christine M. Gordon and Keith T. Vernon of Tirnoney Knox, LLP and Jonathan Shub and Kevin Laukaitis of Shub Law Firm, LLC are appointed counsel for the Class (“Class Counsel”).

12. JND Legal Administration is appointed the Claims Administrator.

13. No later than **August 19, 2021**, the Claims Administrator shall establish the Settlement Website on which the Settlement Agreement, Long Form Notice, in the form attached as Exhibit D to the Proposed Order Preliminarily Approving Class Action Settlement (“Proposed Order”) (Document No. 32), the Claim Form, in the form attached as Exhibit B to the Proposed Order, and other information related to the Settlement will be posted with the capability to be downloaded and copied. The Settlement Website shall provide detailed information about the litigation, the Settlement, the Settlement Class Members’ rights and options, and instructions and deadlines for filing a claim, objecting to the Settlement, and opting out of the Class.

14. The Settlement Website shall be maintained until at least **June 30, 2024**.

15. The Claims Administrator shall maintain a toll-free telephone number to provide information relevant to the Settlement.

16. No later than **August 20, 2021**, the Claims Administrator shall commence notice to the Settlement Class Members by emailing a copy of the Class Notice, in the form attached as Exhibit C to the Proposed Order, to each Class Member. The email notice shall advise the Settlement Class members of:

- a. the Settlement and its relevant terms;
- b. the URL to the Settlement Website;
- c. the toll-free telephone number to call for additional information;
- d. the process for objecting and opting out of the settlement and how to make a Claim either electronically or by mail; and
- e. date of the final fairness hearing.

17. No later than **September 3, 2021**, dissemination of the email notice shall be completed.

18. If the parties or the notice expert determine that notice by email did not reach a Settlement Class Member, the Claims Administrator shall supplement with Notice by first-class mail.

19. No later than **October 1, 2021**, the Claims Administrator shall file proof of mailing of the Class Notice required by paragraphs 16-18 of this Order.

20. The manner of giving notice as prescribed in this Order satisfies the requirements of Fed. R. Civ. P. 23 and due process, constitutes the best notice practicable under the circumstances, and constitutes due and sufficient notice to all persons entitled to notice.

21. No later than **August 20, 2021**, Class Counsel shall file their petition for an award of attorneys' fees and expenses.

22. No later than **September 10, 2021**, ArbitratorSports shall file its response to Class Counsel's petition for an award of attorneys' fees and expenses.

23. Each Settlement Class Member shall have the right not to be included in the Settlement Class by mailing a request for exclusion to the Claims Administrator

postmarked no later than **October 22, 2021**. Any Settlement Class Member who wishes to exclude himself or herself from the Settlement Class must comply with the terms set forth in the Class Notice.

24. Any Settlement Class Member who does not submit a timely, written request for exclusion from the Settlement Class will be bound by all proceedings, orders, and judgments in this litigation, even if the Class Member has previously initiated or subsequently initiates individual litigation or other proceedings encompassed by the claims released in this case, and even if such Class Member never received actual notice of this litigation or this proposed settlement.

25. Unless they have submitted a timely request for exclusion from the Class, Settlement Class Members and their legally authorized representatives are preliminarily enjoined from:

a. filing, commencing, prosecuting, intervening in, or participating as plaintiff, claimant, or class member in any other lawsuit or administrative or regulatory proceeding, arbitration, or other proceeding in any jurisdiction arising out of the Data Security Incident;

b. filing, commencing, or prosecuting a lawsuit or administrative or regulatory proceeding, arbitration, or other proceeding arising out of the Data Security Incident as a class action on behalf of any Class Members (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action); and,

c. attempting to effect an opt-out of a group, class, or subclass of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding based upon the claims released in the Settlement Agreement.

26. No later than **October 22, 2021**, each Settlement Class Member who does not timely opt out of the Settlement Class shall have the right to object to the settlement or the request by Class Counsel for an award of attorneys' fees and expenses by filing written objections with the Clerk of Court and serving copies of the objections on Class Counsel and ArbiterSports's counsel.

27. Objections must contain the following: (1) a heading that refers to this action by case name and case number; (2) a statement of the specific legal and factual basis for each objection; (3) a statement whether the objecting person or entity intends to appear at the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement identifying counsel by name, bar number, address, and telephone number; (4) a description of any and all evidence the objecting person or entity may offer at the Final Approval Hearing, including but not limited to the names, addresses, and expected testimony of any witnesses; all exhibits intended to be introduced at the Final Approval Hearing; and documentary proof of the objecting person's membership in the Settlement Class; and (5) a list of other cases in which the objector or counsel for the objector has appeared either as an objector or counsel for an objector in the last five years.

28. Failure to timely file and serve written objections in compliance with paragraph 27 of this Order will preclude a Settlement Class Member from objecting at the Final Approval Hearing.

29. No later than **November 5, 2021**, the Claims Administrator shall file with the Clerk of Court and serve on counsel a list of all persons who have timely opted out of the Settlement Class with its determinations as to whether any request to opt out of the PA Class was not submitted timely; and it shall provide written notification to any Settlement Class Member whose request to opt out of the PA Class was untimely.

30. No later than **November 19, 2021**, Settlement Class Members who wish to participate in the Settlement and be eligible to receive Settlement benefits must complete and submit a Claim Form online or by mail in accordance with the instructions set forth in the Class Notice.

31. No later than **December 3, 2021**, plaintiffs shall file their motion for final approval of the settlement.

32. Pursuant to Fed. R. Civ. P. 23(e), a final approval hearing will be held on **December 14, 2021, at 10:00 a.m.**, in **Courtroom 9A**, at the United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106, to determine:

- a. whether this action satisfies the criteria for class certification set forth in Fed. R. Civ. P. 23(a) and (b);
- b. whether the proposed settlement is fair, reasonable and adequate in consideration of the factors set forth in Fed. R. Civ. P. 23(e)(2);
- c. whether final approval should be granted;
- d. whether a final judgment should be entered dismissing the claims of the Settlement Class with prejudice;

- e. an award of attorneys' fees and expenses; and
- f. other such matters as the Court may deem appropriate.

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

/s/ Timothy J. Savage
TIMOTHY J. SAVAGE, J.