

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

MICHAEL ANASTOS, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

THE LYON WAUGH AUTO GROUP,

Defendant

Case No. 2277cv00245-A

~~PROPOSED~~ PRELIMINARY APPROVAL ORDER

WHEREAS, this class action is pending before the Court;

WHEREAS, Michael Anastos ("Plaintiff"), individually and on behalf of the Class, and The Lyon Waugh Auto Group ("Defendant"), have agreed to settle Plaintiff's claims related to a data breach perpetrated against Defendant in or around early December 2021 (the "Incident");

WHEREAS, the Parties' Stipulation of Settlement ("Settlement Agreement"), together with the exhibits attached thereto, sets forth the terms and conditions for a proposed settlement and final judgment resolving the Class's claims against Defendant relating to the Incident; and

This matter coming before the Court upon the Plaintiff's motion seeking preliminary approval of the Settlement Agreement under Mass. R. Civ. P. 23(c), and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. Terms and phrases in this order shall have the same meaning as set forth in the Settlement Agreement.

2. The Court has jurisdiction over the subject matter of the Action, the Plaintiff, the Class Members, and Defendant.

Settlement Class Certification.

3. Pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure, the Court preliminarily certifies, for settlement purposes only, a class consisting of the following:

All persons who live in Massachusetts, were customers of a Massachusetts Dealership, or were employed at or are beneficiaries of persons employed at a Massachusetts Dealership, as to whom PII was exposed to cybercriminals in the Incident and the PII exposed to cybercriminals included such persons' Social Security Number.¹

4. The Court finds that the requirements of Mass. R. Civ. P. 23(a) are met in that (1) the Class is so numerous (hundreds or more people) that joinder of all members is impracticable, (2) there are questions of law or fact common to the Class (relating to the Incident), (3) the claims or defenses of the representative parties are typical of the claims or defenses of the Class (relating to the Incident), and (4) the representative parties will fairly and adequately protect the interests of the class. The Court also finds that the requirements of Mass. R. Civ. P. 23(b) are met in that questions of law or fact common to the members of the Class (relating to the Incident) predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy (because the claims all stem from the common Incident).

5. The Court hereby appoints Plaintiff as Class Representative.

6. The Court hereby appoints Branstetter, Stranch & Jennings, PLLC; Cohen & Malad, LLP; Turke & Strauss LLP; and Sugarman, Rogers, Barshak & Cohen, P.C., as Class

¹ "Massachusetts Dealership" means BMW of Peabody, MINI of Peabody, Acura of Peabody, Jaguar/Land Rover Peabody, and Mercedes Benz of Burlington. "PII" means personally identifiable information.

Counsel.

7. The Court hereby appoints KCC Class Action Services LLC, as Settlement Administrator.

Preliminary Approval

8. The Court, having considered the Settlement Agreement the arguments of counsel, hereby preliminarily approves the Settlement Agreement.

9. The Court finds that the Settlement Agreement falls within the range of possible final approval as fair, reasonable, adequate, and in the best interests of the Class as to their claims against Defendant relating to the Incident.

10. The Court finds that the Settlement Agreement: (a) is the result of serious, informed, non-collusive arms' length negotiations involving experienced counsel familiar with the legal and factual issues of this case; (b) is sufficient to warrant providing notice of the proposed settlement to the Class; (c) meets all applicable requirements of law, including Massachusetts Rule of Civil Procedure 23.

Notice and Administration

11. The Court approves the notice plan and forms of notice to the Class set forth in the Settlement Agreement, as well as the deadline for providing notice. The notice is reasonably calculated to apprise the members of the Class of the pendency of this action, the certification of the Class, the terms of the Settlement Agreement, and the right of Class Members to object to the proposed settlement. The notice is consistent with the requirements of Rule 23 and Due Process, and it constitutes the best notice practicable under the circumstances.

12. The Court also approves the plan for claims administration, including the claim forms attached to the Settlement Agreement, as well as the deadlines for claims.

13. The Parties may, by agreement, revise the notice and claim form documents in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting.

Objections

14. Any member of the Class may object to the granting of final approval to the Settlement Agreement by submitting a written objection to the Court, Class Counsel, and Defendant's Counsel on or before the Objection Deadline in the manner and to the addresses specified in the notice. Class Members may object on their own or may do so through separate counsel at their own expense.

15. Any Class Member who fails to submit a timely written objection in compliance with the requirements of this order and the Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

Final Approval Motion and Hearing

16. The Court schedules a final approval hearing on the Settlement Agreement to be held _____, 2023, at ____:____.m to consider: (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable and adequate and should be given final approval by the Court; (b) whether a final judgment should be entered; (c) whether to award payment of attorneys' fees, costs, and expenses to Class Counsel and in what amount; and (d) whether to award payment of a service award to the Plaintiff and in what amount. The Court may adjourn the final approval hearing without further notice to Class Members, but in that event the Settlement Administrator shall post notice of the new final approval hearing date on the settlement website.

17. No later than ten (10) business days before the final approval hearing date, Class Counsel shall file a motion for final approval of the Settlement Agreement, including approval of attorneys' fees, expenses, and a service award in connection with the Settlement Agreement.

18. All case deadlines are stayed and suspended until further notice from the Court, except for such actions as are necessary to implement the Settlement Agreement and this Order. The Court orders the parties to implement the terms of the Settlement Agreement that are triggered by this preliminary approval.

SO ORDERED.



Justice of the Superior Court

Dated: 03/28/2023