

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

MELISSA STARK, ANDREW SMITH,
and MACKENZIE FAIRFIELD,

on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

ACUITY BRANDS, INC.. :

Defendant.

CIVIL ACTION NO. 23EV006179H

ORDER GRANTING PLAINTIFFS'
UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT

This matter came before the Court on Plaintiffs' Motion for Preliminary Approval of Class Settlement Agreement. Plaintiffs Melissa Stark, Andrew Smith, and Mackenzie Fairfield ("Plaintiffs" or "Class Representatives"), individually and on behalf of the proposed Settlement Class, and Defendant Acuity Brands, Inc. ("Acuity" or "Defendant"), have entered into a Settlement Agreement (the "Settlement Agreement") that settles the above-captioned litigation.

Plaintiffs allege that Defendant is an industrial lighting and building management solutions provider with its principal office located at 1170 Peachtree Street N.E., Suite 2300, Atlanta, Georgia. Plaintiffs and Settlement Class Members are current and former employees of Defendant. In order to apply to be an employee or obtain certain employment-related benefits, Plaintiffs and Settlement Class Members were required to provide sensitive and confidential PII, including their names, dates of birth, Social Security numbers, driver's license numbers, financial information,

other sensitive information. Defendant maintained the PII Plaintiff and Settlement Class Members provided on its computer systems.

Plaintiffs allege that Defendant, agreed to and undertook legal duties to maintain the Private Information entrusted to them by Plaintiffs and Class Members safely, confidentially, and in compliance with all applicable laws.

Plaintiffs further allege that on or about December 7, 2021, Defendant became aware of a cybersecurity incident on its network. Defendant proceeded to investigate the nature and scope of the suspicious activity and subsequently concluded that from December 7, 2021, through December 8, 2021, an unauthorized actor copied a subset of files from its network. As a further result of the investigation into the suspicious activity, Defendant uncovered another, unrelated, incident of unauthorized access that occurred on October 6 and October 7, 2020, which also included an attempt to copy certain files from Defendant's network. (These incidents taken together are referred to as the "Cyberattacks"). Defendant notified Plaintiffs and Settlement Class Members of the Cyberattacks in or about December 2022. In their notice to Plaintiffs and Settlement Class Members, Defendant stated that the data that was potentially accessed by an unauthorized third party during the incident included Plaintiffs' and Settlement Class Members' names, dates of birth, Social Security Numbers, driver's license numbers, financial account numbers, and information related to their employee healthcare benefits.

On December 14, 2022, Plaintiff Melissa Stark filed a putative class action in the U.S. District Court for the Northern District of Georgia, alleging that Defendant failed to adequately safeguard the private information of individuals saved in Defendant's systems. On January 25, 2023, Plaintiffs Andrew Smith and Mackenzie Fairfield filed a putative class action in the U.S. District Court for the Northern District of Georgia, alleging that Defendant failed to adequately

safeguard the private information of individuals saved in Defendant's systems. On March 3, 2023, by agreement among the parties, the two aforementioned cases were consolidated.

Before incurring the expense of a motion to dismiss, the Parties agreed to discuss a potential resolution of this matter. As part of the settlement negotiations, the Parties agreed that Plaintiffs would voluntarily dismiss their federal court case and file in Fulton County, avoiding potential issues in establishing the Northern District of Georgia's subject matter jurisdiction. Accordingly, Plaintiffs dismissed the consolidated action from federal court on June 16, 2023. After multiple months of negotiation, the exchange of proposed term sheets, and numerous phone calls, the Parties agreed to the terms of a settlement, desiring to resolve any claims related to the Cyberattacks rather than continue litigating the matter. On September 28, 2023, Plaintiffs filed their operative class action complaint in this Court.

The Parties have agreed to settle this action, pursuant to the terms of the Settlement Agreement, and subject to the approval and determination of the Court as to the fairness, reasonableness, and adequacy of the Settlement which, if approved, will result in dismissal of this action with prejudice.

Having reviewed the Settlement Agreement, including the exhibits attached thereto, and all prior proceedings herein, and for good cause shown, it is hereby ordered that Plaintiffs' Motion for Preliminary Approval is GRANTED as set forth herein.¹

1. **Class Certification for Settlement Purposes Only.** For settlement purposes only and pursuant to Georgia Code Section 9-11-23(b)(3) and (e), the Court provisionally certifies a Settlement Class in this matter defined as follows:

¹ Unless otherwise indicated, capitalized terms used herein have the same meaning as in the Settlement Agreement.

All persons Acuity Brands, Inc. identified as being among those individuals impacted by the Data Breach, including all who were sent a notice of the Data Breach.

The Settlement Class includes approximately 37,000 people. The Settlement Class specifically excludes: (a) Defendant's officers and directors; (b) any entity in which Defendant has a controlling interest; and (c) the affiliates, legal representatives, attorneys, successors, heirs, and assigns of Defendant. Also excluded from the Settlement Classes are members of the judiciary to whom this case is assigned, their families and members of their staff.

The Court provisionally finds, for settlement purposes only, that: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members would be impracticable; (b) there are issues of law and fact common to the Settlement Class; (c) the claims of the Settlement Class Representatives are typical of and arise from the same operative facts and seek similar relief as the claims of the Settlement Class Members; (d) the Settlement Class Representatives and Settlement Class Counsel will fairly and adequately protect the interests of the Settlement Class as the Settlement Class Representatives have no interest antagonistic to or in conflict with the Settlement Class and has retained experienced and competent counsel to prosecute this matter on behalf of the Settlement Class; (e) questions of law or fact common to Settlement Class Members predominate over any questions affecting only individual members; and (f) a class action and class settlement is superior to other methods available for a fair and efficient resolution of this controversy.

2. Settlement Class Representatives and Settlement Class Counsel.

Melissa Stark, Andrew Smith, and Mackenzie Fairfield are hereby provisionally designated and appointed as the Settlement Class Representatives. The Court provisionally finds that the Settlement Class Representatives are similarly situated to absent Class Members and therefore typical of the Class and that they will be adequate Settlement Class Representatives.

The Court finds that the following counsel are experienced and adequate counsel and are hereby provisionally designated as Settlement Class Counsel under Georgia Code Section 9-11-23(a)(4): Milberg Coleman Bryson Phillips Grossman, PLLC and Migliaccio & Rathod.

3. **Preliminary Settlement Approval.** Upon preliminary review, the Court concludes and finds that the proposed Settlement is fair, reasonable, and adequate to warrant providing Notice of the Settlement to the Settlement Class and accordingly is preliminarily approved.

4. **Jurisdiction.** The Court concludes that it has subject matter jurisdiction and personal jurisdiction over the Parties before it for the purposes of the Settlement. Additionally, venue is proper in this Court as a substantial portion of the acts and transactions complained of occurred in Fulton County and Defendants conduct substantial business throughout Fulton County.

5. **Final Approval Hearing.** A Final Approval Hearing shall be held on July 29, 2024 at 9:30 a.m., in the State Court of Fulton County, State of Georgia, 185 Central Avenue, SW, Atlanta, GA 30303, Courtroom 3E, to determine, among other things, whether: (a) this matter should be finally certified as a class action for settlement purposes pursuant to O.C.G.A. § 9-11-23(b)(3) and (e); (b) the Settlement should be finally approved as fair, reasonable, and adequate pursuant to O.C.G.A. § 9-11-23(e); (c) the action should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (d) Settlement Class Members should be bound by the releases set forth in the Settlement Agreement; (e) the motion of Settlement Class Counsel for an award of attorneys' fees, costs, and expenses (the "Fee Request") should be approved; and (f) the motion of the Settlement Class Representatives for a Service Award (the "Service Award Request") should be approved. Plaintiffs' Motion for Service Award Request and Fee Request shall be filed with the Court at least 30 days prior to the Opt-Out and Objection deadline. Plaintiffs' Motion for Final Approval of the Settlement shall be filed with the Court at least 30 Days prior to

the Final Approval Hearing. By no later than 14 Days prior to the Final Approval Hearing, the Parties shall file responses, if any, to any objections, and any replies in support of final approval of the Settlement and/or the Service Award Request and Fee Request.

6. **Administration.** The Court appoints Simpluris as the Claims Administrator, with responsibility for class notice and claims administration and to fulfill the duties of the Claims Administrator set forth in the Settlement Agreement. Defendant shall pay all costs and expenses associated with providing notice to Settlement Class Members including, but not limited to, the Claims Administrator's fees, as well as the costs associated with administration of the Settlement.

7. **Notice to the Class.** The proposed Notice Program set forth in the Settlement Agreement, and the Short-Form Notice, Long-Form Notice, and Claim Form attached to the Settlement Agreement as Exhibits A, B, and C satisfy the requirements of O.C.G.A. § 9-11-23(c)(2) and (e), provide the best notice practicable under the circumstances, and are hereby approved. Non-material modifications to these Exhibits may be made without further order of the Court. The Claims Administrator is directed to carry out the Notice Program in conformance with the Settlement Agreement.

Within **30 days from the date of this Order** (the "Notice Deadline"), the Claims Administrator shall commence the Notice Program in the manner set forth in Paragraph 16 of the Settlement Agreement.

8. **Findings and Conclusions Concerning Notice.** The Court finds that the form, content, and method of giving notice to the Settlement Class as described in Paragraph 7 of this Order and Paragraph 16 the Settlement Agreement (including the exhibits thereto): (a) will constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated to apprise Settlement Class Members of the pendency of the action, the terms of the proposed

Settlement, and their rights under the proposed Settlement, including but not limited to their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Class Members and other persons entitled to receive notice; and the Court concludes that the Notice Program meets all applicable requirements of law, including Georgia Code Section 9-11-23(c) and (e), and the Due Process Clause(s) of the United States Constitution. The Court further finds that the Notice is written in plain language, uses simple terminology, and is designed to be readily understandable by Class Members.

9. **Exclusion from Class.** Any Settlement Class Member who wishes to be excluded from the Settlement Class must mail a written notification of the intent to exclude himself or herself from the Settlement Class to the Claims Administrator at the address provided in the Notice, postmarked no later than 60 Days from the Notice Deadline (the “Opt-Out Period”). The written notification must include the individual’s full name, address, and telephone number; a statement manifesting clear intent that he or she wants to be excluded from the Settlement Class; and the signature of the Settlement Class Member.

The Claims Administrator shall provide the Parties with copies of all completed opt-out notifications, and a final list of all who have timely and validly excluded themselves from the Settlement Class, which Settlement Class Counsel must file with the Court **no later than 10 Days prior to the Final Approval Hearing.**

Any Settlement Class Member who does not timely and validly exclude herself or himself from the Settlement shall be bound by the terms of the Settlement Agreement. If Final Order and Judgment is entered, any Settlement Class Member who has not submitted a timely, valid written notice of exclusion from the Settlement Class shall be bound by all proceedings, orders, and

judgments in this matter, including but not limited to the Release set forth in the Final Order and Judgment, including Settlement Class Members who have previously initiated or who subsequently initiate any litigation against any or all of the Released Persons relating to the claims and transactions released in the Settlement Agreement. All Settlement Class Members who submit valid and timely notices of exclusion from the Settlement Class shall not be entitled to receive any benefits of the Settlement.

10. **Objections and Appearances.** A Settlement Class Member who complies with the requirements of this paragraph may object to the Settlement, the Service Award Request, or the Fee Request.

No Settlement Class Member shall be heard, and no papers, briefs, pleadings, or other documents submitted by any Settlement Class Member shall be received and considered by the Court, unless the objection is (a) filed with the Court by the Objection Date; and (b) mailed first-class postage prepaid to Plaintiffs' Counsel and Defendants' Counsel at the addresses listed in the Notice, and postmarked by no later than the Objection Date, as specified in the Notice. For an objection to be considered by the Court, the objection must also include all of the information set forth in Paragraph 18 of the Settlement Agreement, which is as follows:

- (a) the title of the case;
- (b) the objector's name, address, and telephone number;
- (c) all legal and factual bases for any objection; and
- (d) copies of any documents that the objector wants the Court to consider.

Should the objector wish to appear at the Final Approval Hearing, he or she must so state, and must identify any documents or witnesses the Settlement Class Member intends to call on his or her behalf.

Any Settlement Class Member who fails to comply with the provisions in this Paragraph may waive and forfeit any and all rights he or she may have to object, and shall be bound by all the terms of the Settlement Agreement, this Order, and by all proceedings, orders, and judgments in this matter, including, but not limited to, the release in the Settlement Agreement if Final Order and Judgment is entered.

Any Settlement Class Member, including a Settlement Class Member who files and serves a written objection, as described above, may appear at the Final Approval Hearing, either in person or through counsel hired at the Settlement Class Member's expense, to object to or comment on the fairness, reasonableness, or adequacy of the Settlement, the Service Award Request, or the Fee Request.

If Final Order and Judgment is entered, any Settlement Class Member who fails to object in the manner prescribed herein shall be deemed to have waived his or her objections and shall be forever barred from making any such objections in this action or in any other proceeding or from challenging or opposing, or seeking to reverse, vacate, or modify any approval of the Settlement Agreement, the Service Award Request, or the Fee Request.

11. Claims Process and Distribution and Allocation Plan. Settlement Class Representative and Defendants have created a process for assessing and determining the validity and value of claims and a payment methodology to Settlement Class Members who submit a timely, valid Claim Form. The Court preliminarily approves the plan for remuneration described in Sections 7 and 8 of the Settlement Agreement and directs that the Claims Administrator effectuate the distribution of Settlement consideration according to the terms of the Settlement Agreement, should the Settlement be finally approved.

Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the Notice and the Claim Form. If Final Order and Judgment is entered, all Settlement Class Members who qualify for any benefit under the Settlement but fail to submit a claim in accordance with the requirements and procedures specified in the Notice and the Claim Form shall be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions in the Settlement Agreement, the Release included in that Settlement Agreement, and the Final Order and Judgment.

12. **Termination of Settlement.** This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing as of the date of the execution of the Settlement Agreement if the Settlement is not finally approved by the Court or is terminated in accordance with the Settlement Agreement. In such event, the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

13. **Use of Order.** This Order shall be of no force or effect if Final Order and Judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, liability, or the certifiability of any class. Nor shall this Order be construed or used as an admission, concession, or declaration by or against the Settlement Class Representative or any other Settlement Class Member that his or her claim lacks merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claim he, she, or it may have in this litigation or in any other lawsuit.

14. **Stay of Proceedings.** Except as necessary to effectuate this Order, all proceedings and deadlines in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Final Order and Judgment, or until further order of this Court.

15. **Continuance of Hearing.** The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the website maintained by the Claims Administrator.

16. **Summary of Deadlines.** The preliminarily approved Settlement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement Agreement and this Order include but are not limited to:

Notice Commencement Deadline: 30 Days after Entry of Order Granting Preliminary Approval

Motion for Final Approval: 30 Days before Final Approval Hearing

Motion for Service Awards, Attorneys' Fees and Costs: 14 Days prior to the Objection Deadline and Opt-Out Deadline

Opt-Out Deadline: 60 Days after the Notice Deadline

Objection Deadline: 60 Days after the Notice Deadline

Replies in Support of Final Approval, Service Awards and Fee Requests: 14 Days before Final Approval Hearing

Claim Deadline: 90 Days after Notice Deadline

Final Approval Hearing: at least 120 Days after Preliminary Approval

SO ORDERED this 18th day of January, 2024.

/s/ Wesley B. Taylor

Wesley B. Taylor, Judge
State Court of Fulton County