

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

MICHAEL KELLY	:	
Plaintiff,	:	
	:	CIVIL ACTION NO. 15-6668
v.	:	
	:	
BUSINESS INFORMATION GROUP,	:	
INC.	:	
Defendant.	:	

FINAL JUDGMENT AND ORDER OF DISMISSAL

This matter, having come before the Court on Plaintiff’s Motion for Final Approval (Doc. 148) of the proposed class action settlement with Defendant Business Information Group, Inc., the Court having considered all papers filed and arguments made with respect to the settlement, and having provisionally certified, by Order entered June 28, 2018 (Doc. 103), three Classes, and for the reasons set forth in the Memorandum Opinion filed this date, the Court hereby finds that:

1. This action satisfies the applicable prerequisites for class action treatment under Fed. R. Civ. P. 23(a) and (b). The classes as defined in the Settlement Agreement¹ (the “Classes”) are each so numerous that joinder of all members is not practicable, there are questions of law and fact common to the Classes, the claims of the Class Representative are typical of the claims of the Classes, and the Class Representative will fairly and adequately protect the interests of the Classes. The Defendant has acted or refused to act on grounds that apply generally to the Injunctive Relief Class so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Injunctive Relief Class

¹ Unless otherwise defined herein, all capitalized terms in this Order have the same meaning as in the Agreement, found at Doc. 99-2.

as a whole. Questions of law and fact common to the members of the Classes predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

2. Notice to the Classes required by Rule 23(e) of the Federal Rules of Civil Procedure has been provided in accordance with the Court's Preliminary Approval Order, and such Notice has been given in an adequate and sufficient manner; constitutes the best notice practicable under the circumstances; and satisfies Rule 23(e) and due process.

3. The Defendant has timely filed notification of this settlement with the appropriate officials pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715. The Court has reviewed such notification and accompanying materials and finds that the Defendant's notification complies fully with the applicable requirements of CAFA.

4. The Settlement Agreement was arrived at as a result of arms-length negotiations conducted in good faith by counsel for the parties and is supported by the Class Representative.

5. The Settlement as set forth in the Settlement Agreement is fair, reasonable and adequate to the Class members in light of the complexity, expense and duration of litigation and the risks involved in establishing liability, damages and in maintaining the class action through trial and appeal.

6. The relief provided under the Settlement constitutes fair value given in exchange for the release of the Released Claims only against the Released Persons, as those terms are defined in the Settlement Agreement.

7. The persons listed on Exhibit A to the Declaration of American Legal

Claim Services, LLC (Doc. 148-2 at ECF p. 7) have validly excluded themselves from the Class in accordance with the provisions of the Preliminary Approval Order.

8. The parties and each Class member have irrevocably submitted to the exclusive jurisdiction of this Court for any suit, action, proceeding or dispute arising out of the Settlement Agreement.

9. It is in the best interests of the parties and the Class members and consistent with principles of judicial economy that any dispute between any Class member (including any dispute as to whether any person is a Class member) and any Released Person which in any way relates to the applicability or scope of the Settlement Agreement or the Final Approval Order should be presented exclusively to this Court for resolution by this Court.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

10. This action is a class action against Defendant on behalf of three classes of consumers defined as follows (the “Settlement Classes”):

a) **The Injunctive Relief Settlement Class.** All natural persons residing in the United States (including all territories and other political subdivisions of the United States) (i) who were subject to at least one BIG consumer report sourced from Trans Union from December 17, 2010 to the date of the order for preliminary approval of the Settlement is entered by the Court, (ii) whose report contained a public record.

b) **The Rule 23(b)(2) Subgroup Settlement Class.** All Injunctive Relief Settlement Class Members, (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.

c) **The Automatic Payment Settlement Class.** All natural persons residing in the United States (including territories and other political subdivisions of the United States) (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 sourced from Trans Union, and (iii) where BIG’s records reflect that the Settlement Class Member

filed a dispute with BIG with respect to the above-referenced report.

11. The Settlement Agreement submitted by the parties is finally approved pursuant to Rule 23(e) of the Federal Rules of Civil Procedure as fair, reasonable and adequate and in the best interests of the Class and the parties are directed to consummate the Settlement Agreement in accordance with its terms.

12. This action is hereby dismissed on the merits, with prejudice and without costs.

13. As agreed by the parties, upon the Effective Date, Defendant and the Released Persons shall be released from the Released Claims in accordance with the terms of the Settlement Agreement.

14. Without affecting the finality of this judgment, the Court hereby reserves and retains jurisdiction over this settlement, including the administration and consummation of the settlement. In addition, without affecting the finality of this judgment, the Court retains exclusive jurisdiction over Defendant and each member of the Class for any suit, action, proceeding or dispute arising out of or relating to this Order, the Settlement Agreement or the applicability of the Settlement Agreement. Without limiting the generality of the foregoing, any dispute concerning the Settlement Agreement, including, but not limited to, any suit, action, arbitration or other proceeding by a Class member in which the provisions of the Settlement Agreement are asserted as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, shall constitute a suit, action or proceeding arising out of or relating to this Order. Solely for purposes of such suit, action or proceeding, to the fullest extent possible under applicable law, the parties hereto and all Class members are hereby deemed to have irrevocably waived and agreed not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not

subject to the jurisdiction of this Court, or that this Court is, in any way, an improper venue or an inconvenient forum.

15. The Court shall enter a separate Order awarding reasonable attorneys fees and expenses of Class Counsel.

16. Upon consideration of the application for an individual settlement award, the Class Representative, Michael Kelly, is awarded the sum of fifteen thousand dollars (\$15,000.00) in consideration of his individual claims against the Defendant and for the valuable service he has performed for and on behalf of the Classes.

17. The Clerk shall mark this case closed.

IT IS SO ORDERED.

BY THE COURT:

/s/ David R. Strawbridge, USMJ
DAVID R. STRAWBRIDGE
UNITED STATES MAGISTRATE JUDGE

Dated: January 31, 2019