

IN THE CIRCUIT COURT FOR THE FOURTEENTH JUDICIAL CIRCUIT  
WHITESIDE COUNTY, ILLINOIS

TYLER KIDD, *individually and on behalf of  
all others similarly situated,*

Plaintiff,

v.

LIFESCAN LABS OF ILLINOIS, LLC

Defendant.

Case No. 2023LA44

**FILED**  
CIRCUIT COURT WHITESIDE COUNTY

MAR 21 2024

*Qu R. Castillo*  
CIRCUIT CLERK

**AGREED [PROPOSED] PRELIMINARY APPROVAL ORDER**

This matter coming before the Court on Plaintiff's Motion for and Memorandum in Support of Preliminary Approval of Class Action Settlement, and with the Court being fully advised on the premises, the Court hereby finds and orders as follows:

1. Unless defined herein, all defined terms in this order shall have the respective meanings ascribed to the same terms in the settlement agreement (the "Agreement").
2. The Court has conducted a preliminary evaluation of the settlement set forth in the Agreement. Based on this preliminary evaluation, the Court finds that the Agreement meets all applicable requirements of Section 2-801 of the Illinois Code of Civil Procedure for settlement purposes only, including that the Settlement Class is sufficiently numerous, that there are questions of law and fact common to members of the Settlement Class that predominate, that the representative parties fairly and adequately protect the interests of the class and that class treatment is an appropriate method for the fair and efficient adjudication of the controversy.
3. The Court further finds that: (i) there is a good cause to believe that the settlement is fair, reasonable and adequate, (ii) the Agreement has been negotiated at arm's length between experienced attorneys familiar with the legal and factual issues of this case and (iii) the settlement

warrants notice of its material terms to the Settlement Class for their consideration and reaction. Therefore, the Court grants preliminary approval of the Settlement.

4. Pursuant to Section 2-801 of the Illinois Code of Civil Procedure, and for settlement purposes only, the Court certifies two separate Settlement Classes. The BIPA Settlement Class is defined as: "All individuals who used their hand for hand-scan timekeeping in the course of their employment with Lifescan and who are one of the persons on the class list that Lifescan provides to the Settlement Administrator who is identified as a member of the BIPA Settlement Class." The Data Incident Settlement Class is defined as "all persons whose information was maintained on Defendant Lifescan's computer systems and/or network that was impacted in the Data Incident."

Excluded from the Settlement Class are (a) any Judge presiding over this Litigation and members of their first-degree relatives or judicial staff; (b) officers and directors of Lifescan; and (c) persons who properly execute and file a timely request for exclusion from the Settlement Class.

5. For settlement purposes only, the Court hereby approves the appointment of Plaintiff Tyler Kidd as Class Representative.

6. For settlement purposes only, the Court hereby approves the appointment of Milberg Coleman Bryson Phillips Grossman, PLLC and Fish Potter Bolanos, P.C. as Class Counsel and finds that they are competent and capable of exercising the responsibilities of Class Counsel.

7. On April 22, 2024 at 9:00 a.m., 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 Agreement should be granted and (b) Class Counsel's application for attorney's fees and expenses and an incentive award to the Class Representative should be granted. No later

than 14 days prior to the Opt-out/Objection Deadline Plaintiff must file any papers in support of Class Counsel's application for attorneys' fees and the Service Award to the Class Representative, and no later than 14 days prior to Final Approval Hearing Plaintiff must file any papers in support of final approval of the Agreement and in response to any objections.

8. Pursuant to the Agreement, Kroll Settlement Administration, LLC is hereby appointed as the Settlement Administrator and shall be required to perform all of the duties of the Settlement Administrator as set forth in the Agreement or this Order.

9. The Court approves the proposed plan for giving notice to the Settlement Class, via direct Notice in the U.S. Mail, as fully described in the Agreement. The plan for giving notice, in form, method and content, fully complies with the requirements of 735 ILCS 5/2-803 and due process and is due and sufficient notice to all persons entitled thereto.

10. The Court hereby directs the parties and Settlement Administrator to complete all aspects of the notice plan no later than 45 days after entry of this Order.

11. All persons who meet the definition of the Settlement Class and who wish to exclude themselves from the Settlement Class must submit their request for exclusion in writing no later than the Objection/Exclusion deadline, *i.e.*, 85 days after the date of this order. Settlement Class Members shall be bound by all determinations and orders pertaining to the Agreement, including the release of all claims to the extent set forth in the Agreement, whether favorable or unfavorable, unless such persons request exclusion from the Settlement Class in a timely and proper manner, as provided in the Agreement. Settlement Class Members who do not timely and validly request exclusion shall be so bound even if they have previously initiated or subsequently initiate litigation or other proceedings against Defendant or the Released Parties relating to the claims released under the terms of the Agreement.

12. Any member of the Settlement Class may comment in support of, or in opposition to, the Agreement at his or her own expense; provided, however, that all comments and objections must (1) be filed with the Clerk of the Court, and (2) be postmarked or delivered to Class Counsel and Defendant's counsel as described in the Notice, no later than the Objection/Exclusion Deadline.

13. Any Settlement Class Member who fails to timely file a written objection with the Court and notice of his or her intent to appear at the final approval hearing in accordance with the terms of the Agreement and as detailed in the Notice, and at the same time provide copies to designated counsel for the parties, shall not be permitted to object to the Agreement at the final approval hearing, and shall be foreclosed from seeking any review of the Agreement by appeal or other means and shall be deemed to have waived his or her objections and be forever barred from making any such objections in this Litigation or any other action or proceeding.

16. The certification of the Settlement Class shall be binding only with respect to the Settlement of the Litigation. In the event that the Agreement fails to become effective, is overturned on appeal or does not become final for any reason whatsoever, the parties shall be restored to their respective positions in the Litigation as of the date of the signing of the Agreement, and no reference to the Settlement Class, the Agreement or any documents, communications or negotiations related in any way thereto shall be made for any purpose.

17. Pending the final determination of the fairness, reasonableness and adequacy of the Settlement, no Settlement Class Member may prosecute, institute, commence or continue any lawsuit (individual action or class action) with respect to the Released Claims against any of the Released Parties.

18. A "Final Approval Hearing" shall be held before the Court on April 22, 2024 at 9:00 a.m. for the following purposes:

- a. to finally determine whether the applicable prerequisites for settlement class action treatment under 735 ILCS 5/2-801 have been met;
- b. to determine whether the Settlement is fair, reasonable and adequate and should be approved by the Court;
- c. to determine whether the judgment as provided under the Agreement should be entered, including an order prohibiting Settlement Class Members from further pursuing claims released in the Agreement;
- d. to consider the application for an award of attorney's fees, costs and expenses of Class Counsel;
- e. to consider the application for a Service Award to the Class Representative;
- f. to consider the distribution of court-approved attorneys' fees and any Service Award, as well as any settlement funds to claiming class members pursuant to the Agreement and
- g. to rule upon such other matters as the Court may deem appropriate.

19. The Final Approval Hearing may be postponed, adjourned, transferred or continued by order of the Court without further notice to the Settlement Class. At or following the Final Approval Hearing, the Court may enter a judgment approving the Agreement and a Final Approval Order in accordance with the Agreement that adjudicates the rights of all Settlement Class Members.

20. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

21. All discovery and other proceedings in the Litigation as between Plaintiff and Defendant are stayed and suspended until further order of the Court except such actions as may be necessary to implement the Agreement and this Order.

22. For clarity, the deadlines set forth above and in the Agreement are as follows:

**Notice Completion Deadline:** 45 Days after Preliminary Approval

**Motion for Final Approval:** 14 Days before Final Approval Hearing

**Motion for Service Award, Attorneys' Fees and Costs:** 14 Days before the deadline for Class Members to Opt-Out or Object

**Opt-Out Deadline:** 85 Days after Preliminary Approval

**Objection Deadline:** 85 Days after Preliminary Approval

**Replies in Support of Final Approval, Service Award and Fee Requests:** 7 Days before Final Approval Hearing

**Claim Deadline:** 100 Days after Preliminary Approval

IT IS ORDERED.

ENTERED: 03/21/24

JUDGE: 

THE ABOVE ORDER IS HEREBY AGREED TO BY ALL PARTIES:

/s/ Gary M. Klinger  
Gary M. Klinger  
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