

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 7TH JUDICIAL CIRCUIT
COUNTY OF SANGAMON

AARON UMBERGER and TRACEY
BRUNER, on behalf of themselves and all
others similarly situated,

Plaintiff,

v.

KERBER, ECK & BRAECKEL LLP,

Defendant.

Case No: 2024LA000198

FILED

JUL 28 2025

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Joseph B. Poeschl Clerk of the
Circuit Court

**[PROPOSED] ORDER PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT**

This matter came before the Court on Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement (the "Motion"), the terms of which are set forth in a Settlement Agreement between Plaintiffs and Defendant Kerber, Eck & Braeckel LLP.¹ The Settlement Agreement with accompanying exhibits is attached as **Exhibit A** to the Counsel Declaration in Support of the Motion.

Between January 27 and February 7, 2023, Defendant experienced a data security incident in which criminals gained access to its network and computer systems (the "Data Incident"). On November 22, 2024, Plaintiffs filed a class action complaint against Defendant. The Complaint asserts several causes of action, all of which allegedly arise from the Data Incident.

According to the Complaint, Plaintiffs allege that Defendant failed to properly secure personal identifiable information, which resulted in the exposure of Plaintiffs' and other

¹ All capitalized terms herein shall have the same meanings as those defined in the Settlement Agreement.

individuals' personal information. The information allegedly exposed included, depending on the individual, names, Social Security numbers, addresses, dates of birth, driver's license numbers, financial account numbers, medical treatment information and health insurance information. Defendant denies any wrongdoing.

Plaintiffs and Defendant, through their counsel, have entered into a Settlement following good faith, arm's-length negotiations and mediation with well-respected data breach mediator, Hon. Ronald B. Leighton (Ret.). The Parties have agreed to settle this Action, pursuant to the terms of the Settlement, and subject to the approval and determination of the Court as to the fairness, reasonableness, and adequacy of the Settlement which, if approved, will result in the dismissal of the Action with prejudice.

Having reviewed the Agreement, including the exhibits attached thereto, and all prior proceedings herein, and for good cause shown, it is hereby ordered that Plaintiffs' Motion for Preliminary Approval is granted as set forth herein.

1. **Class Certification for Settlement Purposes Only.** For settlement purposes only and pursuant to 735 ILCS 5/2-801, *et seq.*, the Court provisionally certifies a Settlement Class in, this matter defined as follows:

All individuals in the United States whose Private Information was identified as being actually or potentially was identified as being actually or potentially accessed, compromised or impacted in connection with the Data Incident discovered by KEB in February 2023.

The Settlement Class specifically excludes: (i) owners, officers, directors, employees, agents and/or representatives of KEB's and their parent entities, subsidiaries, affiliates, successors, and/or assigns; (ii) the Court, Court personnel, and members of their immediate families; and (iii) any other person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity leading to the Data Incident or who pleads *nolo contendere* to any such charge.

The Court provisionally finds, for settlement purposes only, that: (a) the Settlement Class is so numerous that joinder of all Settlement Class members would be impracticable; (b) there are issues of law and fact common to the Settlement Class; (c) the claims of Plaintiffs are typical of and arise from the same operative facts and seek similar relief as the claims of the Settlement Class members; (d) Plaintiffs and Settlement Class Counsel will fairly and adequately protect the interests of the Settlement Class as Plaintiffs have no interest antagonistic to or in conflict with the Settlement Class and has retained experienced and competent counsel to prosecute this matter on behalf of the Settlement Class; (e) questions of law or fact common to Plaintiffs predominate over any questions affecting only individual members; and (f) a class action and class settlement is superior to other methods available for a fair and efficient resolution of this controversy.

2. **Class Representatives and Settlement Class Counsel**: Aaron Umberger, Tracey Bruner and Jessica Kurtz are hereby provisionally designated and appointed as Class Representatives. The Court provisionally finds that the Settlement Class Representatives are similarly situated to absent Settlement Class members and therefore will be adequate Class Representatives.

The Court also finds the following counsel are experienced and adequate counsel and are hereby provisionally designated as Settlement Class Counsel the law firms of Strauss Borrelli PLLC, Siri & Glimstad LLP and Milberg Coleman Phillips Grossman, PLLC.

3. **Preliminary Settlement Approval**: Upon preliminary review, the Court concludes and finds that the proposed Settlement is fair, reasonable, and adequate to warrant providing Notice of the Settlement to the Settlement Class and accordingly is preliminarily approved.

4. **Jurisdiction**: The Court concludes that it has subject matter jurisdiction and personal jurisdiction over the Parties before it for the purposes of the Settlement. Additionally, venue is

proper in this Court as a substantial portion of the acts and transactions complained of occurred in Sangamon County, and Defendant conducts substantial business throughout Sangamon County.

5. **Final Approval Hearing:** A Final Approval Hearing shall be held on _____, 2025, at _____ a.m./p.m. in the CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT COURT OF THE STATE OF ILLINOIS SANGAMON COUNTY, or remotely if so set by the Court, to determine, among other things, whether: (a) this matter should be finally certified as a class action for settlement purposes pursuant to 735 ILCS 5/2-801, *et seq.*; (b) the Settlement should be finally approved as fair, reasonable, and adequate pursuant to 735 ILCS 5/2-801, *et seq.*; (c) the action should be dismissed with prejudice pursuant to the terms of the Settlement; (d) Settlement Class members should be bound by the releases set forth in the Agreement; and (e) the Motion for Final Approval and Fee and Expense Application should be granted. Plaintiffs' Motion for Final Approval of the Settlement and Fee and Expense Application shall be filed with the Court 14 days before the Opt-Out and Objection deadlines. No later than 15 days before the initial Final Approval Hearing, the Parties shall file responses, if any, to any objections, and any replies in support of Final Approval of the Settlement and/or the Fee and Expense Application.

6. **Administration:** The Court appoints RG2 as the Settlement Administrator, with responsibility for class Notice and claims administration and to fulfill the duties of the Settlement Administrator set forth in the Settlement Agreement. All costs and expenses associated with providing notice to the Settlement Class including, but not limited to, the Settlement Administrator's fees, as well as the costs associated with administration of the Settlement, shall be paid by Defendant.

7. **Notice to the Class:** The proposed Notice Program set forth in the Agreement, and the

Short Form Notice, Long Form Notice, and the Claim Form attached to the Agreement as Exhibits A, B, and C satisfy the requirements of 735 ILCS 5/2-801, *et. seq.*, provide the best notice practicable under the circumstances, and are hereby approved. Non-material modifications to these exhibits may be made without further order from the Court. The Settlement Administrator is directed to carry out the Notice Program in conformance with the Agreement.

By thirty (30) days following Preliminary Approval, the Settlement Administrator shall commence the Notice Program in the manner set forth in the Agreement.

8. **Findings and Conclusions Concerning Notice:** The Court finds that the form content, and method of giving notice to the Settlement Class as described in the Settlement (including the exhibits thereto): (a) will constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated to apprise Settlement Class members of the pendency of the action; the terms of the proposed Settlement, and their rights under the proposed Settlement, including, but not limited to, their rights to object or opt-out from the proposed Settlement and other rights under the terms of the Settlement; and (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class members and any other persons entitled to receive notice. As such, the Court concludes that the Notice program meets all applicable requirements of law and the Due Process Clause(s) of the Illinois and United States Constitution. The Court further finds that the Notice is written in plain language, uses simple terminology, and is designed to be readily understandable by Settlement Class members.

9. **Exclusion from Class:** Each Settlement Class member wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Settlement Administrator. The written notice must clearly manifest an intent to be excluded from the Settlement Class, as set forth in the Agreement. To be effective, written notice must be postmarked no later than sixty (60) days after the commencement of Notice.

The Settlement Administrator shall provide the Parties with copies of all completed opt-out notifications, and a final list of all who have timely and validly opt-ed out of the Settlement Class, which Settlement Class Counsel will file with the Court no later than seven (7) days after the Opt-Out Deadline.

Any Settlement Class member who does not timely and validly opt-out of Settlement shall bound by the terms of the Settlement. If a Final Approval Order and final judgment is entered, any Settlement Class member who has not submitted a timely, valid notice to opt-out of the Settlement Class shall be bound by all proceedings, orders, and judgments in this matter, including but not limited to the Release set forth in the Final Approval Order and final judgment, including Settlement Class members who have previously initiated or who subsequently initiate any litigation against any or all of the Released Persons relating to the claims and transactions released in the Settlement. All Settlement Class members who submit valid and timely notices to opt-out of the Settlement shall not be entitled to receive any benefits of the Settlement.

10. **Objections and Appearances:** A Settlement Class member who complies with the requirements of this paragraph may object to the Settlement or the Fee and Expense Application.

Each Settlement Class member desiring to object shall submit a timely written notice of his or her objection by the Objection Date. Such notice shall state: (i) the objector's full name, address, telephone number, and e-mail address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Data Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) the identity of any and all counsel representing the objector in connection with the objection; (v) a statement as to whether the objector and/or his or her counsel will appear at the

Final Fairness Hearing; (vi) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation); and (vii) a list, by case name, court, and docket number, of all other cases in which the objector and/or the objector's counsel has filed an objection to any proposed class action settlement within the last three years. To be timely, written notice of an objection in the appropriate form must be filed with the Clerk of the Court and contain the case name and docket number, no later than 60 days after the commencement of Notice and served concurrently therewith on Settlement Class Counsel and counsel for Defendant, as follows:

Cassandra P. Miller
STRAUSS BORRELLI PLLC
One Magnificent Mile
980 Michigan Avenue, Suite 1610
Chicago, IL 60611
Telephone: (872) 263-1100
Facsimile: (872) 263-1109
cmiller@straussborrelli.com

Tyler J. Bean
SIRI & GLIMSTAD LLP
745 Fifth Avenue, Suite 500
New York, New York 10151
Tel: (212) 532-1091
E: tbean@sirillp.com

Gary Klinger
**MILBERG COLEMAN PHILLIPS
GROSSMAN, PLLC**
227 W. Monroe Street, Suite 2100
Chicago, Illinois 60606
Tel.: (866) 252-0878
gklinger@milberg.com

All notices to Defendant provided for herein, shall be sent by overnight mail and email to:

Amanda Harvey
Meghan J. Wood
Mullen Coughlin LLC
1452 Hughes Rd Suite 200
Grapevine, TX 76051

(267) 930-1697 - Office
aharvey@mullen.law
mwood@mullen.law

Any Settlement Class member who fails to comply with the requirements for objecting in the Agreement shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement and shall be bound by all the terms of the Agreement and by all proceedings, orders and judgments in the Litigation.

Any Settlement Class Member, including a Settlement Class member who files and serves a written objection, as described above, may appear at the Final Approval Hearing, either in person or through counsel hired at the Settlement Class Member's expense, to object to or comment on the fairness, reasonableness, or adequacy of the Settlement or the Fee and Expense Application. If the objecting Settlement Class member intends to appear at the Final Approval Hearing through counsel, he or she must also identify the attorney(s) representing the objecting Settlement Class member who will appear at the Final Approval Hearing. If the objecting Settlement Class member intends to request the Court for permission to call witnesses at the Final Approval Hearing, the objecting Settlement Class member must provide a list of any such witnesses together with a brief summary of each witness's expected testimony by the Objection Deadline.

If a Final Approval Order and Final Judgment is entered, any Settlement Class member who fails to object in the manner prescribed herein shall be deemed to have waived his or her objections and shall be forever barred from making any such objections in this action or in any other proceeding or from challenging or opposing, or seeking to reverse, vacate, or modify any approval of the Settlement or Fee and Expense Application.

11. **Claims Process and Distribution and Allocation Plan:** Settlement Class Counsel and Defendant have created and agreed to a process for assessing and determining the validity and value of Claims and a payment methodology to Settlement Class members who submit a timely,

valid Claim Form. The Court preliminarily approves the plan for remuneration described in the Agreement and directs that the Settlement Administrator effectuate the distribution of Settlement consideration according to the terms of the Settlement, should the Settlement be finally approved.

Settlement Class members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the Notice and the Claim Form. If the Final Approval Order and Final Judgment are entered, all Settlement Class members who qualify for any benefit under the Settlement but fail to submit a claim in accordance with the requirements and procedures specified in the Notice and the Claim Form shall be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions in the Settlement, the Release included in that Settlement, and the Final Approval Order and final judgment.

12. **Termination of Settlement:** This Preliminary Approval Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing as of the date of the execution of the Settlement if the Settlement is not finally approved by the Court or is terminated in accordance with the Settlement. In such event, the Agreement shall become null and void and be of no further force and effect, and neither the Agreement nor the Court's orders, including this Preliminary Approval Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

13. **Use of Order:** This Order shall be of no force or effect if Final Order and judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, liability, or the certifiability of any class. Nor shall this Order be construed or used as an admission, concession, or declaration by or against the Plaintiffs or any other Settlement Class member that

his or her claim lacks merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claim he, she, or it may have in this litigation or in any other lawsuit.

14. **Stay of Proceedings.** Except as necessary to effectuate this Preliminary Approval Order, all proceedings and deadlines in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Final Approval Order and final judgment, or until further order of this Court.

15. **Continuance of Hearing:** The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the Settlement Website maintained by the Settlement Administrator.

16. **Summary of Deadlines:** The preliminarily approved Settlement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Agreement and this Order include but are not limited to:

Notice Deadline: _____, 2025 (30 days following Preliminary Approval).

Motion for Final Approval and Application for Attorney's Fees, Costs, and Service Awards:

_____, 2025 (14 days before the Final Approval Hearing Date)

Opt-Out Deadline: _____, 2025 (60 days following commencement of Notice)

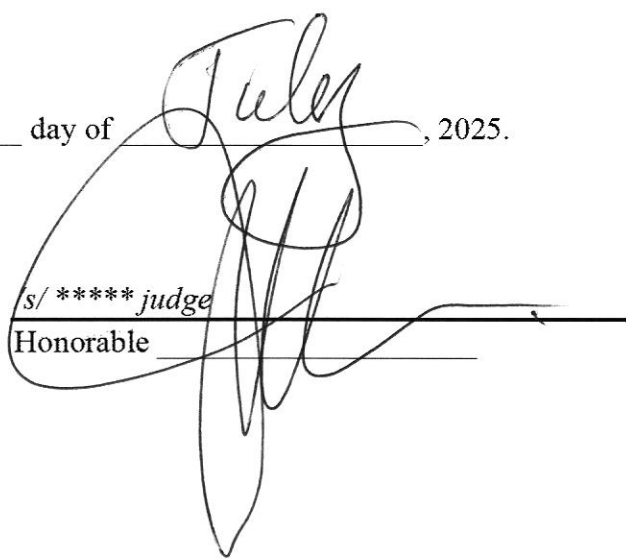
Objection Deadline: _____, 2025 (60 days following commencement of Notice)

Replies in Support of Final Approval, Service Awards and Fee Requests: _____, 2025 (15 days before the Final Approval Hearing)

Claim Form Deadline: _____, 2025 (90 days following commencement of Notice)

Final Approval Hearing: _____, 2025 (approximately 150 days after Preliminary Approval).

IT IS SO ORDERED this the 28 day of July, 2025.


s/ ***** judge
Honorable _____