

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

ANTHONY GORDON individually and on
behalf of all others similarly situated,

Plaintiff,

v.

IFCO SYSTEM US, LLC, a Delaware limited
liability company, and
MTIL, INC., a California corporation

Defendants,

Case No.: 2019 L 144

PRELIMINARY APPROVAL ORDER

This matter having come before the Court on Plaintiff's Motion for and Memorandum in Support of Preliminary Approval of Class Action Settlement of the above-captioned matter (the "Action") between Plaintiff Anthony Gordon ("Plaintiff") and IFCO System US, LLC ("Defendant" or "IFCO"), as set forth in the Stipulation of Class Action Settlement, between Plaintiff and Defendant (the "Settlement Agreement"), and the Court having duly considered the papers and arguments of counsel, the Court hereby finds and orders as follows:

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 finds that the Settlement Agreement meets all applicable requirements of Section 2-801 of the Illinois Code of Civil Procedure for settlement purposes only, 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 representative parties fairly and adequately protect the interests of the class, and that class treatment is an appropriate method for the fair and efficient adjudication of the controversy.

3. The Court further finds that: (i) there is a good cause to believe that 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.

4. 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: "The 206 IFCO employees who used a finger scanner for timekeeping purposes in the State of Illinois between February 8, 2014 and March 2016 and whose Employee ID are included in the parties' settlement Agreement." Excluded from the Settlement Class are (a) any Judge presiding over this action and members of their families; (b) IFCO, IFCO's subsidiaries, parent companies, successors, predecessors, and any entity in which IFCO or its parents have a controlling interest and their current or former officers, directors and employees; (c) persons who properly execute and file a timely request for exclusion from the Settlement Class; (d) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; and (e) counsel for all Parties and members of their families. Co-Defendant MTIL is also excluded from the settlement.

5. For settlement purposes only, the Court hereby approves the appointment of the following attorneys as Class Counsel and finds that they are competent and capable of exercising the responsibilities of Class Counsel:

David J. Fish
John Kunze

The Fish Law Firm, P.C.
200 East 5th Ave, Suite 123
Naperville, Illinois 60563

6. On 8/21/15 at 9a or at such other date and time later set by Court Order, this Court will hold a Final Approval Hearing on the fairness, adequacy, and reasonableness of the Settlement Agreement, and to determine whether: (a) final approval of the Settlement Agreement should be granted and (b) Class Counsel's application for attorney's fees and expenses, and an incentive award to the Class Representative should be granted. No later than 8/12/15, Plaintiff must file his papers in support of Class Counsel's application for attorneys' fees and expenses and his papers in support of final approval of the Settlement Agreement and in response to any objections.

7. Simpluris is hereby appointed as Settlement Administrator and shall be required to perform all of the duties of the Settlement Administrator as set forth in the Settlement Agreement.

8. The Court approves the proposed plan for giving Notice to the Settlement Class as detailed in the Settlement Agreement, which includes direct Notice via postcards in the U.S. Mail, as fully described in the Settlement Agreement. The plan for giving Notice, in form, method, and content, fully complies with the requirements of 735 ILCS 5/2-803 and due process and is due and sufficient notice to all Persons entitled thereto.

9. All persons who meet the definition of the Settlement Class and who wish to exclude themselves from the Settlement Class must submit their request for exclusion in writing no later than the Objection/Exclusion deadline of 8/7/17 (i.e., 60 42 days after Notice is disseminated). To be valid, any request for exclusion must (a) be in writing; (b) identify the case name *Gordon v. IFCO Systems US, LLC and MTIL, Inc., 2019 L 144 (Cir. Ct. Will Cty.)*; (c) state the full name and current address of the Person in the Settlement Class seeking exclusion;

(d) be physically signed by the Person seeking exclusion; and (e) be postmarked or received on or before the Objection/Exclusion Deadline through service on Class Counsel and IFCO's counsel. Each request for exclusion must also contain a statement to the effect that "I hereby request to be excluded from the proposed Settlement Class in *Gordon v. IFCO Systems US, LLC and MTIL, Inc.*, 2019 L 144 (Cir. Ct. Will Cty)." A request for exclusion that does not include all of the foregoing information, that is sent to an address other than that designated in the Notice, or that is not postmarked or delivered to the Settlement Administrator within the time specified, shall be invalid and the Person serving such a request shall be deemed to remain a Settlement Class Member and shall be bound as a Settlement Class Member by this Settlement Agreement, if approved.

10. Any member of the Settlement Class may comment in support of, or in opposition to, the Settlement Agreement at his or her own expense; provided, however, that all comments and objections must (1) be filed with the Clerk of the Court, and (2) be postmarked or delivered to Class Counsel and Defendant's counsel as described in the Notice, no later than the Objection/Exclusion Deadline. Any member of the Settlement Class who intends to object to this Settlement Agreement must include in his or her written objection: (1) the Settlement Class Member's full name and current address, (2) a statement that he or she believes himself or herself to be a member of the Settlement Class, (3) the specific grounds for the objection, (4) all documents or writings that the Settlement Class Member desires the Court to consider, (5) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection; and (6) a statement indicating whether the objector intends to appear

at the Final Approval Hearing (either personally or through counsel, who must file an appearance or seek *pro hac vice* admission).

11. Any Settlement Class Member who fails to timely file a written objection with the Court and notice of his or her intent to appear at the Final Approval Hearing in accordance with the terms of this Order and as detailed in the Notice, and at the same time provide copies to designated counsel for the Parties, shall not be permitted to object to this Settlement Agreement at the Final Approval Hearing, and shall be foreclosed from seeking any review of this Settlement Agreement by appeal or other means and shall be deemed to have waived his or her objections and be forever barred from making any such objections in the Action or any other action or proceeding.

12. The Settlement Agreement and the proceedings and statements made pursuant to the Settlement Agreement or papers filed relating to the Settlement Agreement and this Order, are not and shall not in any event be described as, construed as, offered or received against the 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 Plaintiff; the validity of any claim that has been or could have been asserted in the Action or in any litigation; the deficiency of any defense that has been or could have been asserted in the Action or in any litigation; or any liability, negligence, fault, or wrongdoing of any of the Released Parties. Defendant has denied and continues to deny the claims asserted by Plaintiff. 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 Agreement.

13. 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 ORDERED.

ENTERED: 6-3-2019

JUDGE: 



