

Kelly v. Business Information Group, Inc.
Notice of Class Action Settlement
Rule 23(b)(2) SUBGROUP SETTLEMENT CLASS
Civil Action No. 2:15-cv-6668

A federal court authorized this notice. This is not a solicitation from a lawyer.

You have received this notice because records indicate that you were subject to at least one BIG consumer report dated December 17, 2013 to June 27, 2016, where the consumer report contained a public record, other than a bankruptcy, sourced from Trans Union, and where BIG's records do not reflect that you filed any dispute with BIG with respect to the above-referenced report. Your legal rights will be affected by the Settlement of this Lawsuit. Please read this notice carefully. It explains the Lawsuit, the Settlement, and your legal rights, including the process for submitting a claim, excluding yourself from the Settlement, or objecting to the Settlement. This settlement will not pay you money unless you submit a claim.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

DO NOTHING	If you do nothing, you will receive the benefits of changes made to how BIG reports public records for the next five years. BIG has agreed to provide notice to all consumers whose consumer report includes a public record obtained from Trans Union.
SUBMIT A CLAIM	If you satisfy certain conditions and submit a Claim Form (attached hereto), you will receive a <i>pro rata</i> share of the sum of \$500,000.00.
ASK TO BE EXCLUDED FROM THE SETTLEMENT	You may write to the Court and tell it that you do not want to be included in the Settlement as a Rule 23(b)(2) Subgroup Settlement Class Member. You will receive no payment from the Settlement. No attorney will represent you unless you hire your own attorney.
IF YOU OBJECT	You may write to the Court and tell it what you don't like about the Settlement. You will remain a part of the Class and may submit a claim. The Court will consider your views when deciding whether the Settlement is fair.

ADDITIONAL INFORMATION ABOUT THE LAWSUIT, THE SETTLEMENT, AND YOUR RIGHTS IS ON THE SETTLEMENT WEBSITE

www.kellyvbigsettlement.com

You can call (800) 687-0139, or write to the Class Counsel, **James A. Francis**, Francis & Mailman, P.C., 100 S. Broad Street, Suite 1902, Philadelphia, PA 19110 or by e-mail at info@consumerlawfirm.com.

PLEASE, DO NOT CALL THE COURT OR BIG'S COUNSEL REGARDING THIS SETTLEMENT.

1. WHY DID I RECEIVE THIS NOTICE?

You are a member of the “Rule 23(b)(2) Subgroup Settlement Class” and are affected by the Settlement because BIG’s records indicate that you were the subject of a consumer report prepared by BIG that contained public record information that was sold to a third party between December 17, 2013 and June 27, 2016 where the consumer report contained a public record, other than a bankruptcy, that was sourced from Trans Union. The remaining qualifying public records are civil judgments and tax liens.

Specifically, for the purposes of settlement only, the Court has provisionally certified the Rule 23(b)(2) Subgroup Settlement Class as follows:

All natural persons (i) who were subject to at least one BIG consumer report dated December 17, 2013 to June 27, 2016, (ii) where the consumer report contained a public record, other than a bankruptcy, sourced from Trans Union, (iii) where BIG’s records do not reflect the Settlement Class Member filed any dispute with BIG with respect to the above-referenced report.

If you fall within the foregoing definition, you will be a Rule 23(b)(2) Subgroup Settlement Class Member unless you exclude yourself from the Settlement Class.

A Court authorized this notice because you have a right to know about a proposed settlement of this class action lawsuit and about all of your options before the Court decides whether to give “final approval” to the settlement.

2. WHAT IS THIS LAWSUIT ABOUT?

Plaintiff Michael Kelly alleged that he was required by his prospective employers to submit to a background check as a condition of employment. BIG obtained information from Trans Union, a third-party, and prepared a consumer report for Mr. Kelly for the employer. Plaintiff claimed that the consumer report prepared about him contained inaccurate or incomplete public record information, here an inaccurate civil judgment.

Plaintiff sued BIG because he believes that BIG violated the Fair Credit Reporting Act (FCRA), a federal law. The FCRA requires BIG to provide notice to a consumer when it furnishes a report to an employer that contains a public record item, or otherwise maintain strict procedures to ensure its reports are complete and up to date. 15 U.S.C. § 1681k(a).

BIG has denied all claims and allegations of wrongdoing asserted in the Lawsuit and contends that it acted lawfully and in compliance with the FCRA. Notwithstanding that BIG denies liability and any alleged unlawful conduct, BIG has decided it is in its best interest to settle the Lawsuit to avoid the burden, expense, risk and uncertainty of continuing the Lawsuit.

3. WHAT IS A CLASS ACTION AND WHO IS INVOLVED?

In a class action lawsuit, a person who is called a “Class Representative” (in this case, Michael Kelly) sues on behalf of other people who have similar claims. The people together are a “Class” or “Class Members.” The person who sued – Mr. Kelly – is called the Plaintiff or the Named Plaintiff. The company they sued (BIG) is called the Defendant. One court resolves the issues for everyone in the Class.

4. WHAT DOES THE SETTLEMENT PROVIDE?

If the settlement is approved by the Court, you will receive:

The Right to Sue for Damages. If you do not submit a claim, you retain your right to sue individually for actual or punitive damages to which you may be entitled, such as loss of employment, embarrassment or distress for all claims other than those arising under 15 U.S.C. § 1681k and state and local laws similar in substance to Section 1681k.

New Notice Requirements. As part of the Settlement, BIG has agreed to provide contemporaneous notice for all consumer reports with public records sourced from Trans Union for five (5) years.

The Right to Submit a Claim to Receive a Cash Payment if you Are a Member of the Rule 23(b)(2) Subgroup Settlement Class. If the public record contained in your BIG report was incomplete or outdated, and you suffered harm as a result, you may submit a Claim Form, attached hereto, and receive a *pro rata* share of the Settlement Fund. BIG has agreed to create a settlement fund of \$500,000.00 that will be divided between Rule 23(b)(2) Subgroup Settlement Class Members who submit a valid Claim Form, as described below and after Court-approved attorneys’ fees and expenses, necessary administrative fees, and Service Award for Mr. Kelly, are paid.

5. CAN I SUBMIT A CLAIM FORM AND HOW MUCH MONEY WILL I RECEIVE?

If you satisfy certain conditions and submit a Claim Form, you will receive a *pro rata* cash payment. In order to submit a claim, the following must be true:

- You were the subject of a BIG consumer report dated December 17, 2013 to June 27, 2016.
- The BIG consumer report contained a public record other than a bankruptcy.
- The public record was either incomplete or outdated.

If these three conditions are met, you may submit the Claim Form attached to this notice. You must attest to the information above and that the record was incomplete or outdated. The Claim Form must be received by October 9, 2018.

The amount of money paid to each Rule 23(b)(2) Subgroup Settlement Class Member who submits a valid Claim Form will depend upon how many class members can be found, how many qualify to submit Claim Forms, and how many actually submit Claim Forms. The Settlement Fund will be distributed on a *pro rata* (equal) basis, without any cap on the payment. Your payment will first be reduced by the Court-approved attorneys' fees and expenses to Class Counsel, any necessary administrative fees, and Service Award for Mr. Kelly.

For example, if 10% of Rule 23(b)(2) Subgroup Settlement Class Members return a Claim Form, those class members would each receive approximately \$56.00.

6. WHAT DO I GIVE UP IN THE SETTLEMENT OR IF I SUBMIT A CLAIM?

Rule 23(b)(2) Subgroup Settlement Class Members give up the right to file or participate in a class action or mass action lawsuit, or to seek statutory damages, based upon a violation of the FCRA or any other similar state or local law against BIG or any Released Person. They also release all 15 U.S.C. § 1681k claims, including claims for actual damages, claims for statutory damages, and claims arising under state and local laws similar in substance to Section 1681k. Class Members do not (unless they file a claim) give up any right to pursue any individual claim you have for any money damages against BIG that are recoverable under the FCRA and FCRA state equivalents, or on any other basis except for claims arising under 15 U.S.C. § 1681k and state and local laws similar in substance to Section 1681k.

The formal release language and description of the Released Persons are included in the formal Settlement Agreement, which is available on the Settlement website.

7. HOW DO I EXCLUDE MYSELF FROM THE SETTLEMENT?

To exclude yourself from the Rule 23(b)(2) Subgroup Settlement Class, you must send a letter by mail saying that you want to be excluded from the Rule 23(b)(2) Subgroup Settlement Class in *Kelly v. Business Information Group, Inc.*, Civil Action No. 2:15-cv-6668. Be sure to include your name, address, telephone number and your original signature. You must mail your exclusion request postmarked no later than October 9, 2018 to:

Kelly v. BIG Settlement
PO Box 23678
Jacksonville, FL 32241-3678
800-687-0139

If you exclude yourself, you will not receive any payment as a result of this Settlement. If you exclude yourself, you should promptly consult your own attorney about your rights, as the time to file an individual lawsuit is limited. If you exclude yourself from the Rule 23(b)(2) Subgroup Settlement Class, you will still be a member of the Injunctive Relief Settlement Class (a "Settlement Class Member"), you will still receive the relief detailed under "New Notice Requirements" in Section 4 above, and you will still release the right or ability to bring or participate in a class action, mass action, representative or other similar joint or collective claims against BIG and the other Released Persons under the FCRA and/or similar state and local laws (the "Settlement Class Member Release"). You will not release claims brought by yourself individually and alone, for actual, statutory or punitive damages and attorneys' fees and costs.

8. DO I HAVE A LAWYER IN THIS CASE AND HOW WILL THE LAWYERS BE PAID?

The Class Representative retained **Leonard A. Bennett and Matthew J. Erausquin**, Consumer Litigation Associates, P.C., 763 J. Clyde Morris Blvd., Suite 1-A, Newport News, VA 23601; **Kristi Kelly**, Kelly & Crandall, PLC, 4084 University Dr. #202a, Fairfax, VA 22030; **James A. Francis**, Francis & Mailman, P.C., 100 South Broad Street, Suite 1902, Philadelphia, PA 19110, to represent them. In connection with the preliminary approval of the Settlement, the Court appointed these attorneys to represent you and other Class Members. Together, the lawyers are called Class Counsel. You will not be separately charged by these lawyers for their work on the case. If you want to be represented by your own lawyer, you may hire one at your own expense.

Class Counsel will ask the Court for an award of attorneys' fees and costs of an amount not to exceed 33% of the Settlement Fund to be paid by BIG, which BIG has agreed not to oppose. However, the Court may ultimately award less than the amount requested. The costs of this notice to you and the costs of administering the settlement are paid by BIG and will be paid from the Settlement Fund. Additionally, the Class Representatives will ask the Court to approve a payment to Michael Kelly in an amount not to exceed \$15,000, as a service award for his effort and time expended in prosecuting this case. However, the Court may ultimately award less than this amount or nothing at all.

9. HOW DO I TELL THE COURT THAT I DO NOT LIKE THE SETTLEMENT?

You can object if you think any part of the Settlement is unfair, unreasonable, and/or inadequate. If you choose to object, you can and should explain the detailed reasons why you think the Court should not approve the Settlement. The Court and Class Counsel will consider your views carefully. To object, you must send a letter by mail stating that you object to the Settlement in the *Kelly v. Business Information Group, Inc.* case. Be sure to include (1) the name of this Lawsuit, *Kelly v. Business Information Group, Inc.*; (2) the fact you are a member of the Rule 23(b)(2) Subgroup Settlement Class; (3) your full name, current address and telephone number; (4) a sentence stating that to the best of your knowledge, you are a member of the settlement class; and (5) the factual basis and legal grounds for the objection to the Settlement. Mail this Objection to the Court at the address below so that it is postmarked no later than October 9, 2018. Objections to the Class Counsel's attorneys' fees or the requested service award may be supplemented up to seven (7) days after the filing of a motion for such fees or awards to address additional information or materials in that motion.

There are additional requirements necessary for your attorney if you retain one. These requirements are stated in the Settlement Agreement and Preliminary Approval Order available at the Settlement website.

COURT	CLASS COUNSEL	DEFENSE COUNSEL
United States District Court Eastern District of Pennsylvania U.S. Court House 601 Market Street Philadelphia, PA 19106	James A. Francis Francis & Mailman, P.C. 100 S. Broad Street, Suite 1902 Philadelphia, PA 19110	Rod M. Fliegel William J. Simmons LITTLER MENDELSON, P.C. Three Parkway 1601 Cherry Street, Suite 1400 Philadelphia, PA 19102-1321

10. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Court will hold a Final Approval Hearing at 10:00 a.m. on November 1, 2018, in Courtroom 3-H, Third Floor, United States District Court, 601 Market Street, Philadelphia, PA 19106.

At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate and whether the requested payments to Class Counsel and Class Representatives are proper. If there are objections, the Court will consider them. The Court will also listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

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