

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

JUAN AGUILAR, individually and on behalf of themselves	)	Judge Sullivan
and all other similarly situated persons, known and unknown,	)	
	)	Rm. 2410
Plaintiff.	)	
v.	)	2023CH09384
	)	
EL POPOCATEPETL INDUSTRIES INC. and	)	
EMA GROUP, INC.,	)	Calendar 15
Defendants.	)	

ORDER GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT

This matter, having come to be heard on Plaintiff’s Unopposed Motion for Preliminary Approval of Proposed Class Action Settlement (the “Motion”), the Court being fully advised and having duly considered the papers and arguments of Counsel and all other papers that have been filed with the Court related to the Settlement Agreement, HEREBY FINDS, CONCLUDES AND ORDERS THE FOLLOWING:

- 1. Except as otherwise provided below, all capitalized terms used in this Preliminary Approval Order shall have the meanings or definitions given to them in the Settlement Agreement.
- 2. The Parties have agreed to a class action settlement of all Released Claims. Plaintiff seeks—and for purposes of settlement only, Defendants EL POPOCATEPETL INDUSTRIES INC.’s and EMA GROUP, INC. (cumulatively “Defendant”) does not object to—certification of a Settlement Class defined as follows:

All persons who scanned or otherwise used their hand (or any portion thereof) or any other biometric identifier or information to enroll in or clock into or out of Defendants EL POPOCATEPETL INDUSTRIES INC.’s and EMA GROUP, INC.’s timekeeping system in the state of Illinois at any time from November 14, 2018 through the date of Preliminary Approval.

Specifically excluded are the following Persons:

- 1. Class Counsel;
 - 2. Any Judge or Magistrate Judge who has presided over the Litigation; and
 - 3. All Persons who have timely elected to become Opt Outs from the Settlement Class in accordance with Section VIII below.
2. For purposes of settlement only, the Court finds that the prerequisites to class action treatment have been preliminarily satisfied.

Likely Approval As Fair, Reasonable And Adequate

3. Approval of a class action settlement should be given if the settlement is fair, reasonable and adequate. When assessing the fairness of a proposed settlement, some of the factors the trial judge should consider include: (1) the strength of the case for plaintiffs on the merits, balanced against the money or other relief offered in settlement; (2) the defendant's ability to pay; (3) the complexity, length and expense of further litigation; (4) the amount of opposition to the settlement; (5) the presence of collusion in reaching a settlement; (6) the reaction of members of the class to the settlement; (7) the opinion of competent counsel; and (8) the stage of proceedings and the amount of discovery completed. See *City of Chicago v. Korshak*, 206 Ill. App. 3d 968, 972 (1990). The Court has considered these factors and finds that the terms set forth in the Settlement Agreement (in light of the exhibits attached thereto or to the Motion) are fair, reasonable and adequate.

4. Here, the terms of the Settlement Agreement are preliminarily approved as fair, reasonable and adequate. There is no question that the Parties are at arm's length. The Settlement appears to be the result of extensive, non-collusive, arm's-length negotiations between experienced counsel who were thoroughly informed of the strengths and weaknesses of the case through discovery .

5. The Settlement provides adequate relief to the proposed Settlement Class. Settlement Class Members may submit a claim for a cash payment of no more than \$614.44. In light of the complexity, length and expense of further litigation, as well as the strength of the case for the plaintiff on the merits, this relief is at least adequate for settlement purposes. If the Settlement had not been reached, the Parties planned to vigorously contest both class certification and the merits of the claims, and Plaintiff's chances at trial also would have been uncertain.

6. There is no reason to doubt the effectiveness of distributing relief under the Settlement. As further addressed below, the Parties propose a Notice Program reasonably calculated to reach nearly all members of the proposed Settlement Class, who will be able to submit claims for cash payments online or by mail, and those claims will be processed by an experienced claims administrator, as further addressed below.

7. No agreements exist between the Parties aside from the Settlement, with the exception of an agreement described generally in the Settlement Agreement that allows Defendant to terminate the Settlement in certain defined circumstances.

8. The Settlement treats members of the proposed Settlement Class equitably relative to each other. All members of the proposed Settlement Class are able to submit a claim for cash payments of equal value.

9. Having thoroughly reviewed the Settlement Agreement, the supporting exhibits and the Parties' arguments, this Court finds that the Settlement is fair, reasonable and adequate to warrant providing notice to the Settlement Class, and thus likely to be approved, subject to further consideration at the Final Approval Hearing to be conducted as described below.

Likely Certification Of Settlement Class

10. Certification of a class action in Illinois is governed by 735 ILCS 5/2-801. Section 2-801 sets forth four prerequisites for a class action: (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of fact and law common to the class that predominate over any questions affecting only individual members; (3) the representative parties will fairly and adequately protect the interests of the class; and (4) the class action is an appropriate method for the fair and efficient adjudication of the controversy.

11. The proposed Settlement Class is sufficiently numerous, because Defendant's records show that over a hundred employees of Defendant scanned or otherwise used their hand (or any portion thereof) or other biometric identifier or information to enroll in or clock into or out of Defendant's timekeeping system during the relevant period, all of whom would be members of the Settlement Class.

12. Resolution of the Litigation would depend on the common answers to common questions, such as: whether Defendant collected, used, stored, obtained, or disseminated biometric information, and whether Defendant maintained or made available to the public a written policy that established a retention schedule and guidelines for destroying biometric information. These common questions predominate over individual issues, because a key element of Plaintiff's claims is whether Defendant's timekeeping system scanned or otherwise used a biometric identifier or biometric information.

13. The proposed Settlement Class representatives and Class Counsel will fairly and adequately protect the interests of the proposed Settlement Class.

14. This Settlement is an appropriate method for the fair and efficient adjudication of the controversy. Members of the proposed Settlement Class may be entitled to a small amount of statutory damages (or none at all) under the law and may not have suffered sufficient damages to justify the costs of litigation. The Settlement ensures that all Settlement Class Members will have the opportunity to be compensated through a cash payment.

15. For these reasons, pursuant to Section 2-801, and for settlement purposes only, the Court finds it will likely certify the Settlement Class defined above in Paragraph 2 of this Order. This finding is subject to further consideration at the Final Approval Hearing to be conducted as described below.

16. The Court hereby preliminarily appoints Plaintiff as representative of the Settlement Class. The Court hereby preliminarily appoints Daniel Schlade and James Dore of Justicia Laboral, LLC as Class Counsel for the Settlement Class.

17. In any final approval order issued after the Final Approval Hearing, the Court will bar and permanently enjoin all Settlement Class Members who have not been properly excluded from the Settlement Class from: (a) filing, commencing, prosecuting, intervening in or participating (as class members or otherwise) in any other lawsuit or administrative, regulatory, arbitration or other proceeding in any jurisdiction based on, relating to or arising out of the claims and causes of action or the facts and circumstances giving rise to the Litigation or the Released Claims; and

(b) organizing Settlement Class Members who have not been excluded from the Settlement Class into a separate class for purposes of pursuing as a purported class action any lawsuit or arbitration or other proceeding (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action) based on, relating to, or arising out of the claims and causes of action in, or the facts and circumstances giving rise to, the Litigation or the Released Claims, except that Settlement Class Members are not precluded from participating in any investigation or suit initiated by a state, provincial or federal agency.

Approval Of The Manner And Form Of Notice

18. Having preliminarily approved the Settlement, the Court "may order such notice that it deems necessary to protect the interests of the class and the parties." 735 ILCS 5/2-803. The Parties have submitted three proposed forms of Class Notice: an Emailed Notice, a Mailed Notice, and a Published Notice, which are attached to Plaintiff's Memorandum in Support of their Motion as Exhibits B and C. A plan for distributing these notices has also been submitted to the Court. Under the terms of the Settlement Agreement and as detailed in these exhibits and the Motion, the Parties propose to mail the Mailed Notice to all potential Settlement Class Members at each Settlement Class Member's last known address by First-Class Mail, postage prepaid. The Parties also propose to email the Emailed Notice to all potential Settlement Class Members for whom an email address is available. In addition, the Settling Parties will direct the Settlement Administrator to create a Settlement Website where the Published Notice and Claim Form will be available.

19. Having reviewed these exhibits and the proposed Notice Program, the Court finds that the Parties' proposed plan for providing notice to the Settlement Class: (a) is reasonable and constitutes due, adequate and sufficient notice to all Persons entitled to receive notice; (b) is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Litigation and of their right to object to or to exclude themselves from the Settlement; and (c) meets all applicable requirements of applicable law. The Notice Program satisfies the requirements of Section 2-803 and due process. The Court therefore approves the Notice Program and the notice documents substantially in the form attached as the exhibits to Plaintiff's Motion.

20. Analytics Consulting LLC ("Analytics") has been selected to serve as the Settlement Administrator under the terms of the Settlement. The Court hereby appoints Analytics to serve as the Settlement Administrator, to be supervised jointly by the Parties in taking the actions ordered below and performing any other duties of the Settlement Administrator provided for in the Settlement Agreement.

21. Accordingly, the Court hereby ORDERS as follows:

a. Promptly after the entry of this Order, the Parties will direct the Settlement Administrator to issue the Class Notice and administer the Notice Program, receive and appropriately respond to all claims submitted by a member of the Settlement Class, and to otherwise administer the Settlement Agreement.

b. The Settlement Administrator will (1) assign personnel to manage the settlement implementation process, including the Notice Program, (2) establish a toll-free telephone number

that members of the Settlement Class may call to obtain information, (3) establish a mailing address to which members of the Settlement Class can send claims as well as a process for filing claims electronically, and (4) create a Settlement Website containing information about the Settlement, including the Published Notice and Claim Form, for download or electronic submission. All costs and expenses related to the administration of the Settlement, including providing the Class Notice to the Settlement Class will be paid exclusively from the Settlement Fund.

c. Within 30 Days of the entry of this Order, the Settlement Administrator will mail the Court-approved Mailed Notice (Exhibit C) to potential Settlement Class Members at each Settlement Class Member's last known address by First-Class Mail, postage prepaid.

d. Within 30 Days of the entry of this Order, the Settlement Administrator shall email or cause to be emailed the Emailed Notice to all potential Settlement Class Members for whom an email address is available.

e. The Settlement Administrator will perform a national change of address search and forward notices that are returned by the United States Postal Service with a forwarding address. Following receipt of any returned notices that do not include a forwarding address, the Settlement Administrator shall as soon as practicable (itself or through an appropriate vendor) research such returned mail for more accurate addresses and promptly mail copies of the applicable notice to any more accurate addresses so found.

f. Within 30 Days of the entry of this Order, the Settlement Administrator will cause the Settlement Website located at www.website.com to be updated to provide information and relevant documents related to the Settlement, including but not limited to, the following: applicable deadlines; Published Notice; Mailed Notice; Emailed Notice; orders of the Court pertaining to the Settlement; the Settlement Agreement; and contact information for questions. The Settlement Website shall be rendered inactive 60 Days after the Effective Date or 60 Days after all issues and disputes regarding the validity of a Claim Form and the amount, if any, to be paid on each claim have been resolved, whichever is later. Class Counsel and Defense Counsel shall agree on all information and documents to be posted on the Settlement Website.

g. As appropriate, Class Counsel, Defendant and/or the Settlement Administrator shall provide a declaration to the Court attesting to the Notice Program and all measures undertaken to provide notice of the Settlement to the Settlement Class no later than 21 Days before the Final Approval Hearing.

h. The Settlement Administrator shall receive, evaluate and either approve or disapprove Claim Forms under the requirements of the Settlement. The Settlement Administrator shall send a notice of claim denial by First-Class Mail to each Settlement Class Member who submitted a Claim Form that the Settlement Administrator determines not to be a valid claim. The Settlement Administrator shall not review or pay any claims for monetary compensation submitted by a member of the Settlement Class after the Claim Deadline.

i. Approved claims submitted via valid Claim Forms shall be paid from the Settlement Fund. All costs incurred by the Settlement Administrator to administer the foregoing

relief shall deducted from the Settlement Fund. If the Settlement Fund is oversubscribed (i.e., more claims for compensation are approved than dollars available in the Settlement Fund), then claims will be reduced pro rata, meaning that each cash award will be reduced by an equal percentage until the Settlement Fund is no longer oversubscribed. If the Settlement Fund is undersubscribed (i.e., fewer claims for compensation are approved than dollars available in the Settlement Fund), any amounts remaining in the Settlement Fund will revert in full to Defendant.

j. The Settlement Administrator shall forward to Class Counsel and Defense Counsel any objections to the Settlement received from Settlement Class Members.

k. The Settlement Administrator shall provide to Class Counsel and Defense Counsel the Opt-Out List together with copies of each Request for Exclusion not later than 7 business Days after the deadline for submission of Requests for Exclusion. Class Counsel and Defense Counsel shall submit the names appearing on the Opt-Out List to the Court under seal at the time of the Final Approval Hearing.

Participation In, Exclusion from, Or Objection To The Settlement

22. Each form described in this section shall be deemed to be submitted when postmarked or when electronically received by the Settlement Administrator if submitted electronically.

23. In order to be eligible to receive a cash payment, a member of the Settlement Class must submit or postmark a completed and signed Claim Form by the Claim Deadline.

24. Members of the Settlement Class who wish to exclude themselves from (i.e., opt out of) the Settlement must send a Request for Exclusion that:

a. Has the signature of the member of the Settlement Class, even if represented by counsel. If the member of the Settlement Class is an entity and not an individual, the Request for Exclusion must be signed by an officer or director of the entity with authority to act on behalf of that entity. If the member of the Settlement Class is represented by counsel, the Request for Exclusion shall also be signed by that attorney;

b. States the name, address and telephone number of the Person requesting exclusion;

c. Contains a clear and unambiguous statement communicating that such Person elects to be excluded from the Settlement Class, does not wish to be a Settlement Class Member, and elects to be excluded from any judgment entered pursuant to the Settlement.

25. Members of the Settlement Class may opt out on an individual basis only; so-called "mass" or "class" opt outs are not allowed.

26. All Requests for Exclusion must be submitted no later than 30 Days after the Notice Date. Any member of the Settlement Class who submits a timely Request for Exclusion may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under the Settlement Agreement.

27. Any Settlement Class Member who fails to submit a timely and complete Request for Exclusion sent to the proper address shall be subject to and bound by the Settlement and every order or judgment entered pursuant to the Settlement. Any purported Request for Exclusion or other communication sent to such address that is unclear or internally inconsistent with respect to the desire of the member of the Settlement Class to be excluded from the Settlement Class will be deemed invalid unless determined otherwise by the Court. Requests for Exclusion signed only by counsel or another representative shall not be permitted.

28. Any Settlement Class Member who wishes to be heard at the Final Approval Hearing, or who wishes for any objection to be considered, must file with the Clerk of the Court a written notice of objection no later than 30 Days after the Notice Date. Such objection must:

a. Have the signature of the member of the Settlement Class objecting, even if represented by counsel. If the member of the Settlement Class is an entity and not an individual, the objection must be signed by an officer or director of the entity with authority to act on behalf of that entity. If the Settlement Class Member that is objecting to the Settlement is represented by counsel, the objection shall also be signed by that attorney;

b. State the name, address and telephone number of the Settlement Class Member objecting,

c. State the name, address and telephone number of every attorney representing or assisting the objector;

d. Contain a detailed statement of each objection asserted, including the grounds for objection and reasons for appearing and being heard, together with any documents such Settlement Class Member wishes to be considered in support of the objection;

e. A list of all cases in which the Settlement Class Member or Settlement Class Member's counsel filed an objection or in any way participated – financially or otherwise – in objecting to a class settlement during the preceding five years; and

f. Contain a statement regarding whether the Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, and a list of all persons, if any, who will be called to testify in support of the objection.

29. The Settlement Class Member must also serve by mail or hand delivery the Settlement Class Member's notice of objection, including any request to be heard, including all papers or evidence in support thereof, upon Class Counsel and Defense Counsel, at the addresses set forth in the Class Notice.

30. Objectors who fail to properly or timely file their objections with the Clerk of the Court, along with the required information and documentation set forth above, or to serve them as provided above, shall not be heard during the Final Approval Hearing, shall not have their objections be considered by the Court, and shall be foreclosed from seeking any adjudication or review of the Settlement by appeal or otherwise.

31. Class Counsel and Defense Counsel may respond to any objection filed by a Settlement Class Member, and must file such a response with the Court no later than 14 Days prior to the Final Approval Hearing.
32. Settlement Class Members may not both object and opt out. If a member of the Settlement Class submits both a Request for Exclusion and an objection, the Request for Exclusion shall be controlling.
33. Any Settlement Class Member who does not file a timely, written objection to the Settlement or who fails to otherwise comply with the requirements outlined above in Paragraphs 29–31 shall be foreclosed from seeking any adjudication or review of this Settlement by appeal or otherwise.

Final Approval Hearing And Related Deadlines

34. This Court will hold a Final Approval Hearing, on Final Approval date **November 20, 2026 at 10:30 am** in Courtroom 2410 of the Circuit Court of Cook County, Richard J. Daley Center, 50 W. Washington, Chicago, IL 60602 (Zoom information: Meeting ID: 955 3557 3920; Password: No Password Required; Call-In Number: 312-626-6799). The purposes of the Final Approval Hearing will be to consider the fairness, reasonableness and adequacy of the proposed Settlement and the application for an award of Attorneys' Fees and Expenses, and to consider whether the Court should issue a Final Order and Judgment approving the Settlement, granting Class Counsel's application for Attorneys' Fees and Expenses, granting the Service Award application by Plaintiff and dismissing the claims against Defendant with prejudice.
35. The Court reserves the right to adjourn the Final Approval Hearing without further notice to Settlement Class Members, or to approve the Settlement with modification without further notice to Settlement Class Members.
36. Any Settlement Class Member may appear at the Final Approval Hearing by filing with the Clerk of the Court a written notice of objection, including any request to be heard, no later than 30 Days after the Notice Date in accordance with the requirements outlined in Paragraphs 29–31 above and including a statement that the Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, along with a list of all Persons, if any, who will be called to testify in support of the objection.
37. If any Settlement Class Member hires an attorney to represent the Settlement Class Member at the Final Approval Hearing, that attorney will be at the Settlement Class Member's expense.
38. Any attorney hired by a Settlement Class Member for the purpose of objecting to the Settlement and who intends to make an appearance at the Final Approval Hearing must provide to Class Counsel and Defense Counsel and to file with the Clerk of the Court a notice of intention to appear no later than 30 Days after the Notice Date.

39. Class Counsel's papers in support of any application for Attorneys' Fees and Expenses and/or Service Awards shall be filed no later than the 45 days after the date of preliminary approval.

40. Class Counsel's papers in support of final approval of the Settlement shall be filed no later than 15 Days prior to the Final Approval Hearing. If any reply papers are necessary, they shall be filed no later than 7 Days prior to the Final Approval Hearing.

Effects Of This Preliminary Approval Order

41. If for any reason the Settlement fails to become effective in accordance with its terms, or if the judgment is not entered or is reversed, vacated or materially modified on appeal (and, in the event of material modification (which shall not include any reduction to an award of Attorneys' Fees and Expenses or to the Service Awards), if either party elects to terminate the Settlement), this Order shall be null and void, the Settlement Agreement shall be deemed terminated (except for any paragraphs that, pursuant to the terms of the Settlement, survive termination of the Settlement), and the Parties shall return to their positions without prejudice in any way, as provided for in the Settlement.

42. As set forth in the Settlement Agreement, the fact and terms of this Order and the Settlement, all negotiations, discussions, drafts, and proceedings in connection with this Order and the Settlement, and any act performed or document signed in connection with this Order and the Settlement, shall not, in this or any other court, administrative agency, arbitration forum or other tribunal, constitute an admission or evidence or be deemed to create any inference against any party, including, but not limited to: (i) of any acts of wrongdoing or lack of wrongdoing; (ii) of any liability on the part of Defendant to the Plaintiff, the Settlement Class or anyone else; (iii) of any deficiency of any claim or defense that has been or could have been asserted in this case; (iv) that Defendant agrees that a litigation class may be properly certified in this case; (v) of any damages or lack of damages suffered by the Plaintiff, the Settlement Class or anyone else; or (vi) that any benefits obtained by the Settlement Class pursuant to the Settlement or any other amount represents the amount that could or would have been recovered in the actions in this case if they were not settled at this point in time. The fact and terms of this Order and the Settlement, and all negotiations, discussions, drafts and proceedings in connection with this Order and the Settlement, including but not limited to the judgment and the release of the Released Claims provided for in the Settlement and any judgment, shall not be offered or received in evidence or used for any other purpose in this or any other proceeding in any court, administrative agency, arbitration forum or other tribunal, except as necessary to enforce the terms of this Order and/or the Settlement.

43. All members of the Settlement Class, unless and until they have timely and properly excluded themselves from the Settlement Class, are preliminarily enjoined from: (a) filing, commencing, prosecuting, intervening in or participating as plaintiff, claimant, participant or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, relating to or arising out of the claims and causes of action or the facts and circumstances giving rise to the Litigation or the Released Claims; (b) filing, commencing, participating in or prosecuting a lawsuit or administrative, regulatory, arbitration or other proceeding as a class action on behalf of any member of the Settlement Class who has

not timely excluded himself or herself (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on, relating to or arising out of the claims and causes of action or the facts and circumstances giving rise to the Litigation or the Released Claims; and (c) attempting to effect opt outs of a class of individuals in this lawsuit or any other lawsuit or administrative, regulatory, arbitration, or other proceeding based on, relating to or arising out of the claims and causes of action or the facts and circumstances giving rise to the Litigation or the Released Claims.

44. Any member of the Settlement Class who does not submit a timely, written Request for Exclusion from the Settlement Class (i.e., become an Opt Out) will be bound by all proceedings, orders and judgments in the Litigation, even if such Settlement Class Member has previously initiated or subsequently initiates individual litigation or other proceedings encompassed by the Release.

45. For clarity, the following deadlines are in effect:

Date	Event
July 31, 2026	Preliminary Approval Order Entered
August 15, 2026	Defendants to provide complete class information, including addresses and email addresses to administrator
August 30, 2026	Administrator to issue Notices to Class and Website is to become live
September 15, 2026	Plaintiff's Motion for Attorneys Fees and Costs, and Incentive Award due
September 30, 2026	Claims deadline; Requests for Exclusion deadline; and Objection deadline
November 5, 2026	Plaintiff's Motion for Final Approval due
November 20, 2026	Final Approval Hearing
December 20, 2026	Effective Date (anticipated)

IT IS SO ORDERED.

Dated: _____



Judge Sullivan
Illinois Circuit Court Judge

