

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

JODDA MOORE, and TERRELL AIKEN,
individually and on behalf of all similarly
situated persons,

Plaintiffs,

v.

INDEPENDENCE BLUE CROSS, LLC d/b/a
INDEPENDENCE BLUE CROSS,

Defendant.

No. 2:23-cv-00566

(Judge Scott)

ORDER

Before the Court is the Plaintiffs' Unopposed Motion for Preliminary Approval of Class and Collective Settlement and Provisional Certification of Settlement Class and Collective ("Preliminary Approval Motion") seeking preliminary approval of the settlement (the "Settlement") of this class action asserting alleged violations of Pennsylvania Minimum Wage Act ("PMWA") and Pennsylvania common law, and collective action asserting alleged violations of the Fair Labor Standards Act ("FLSA"). The terms of the Settlement are set out in the Settlement and Release Agreement ("Settlement Agreement") filed with the Court. *See* ECF _____. Capitalized terms not otherwise defined in this Order shall have the same meaning as ascribed to them in the Settlement Agreement. The Court, having considered the requirements of 29 U.S.C. § 216(b), Federal Rule of Civil Procedure 23, and the papers and Brief filed in support of the Preliminary Approval Motion, including specifically the Parties' Settlement Agreement, hereby **ORDERS** as follows:

1. The Parties' Settlement Agreement is preliminarily approved as fair, reasonable, and adequate pursuant to Fed. R. Civ. P. 23(e), and as a fair and reasonable resolution of a *bona fide* dispute under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (the "FLSA").

2. On a preliminary basis, taking into account (a) the value and certainty of the benefits to be provided by the Settlement to Settlement Class Members and Settlement Collective Members; (b) the defenses asserted by Defendant; (c) the risks to Plaintiffs and the Settlement Class/Settlement Collective that Defendant would successfully defend against class and collective certification and/or against the merits of the claims alleged in this case; and (d) the length of time that would be required for Settlement Class Members or Settlement Collective Members to litigate to an uncertain final judgment through one or more trials and appeals, the Court finds that the Settlement appears sufficiently fair, reasonable and adequate to authorize dissemination of notice to the Settlement Class and Settlement Collective as set forth in the Agreement.

3. Moreover, the Court finds that the Settlement falls within the range of reasonableness because the Settlement has key indicia of fairness, in that (a) the Parties reached the Settlement only after they were adequately informed through relevant discovery; (b) the extensive negotiations were contentious, arm's-length, and facilitated by Judge Reuter (Ret.); and (c) the proponents of the Settlement are experienced in similar litigation. Accordingly, for all of these reasons, the Settlement is hereby preliminarily approved.

4. Pursuant to Fed. R. Civ. P. 23(a) and (b)(3), the Court provisionally certifies for settlement purposes only the following Settlement Class:

All current and former employees who have worked for Defendant either in-person or remotely at any time from February 13, 2020 through February 13, 2023 in one or more of the following non-exempt positions: (1) customer service representative; (2) senior customer service representative; (3) lead customer service representative; and/or (4) team lead operations, who were employed

in Defendant's Customer Service Department, regardless of the members or clients served.

5. Pursuant to 29 U.S.C. § 216(b), the Court conditionally certifies for settlement purposes only the Settlement Collective, which includes:

All current and former employees who have worked for Defendant either in-person or remotely at any time from February 13, 2020 through February 13, 2023 in one or more of the following non-exempt positions: (1) customer service representative; (2) senior customer service representative; (3) lead customer service representative; and/or (4) team lead operations, who were employed in Defendant's Customer Service Department, regardless of the members or clients served.

6. Specifically, with respect to conditionally certifying the Settlement Collective and provisionally certifying the Settlement Class, the Court considered: (a) information, arguments, and authorities provided by Plaintiffs in their brief in support of the motion for entry of an order granting preliminary approval to the Settlement; (b) the terms of the Settlement Agreement, including, but not limited to, the definition of the Settlement Class and Settlement Collective and the benefits to be provided to the members; and (c) with respect to the Settlement Class, the Settlement's elimination of any potential manageability issue that may otherwise have existed if the case continued to be litigated.

7. With respect to the Settlement Class, the Court provisionally finds for settlement purposes only at this time that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied. The Court provisionally finds, in the specific context of this Settlement, that the following requirements are met with respect to the Settlement Class: (a) the number of Settlement Class Members is so numerous that joinder of all Settlement Class Members is impracticable; (b) there are questions of law and fact common to the Settlement Class Members; (c) Plaintiffs' claims are typical of the claims of the Settlement Class Members they seek to represent for purposes of the Settlement; (d) Plaintiffs and Class Counsel

have fairly and adequately represented the interests of the Settlement Class and will continue to do so; (e) questions of law and fact common to the Settlement Class Members predominate over any questions affecting any individual Settlement Class Member; and (f) a class action provides a fair and efficient method for settling the controversy under the criteria set forth in Rule 23. The Court also concludes that, because the case is being settled rather than litigated, the Court need not consider manageability issues that might otherwise be presented by the trial of a class action involving the issues in the case.

8. The Court provisionally: (a) finds that the named plaintiffs, Jodda Moore and Terrell Aiken, are adequate representatives of the Settlement Class, and (b) appoints Jodda Moore and Terrell Aiken as representatives of the Settlement Class.

9. The Court provisionally appoints Mobilio Wood, and Cohn Lifland Pearlman Herrmann & Knopf LLP as Class Counsel.

10. The Court appoints RG/2 Claims Administration LLC as the Administrator to provide notice to the Settlement Class and Collective and administer the Settlement pursuant to the terms of the Settlement Agreement. The Administrator shall submit to the jurisdiction of this Court with respect to all aspects of the Settlement, and is bound to follow all terms and conditions set forth in the Settlement Agreement.

11. Each and every time period and provision of the Settlement Agreement is deemed incorporated in this Order as if expressly set forth here and has the full force and effect of an Order of this Court. The Court calls attention to some of these time periods and provisions through the following partial schedule:

Defendant Provides the Settlement Collective and Settlement Class Lists to the Administrator	Within twenty-one (21) calendar days after entry of this Preliminary Approval Order
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Settlement Administrator establishes Settlement Website	Within ten (10) business days after entry of this Preliminary Approval Order
Mailing of Notice of Settlement	Within thirty (30) days of the Administrator receiving the Settlement Collective and Settlement Class Lists.
Deadline for Settlement Collective Members and Settlement Class Members to object or request exclusion	The later of forty-five (45) days after the Administrator initially mails the Notice of Settlement, or thirty (30) days after the date of re-mailing in the event that the initial mailing is returned as undeliverable
Plaintiffs' Motion for Final Approval of Settlement	Fourteen (14) days prior to the Final Approval Hearing
Final Approval Hearing	Date: _____, 2024

12. The Court approves the Notice of Settlement attached as Exhibit "A" to the Settlement Agreement. The Court finds that the proposed methods of notice set forth in the Settlement Agreement satisfy the requirements of due process, the Federal Rules of Civil Procedure, and constitute the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

13. All proceedings in this case are stayed pending the final approval of the Settlement, except as may be necessary to implement the Settlement or comply with the terms of the Agreement.

14. If the Agreement is revoked, terminated, or not consummated for any reason whatsoever or if this Court (or an appellate court on appeal) does not grant final approval of the Settlement, the conditional certification of the Settlement Collective and Settlement Class shall be void, and Defendant shall retain all defenses, and shall also retain the right to oppose any and all collective and class certification motions for any reason.

15. The Final Approval Hearing is hereby set for _____, 2024 at _____ a.m. / p.m., in Courtroom ____, at James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106.

16. No later than fourteen (14) days before the Final Approval Hearing, Class Counsel shall prepare a list of persons who, pursuant to the Notice of Settlement, have excluded themselves from the Settlement Class in a valid and timely manner and deliver that list to the Court and Defendant's counsel.

17. Only Settlement Class Members who have not excluded themselves from the Settlement and have filed and served timely and valid objections to the Settlement pursuant to the terms of the Settlement Agreement shall be entitled to be heard at the Final Approval Hearing. Any Settlement Class Member who does not timely file and serve a valid objection in writing to the Settlement, entry of a Final Approval Order, or Class Counsel's application for fees and costs and for the awards proposed for Plaintiffs Jodda Moore and Terrell Aiken, in accordance with the procedures set forth in the Notice of Settlement, shall be deemed to have waived any such objection.

IT IS SO ORDERED this ____ day of _____, 2024.

Kai N. Scott
United States District Judge