

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

JORDAN KELLY, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

Case No.: 8:18-cv-01400-T-36CPT

ORION MARINE CONSTRUCTION, INC.
d/b/a ORION MARINE GROUP,

Defendant.

ORDER GRANTING PRELIMINARY APPROVAL OF CLASS SETTLEMENT

Before the court is the Joint Motion of Plaintiff Jordan Kelly and Defendant Orion Marine Construction, Inc. seeking: (1) preliminary certification of a class for settlement purposes only; (2) preliminary approval of the settlement agreement between Kelly, the putative class, and Orion Marine; (3) approval of the form and manner of notice to the class; and (4) a fairness hearing for the final consideration and approval of the parties' settlement. (Doc. 20). The Court has considered the Joint Motion, proposed settlement agreement, and the entire record of this case. The Joint Motion for Preliminary Approval (Doc. 20) will be granted. Accordingly, the Court hereby Orders as follows:

1. The Joint Motion for Preliminary Approval of Mediated Class Action Settlement (Doc. 20) is **GRANTED**.

2. Incorporation of Definitions. This Order incorporates by reference the definitions set forth in the Joint Motion for preliminary approval and the proposed settlement agreement (Docs. 20, 20-1), and all terms used herein shall have the same meaning as set forth in those filings.

3. Preliminary Approval of Proposed Settlement. The Parties' Settlement Agreement, including all exhibits thereto, is preliminarily approved as fair, reasonable, adequate, and within the range of reasonableness for preliminary settlement approval. The Court preliminarily finds that the Agreement resulted from extensive arm's length negotiations, and is sufficient to warrant notice of the Settlement to persons in the Settlement Classes and a full hearing on the approval of the Settlement.

4. Class Certification for Settlement Purposes Only. The parties seek certification of one settlement class based on Rule 23(b)(3) of the Federal Rules of Civil Procedure. Pursuant to Rule 23(c), the court conditionally certifies, for settlement purposes only, the following Settlement Class:

Improper Disclosure Class: all applicants for employment with and employees of Orion Marine Construction, Inc., as to whom Orion Marine Construction, Inc., procured a background check, including a consumer report, from May 5, 2016 (two years before the filing of the original complaint), through October 5, 2018 (the date of the mediated settlement).

In connection with this conditional certification, the Court makes the following preliminary findings for settlement purposes only:

A. The Settlement Class of approximately 932 members appears to be so numerous that joinder of all members is impracticable;

B. There appear to be questions of law or fact common to the Settlement Class for purposes of determining whether this Settlement should be approved;

C. Plaintiff Jordan Kelly's claims appear to be typical of the claims being resolved through the proposed settlement;

D. Plaintiff Jordan Kelly appears to be capable of fairly and adequately protecting the interests of the Settlement Class Members in connection with the proposed settlement;

E. Attorney Brandon Hill and the firm of Wenzel Fenton Cabassa, P.A., have experience in class action litigation under the FCRA and are qualified to handle the class members' claims;

F. Common questions of law and fact appear to predominate over questions affecting only individual persons in the Settlement Class. Accordingly, the Settlement Class appears to be sufficiently cohesive to warrant settlement by representation; and

G. Certification of the Settlement Class appears to be superior to other available methods for the fair and efficient resolution of the claims of the Settlement Classes.

5. Class Counsel. Based on the considerations in Rule 23(g), the Court appoints Matthew K. Fenton and Brandon J. Hill of Wenzel Fenton Cabassa, P.A. as Class Counsel for the Settlement Class.

6. Class Representative. Based on the findings above, the court appoints Plaintiff Jordan Kelly as Class Representative for the Settlement Class.

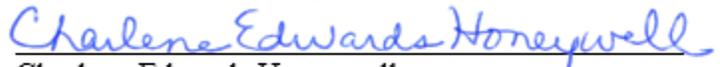
7. Class Notice. The parties' Class Notice is approved for distribution in accordance with the schedule included in the Settlement Agreement.

8. Initial Motion for Fees and Expenses. Pursuant to Rule 23(h), Class Counsel is directed to file their motion for attorney fees and expenses within ten days after the mailing of the Class Notice.

8. Opt-Outs and Objections. Class Members shall have the right to either opt-out or object to this settlement pursuant to the procedures and schedule included in the Settlement Agreement.

10. Final Approval Hearing. A Final Approval Hearing is set for **Thursday, April 18, 2019 at 10:00 AM** in Courtroom 13A, Sam M. Gibbons U.S. Courthouse, 801 North Florida Avenue, Tampa, Florida 33602.

IT IS SO ORDERED this January 9, 2019 in Tampa, Florida.


Charlene Edwards Honeywell
United States District Judge

Copies furnished to:
All parties of record including unrepresented parties, if any