



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION

LINDABETH RIVERA, et al.

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No. 2019-CH-00990

Calendar 15

Hon. Anna M. Loftus

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

This matter having come before the Court on Plaintiffs’ Motion and Memorandum in Support of Preliminary Approval of Class Action Settlement of the above-captioned matter (the “Action”) between Plaintiffs Lindabeth Rivera, Joseph Weiss, Michael Azzano, Brandon Molander, and Nicholas Marquez (“Plaintiffs”), and Defendant Google LLC (“Defendant” or “Google”), as set forth in the Settlement Agreement between the Parties, due notice having been given and the Court having duly considered the papers and arguments of counsel, and being fully advised in the premises,

IT IS HEREBY ORDERED:

1. Unless defined herein, all defined terms in this Order shall have the respective meanings ascribed to the same terms in the Settlement Agreement.

2. The Court has conducted a preliminary evaluation of the Settlement set forth in the Settlement Agreement. Based on this preliminary evaluation, the Court hereby finds that the Parties have shown the Court it will likely be able to approve the proposed Settlement, as embodied in the Settlement Agreement, as being fair, reasonable and adequate to the Settlement Class under of Section 2-801 of the Illinois Code of Civil Procedure, subject to further consideration at the Final Approval Hearing to be conducted, as described below. The proposed Settlement appears to be the product of intensive, thorough, serious, informed, and non-collusive negotiations, which included participation in numerous mediation sessions, including an all-day mediation in August 2018 with the Honorable Layn R. Phillips (Ret.), a multiple-months-long mediation in 2019 and 2020 with Seventh Circuit Mediator Jillisa Brittan, an August 2021 all-day mediation with Judge Phillips, a December 2021 all-day mediation with the Honorable Stuart E. Palmer (Ret.) of JAMS, two additional all-day mediation sessions in January 2022 with Judge Palmer, and extensive negotiations thereafter under the supervision of Judge Palmer, has no obvious deficiencies, and does not improperly grant preferential treatment to the Class Representatives or any Settlement Class Member.

3. Class Definition. Pursuant to Section 2-801 of the Illinois Code of Civil Procedure, and for settlement purposes only, the Court certifies the following Settlement Class, consisting of: all Illinois residents who appeared in a photograph in Google Photos at any time between May 1, 2015 and the date of Preliminary Approval. Excluded from the Class are: (a) any judge, magistrate, or mediator presiding over the Google Photos BIPA Cases and members of their families; (b) Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest; (c) Class Counsel; and (d) the legal representatives, successors or assigns of any such excluded persons.

4. Final Approval Hearing. A hearing will be held by this Court in the Courtroom of the Honorable Anna M. Loftus of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602 on September 28, 2022 at 10:30 a.m., or at such other date and time later set by Court order for the following purposes: (a) to determine whether the Settlement on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate to the Settlement Class, and should be approved by the Court; (b) to determine whether a Final Approval Order and Judgment should be entered in accordance with the material terms of the Settlement Agreement; (c) to determine whether Class Counsel's motion for an award of attorneys' fees and expenses and for Service Payments to the Class Representatives, should be approved; and (d) to consider any other matters that properly may be brought before the Court in connection with the Settlement. Unless otherwise ordered following the entry of this Order, the hearing will be conducted via the Court's zoom link (<https://circuitcourtofcookcounty.zoom.us/j/95535573920>; Meeting ID: 955 3557 3920. No password is required).

5. Certification. For settlement purposes only, the Court finds that the Settlement Agreement meets all applicable requirements of Section 2-801 of the Illinois Code of Civil Procedure, 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 proposed Class Representatives fairly and adequately protect the interests of the Settlement Class, and that class treatment is an appropriate method for the fair and efficient adjudication of the Action. The Court further finds that: (i) the Settlement is fair, reasonable, and adequate, (ii) the Settlement 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.

6. Class Representatives and Class Counsel. For settlement purposes only, the Court hereby approves the appointment of Plaintiffs Michael Azzano, Nicholas Marquez, Brandon Molander, Lindabeth Rivera, and Joseph Weiss as Class Representatives, and Robert Ahdoot and Tina Wolfson of Ahdoot & Wolfson, PC, John C. Carey and David P. Milian of Carey Rodriguez Milian, LLP, Scott Bursor of Bursor & Fisher, P.A., and Frank S. Hedin of Hedin Hall LLP as Class Counsel. Solely for the purposes of effectuating the Settlement, Class Counsel are authorized to act on behalf of the Class Representatives, and all other Settlement Class Members with respect to all acts or consents required by or that may be given pursuant to the Settlement Agreement, including all acts that are reasonably necessary to consummate the Settlement.

7. Settlement Administrator. Pursuant to the Parties' Settlement Agreement, Postlethwaite & Netterville, APAC ("P&N") is hereby appointed as Settlement Administrator to supervise and administer the Notice Plan under the Settlement, as well as the processing of claims. Notice of the Settlement and the Final Approval Hearing shall be given by the Settlement Administrator pursuant to the terms and conditions of the Settlement Agreement.

8. Class Notice. The Court (a) approves, as to form and content, of the proposed Google BIPA Settlement Claim Form, Long Form Notice, Publication Notice, Summary Notices, and Reminder notice submitted by the Parties as Exhibits 1, 3, 5, 6, 8, 9 and 11, respectively, to the Settlement Agreement; and (b) finds and determines that Direct Notice to Settlement Class Members *via* e-mail and U.S. Mail (if e-mail is unavailable), and publication of the Settlement Agreement, Long Form Notice, Summary Notice, and Claim Form on the Settlement Website, supplemented by any Internet Campaign and Publication Notice deemed appropriate by the Parties,

(i) constitutes the best notice practicable under the circumstances, (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, their right to submit a Claim (if applicable) their right to exclude themselves from the Settlement Class, the effect of the proposed Settlement (including the Releases to be provided thereunder), Class Counsel's motion for an award of attorneys' fees and expenses and for Service Payments, their right to object to the Settlement, and their right to appear at the Final Approval Hearing; (iii) constitutes due, adequate, and sufficient notice to all Persons entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of 735 ILCS 5/2-803 and due process and all other applicable laws and rules. The Court further finds that all of the notices are written in simple terminology, and are readily understandable by Settlement Class Members. The date and time of the Final Approval Hearing shall be included in all notices before they are disseminated. The Parties, by agreement, may revise the notices in ways that are appropriate to update those notices for purposes of accuracy and clarity, and may adjust the layout of those notices for efficient electronic presentation and mailing.

9. Notice Date. The Court hereby directs the Parties and Settlement Administrator to disseminate Notice no later than May 27, 2022 ("Notice Date") (*i.e.* a date within thirty-five (35) days after the entry of this Order). The Court directs that the Settlement Administrator cause a copy of the Summary Notice be sent to all members of the Settlement Class who have been identified by Defendant through its records *via* e-mail no later than the Notice Date. If any Summary Notice that has been emailed is returned as undeliverable and has not been successfully delivered to another email address believed to be associated with the same person, the Settlement Administrator shall attempt one (1) other email execution (where feasible). If unsuccessful, the Settlement Administrator will send the Summary Notice by United States mail, postage prepaid,

to the extent a current physical mailing address can be identified by the Class Administrator using publicly available resources or proprietary databases. Prior to the dissemination of any Notice, the Settlement Administrator shall cause copies of the Settlement Agreement, Long Form Notice, Summary Notice, and Claim Form, in forms available for download, to be posted on a website developed for the Settlement (“Settlement Website”). The Settlement Website shall also include a toll-free telephone number, email address, and mailing address through which Settlement Class Members may contact the Settlement Administrator directly.

10. Exclusion from the Settlement Class. A member of the Settlement Class may request to be excluded from the Settlement Class in writing by a request postmarked, or submitted electronically via the Settlement Website, or submitted to an e-mail address established by the Administrator for the purpose of receiving exclusion requests, on or before the Objection and Exclusion Deadline of August 10, 2022 (*i.e.* seventy-five (75) days after the Notice Date). In order to exercise the right to be excluded via postal mail, a member of the Settlement Class must timely send a written request for exclusion to the Settlement Administrator providing his/her name, address, and telephone number; the name and number of this case; a statement that he/she wishes to be excluded from the Settlement Class; and a handwritten signature. A request to be excluded that is sent to an email address other than that designated in the Class Notice, or that is not electronically submitted or postmarked within the time specified, shall be invalid and the person serving such a request shall be considered a member of the Settlement Class and shall be bound as Settlement Class Members by the Agreement, if approved. The request for exclusion must be personally signed by the person requesting exclusion. So-called “mass” or “class” exclusion requests shall not be allowed.

11. Objections. Any Settlement Class Member may comment in support of, or in

opposition to, the Settlement Agreement at his or her own expense. Any objection to this Settlement Agreement, and any papers submitted in support of said objection, shall be valid and entertained by the Court at the Final Approval Hearing only if, on or before the Objection and Exclusion Deadline of August 10, 2022 (*i.e.* seventy-five (75) days after the Notice Date), the person making an objection: (i) files his/her objection with the Clerk of Court; (ii) files copies of such papers he/she proposes to submit at the Final Approval Hearing with the Clerk of Court; and (iii) sends copies of such papers *via* United States mail, hand delivery, or overnight delivery to Class Counsel and Defendant's Counsel. A copy of the objection must also be mailed to the Settlement Administrator at the address that the Settlement Administrator will establish to receive requests for exclusion or objections, Claim Forms, and any other communication relating to this Settlement.

12. Any Settlement Class Member who intends to object to the Settlement must include in any such objection: (i) his/her full name, address and current telephone number; (ii) the case name and number of this Action (*i.e.* *Rivera v. Google*, Case No. 2019-CH-00990) ; (iii) proof that he/she is in the Settlement Class; (iv) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; and (v) the objector's signature. If represented by counsel, the objecting Settlement Class Member must also provide the name and telephone number of his/her counsel, in addition to the information set forth in (i) through (v) above. If the objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, he/she/they must so state in the written objection, and must also identify any witnesses he/she/they may call to testify at the Final Approval Hearing and all exhibits he/she/they intends to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, the written objection.

13. Final Approval Briefing. No later than September 14, 2022 (*i.e.* 14 days after the Objection and Exclusion Deadline], Plaintiffs shall move for: (i) final approval of the Settlement Agreement; (ii) final certification of the Settlement Class, including for the entry of a Final Approval Order; (iii) respond to any objections or comments from Settlement Class Members; and (iv) file memorandums in support of the motion for final approval and in response to objections or comments from Settlement Class Members, if any. No later than July 27, 2022 (*i.e.* 14 days prior to the Objection and Exclusion Deadline), Plaintiffs must file their papers in support of Class Counsel's application for attorneys' fees and expenses and for Service Payments.

14. Release. Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them.

15. The Settlement Agreement and the proceedings and statements made pursuant to the Settlement Agreement or papers filed relating to the Settlement or this Order, are not and shall not in any event be described or construed as, and/or used, offered or received against Google or any other Released Parties as, evidence of and/or deemed to be evidence of any presumption, concession, or admission by any Released Party of the truth of any fact alleged by the Plaintiffs; the validity of any Released Claim; the appropriateness of class certification; the deficiency of any defense that has been or could have been asserted in the Action or in any litigation; the violation of any law or statute; or any liability, negligence, fault, or wrongdoing of any of the Released Parties. Google has denied and continues to deny the claims asserted by Plaintiffs. Notwithstanding, nothing contained herein shall be construed to prevent a Party from offering the Settlement Agreement into evidence for the purpose of enforcing the Settlement.

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

IT IS SO ORDERED.

Judge Anna M. Loftus
ENTERED:
APR 25 2022
Circuit Court - 210
s/ Anna M. Loftus
Judge Anna M. Loftus, No. 2102