

CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

GERALDINE DONAHUE; SADIKI
LAWRENCE; ONEEB REHMAN; MAT
JESSOP; AARON HUFFMAN; RYAN
ARTMAN; and SHANNON ALATALO,
individually and on behalf of a class of other
similarly situated individuals,

Plaintiffs,

v.

EVERI HOLDINGS, INC., and EVERI
PAYMENTS, INC.,

Defendants.

Case No. 2018-CH-15419

Hon. David B. Atkins

**ORDER GRANTING PRELIMINARY
APPROVAL OF SETTLEMENT
AGREEMENT AND RELEASE,
CONDITIONAL CLASS
CERTIFICATION, NOTICE TO
SETTLEMENT CLASS MEMBERS
AND ENTRY OF SCHEDULING
ORDER**

JUDGE DAVID B. ATKINS

AUG 20 2020

Circuit Court-1879

**ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT
AND RELEASE, CONDITIONAL CLASS CERTIFICATION, NOTICE TO
SETTLEMENT CLASS MEMBERS AND ENTRY OF SCHEDULED ORDER**

INTRODUCTION

Pending is the Unopposed Motion for Preliminary Approval of Class Action Settlement (the "Motion") filed by Plaintiffs Geraldine Donahue, Sadiki Lawrence, Oneeb Rehman, Mat Jessop, Aaron Huffman, Ryan Artman, and Shannon Alatalo. For the reasons stated herein, the Court grants Plaintiffs' Motion, conditionally certifies the class for settlement purposes only, preliminarily approves the Stipulation of Settlement, and enters the schedule set forth below for notice to Settlement Class Members, exclusion and opt-out deadlines, and for a final approval hearing.

WHEREAS, on August 6, 2020, the parties filed the proposed class-wide Settlement Agreement and Release (the "Settlement" or "Settlement Agreement"), which, together with the exhibits thereto, sets forth the terms and conditions for the Settlement and release of certain claims against Everi Holdings Inc. ("Everi Holdings") and Everi Payments Inc. ("Everi Payments") (collectively, "Defendants" or "Everi"). The Settlement Agreement was entered into only after

extensive arm's-length negotiation by experienced counsel and in mediation under the guidance of mediator Randall Wulff of Wulff Quinby Sochynsky;

WHEREAS, the Court having considered the Settlement Agreement (which defines the capitalized terms used herein) and all of the files, records, and proceedings herein, and it appearing to the Court that upon preliminary examination that the Settlement appears fair, reasonable and adequate, and that a hearing should and will be held after Class Notice to the Settlement Class to confirm that the Settlement is fair, reasonable, and adequate, and to determine whether a Judgment approving the Settlement and an Order dismissing the Action based upon the Settlement be entered;

NOW, THEREFORE, IT IS HEREBY ORDERED:

I. THE CLASS, REPRESENTATIVE PLAINTIFFS, AND CLASS COUNSEL

1. For purposes of settlement only, the Court has jurisdiction over the subject matter of this action and personal jurisdiction over the parties and the members of the Settlement Class described below.

2. Pursuant to 735 ILCS 5/2-801, and for the purposes of settlement only, the Settlement Class is preliminarily certified, consisting of the following:

“Settlement Class” means All persons in the United States who, at any time between February 16, 2016 and December 31, 2019, (i) engaged in at least one quasi-cash or manual cash disbursement transaction using a debit card or credit card at a gaming establishments in the United States or tribal lands, (ii) where such transaction was processed using Everi Payments’ CashClub® technology; and (iii) for which Everi Payments’ system was programmed to generate a printed customer receipt that displayed four digits in a field on said receipt labeled “BIN”. The following are excluded from the Settlement Class: (1) any trial judge and other judicial officers that may preside over the Action; (2) the Mediator; (3) Everi, as well as any parent, subsidiary, affiliate or control person of Everi, and the officers, directors, agents, servants or employees of Everi; (4) any of the Released Parties; (5) any Settlement Class Member who has timely submitted a Request for Exclusion by the Opt-Out Deadline; (6) any person or entity who has previously given a valid release of the claims asserted in the Action; and (7) Plaintiff’s Counsel.

3. Pursuant to 735 ILCS 5/2-801, and for settlement purposes only, plaintiffs Geraldine Donahue, Sadiki Lawrence, Oneeb Rehman, Mat Jessop, Aaron Huffman, Shannon

Alatalo, and Ryan Artman are hereby appointed Representative Plaintiffs (“Plaintiffs” or “Representative Plaintiffs”) and the following counsel are hereby appointed Class Counsel:

Frank S. Hedin
David W. Hall
Hedin Hall LLP
1395 Brickell Avenue, Suite 1140
Miami, Florida 33131

Scott D. Owens
Scott D. Owens, P.A.
3800 S. Ocean Drive, Ste 235
Hollywood, Florida 33019

4. The Court preliminarily finds that the proposed Settlement Class meets all the applicable requirements of 735 ILCS 5/2-801, and hereby certifies the Settlement Class for settlement purposes only. The Court hereby preliminarily finds, in the specific context of the Class Settlement, that:

(a) Numerosity: The Settlement Class satisfies the numerosity requirement of 735 ILCS 5/2-801(1). Joinder of these widely dispersed, numerous Settlement Class Members into one suit would be impracticable.

(b) Commonality: The Settlement Class satisfies the commonality and predominance requirement of 735 ILCS 5/2-801(2). The claims in this case present questions of law and fact common to the Settlement Class that predominate over any questions affecting only individual members.

(c) Adequacy: The Representative Plaintiffs and Class Counsel satisfy the adequacy of representation requirement of 735 ILCS 5/2-801(3). The Representative Plaintiffs’ interests do not conflict with, and are co-extensive with, those of absent Settlement Class Members. The Representative Plaintiffs will fairly and adequately represent the interests of the Settlement Class and Class Counsel is qualified, experienced, and well-equipped to conduct this litigation, such that Settlement Class Members will receive proper, efficient, and appropriate protection of their interests in the presentation of the claim with such representation.

(d) The Controversy is Fairly and Efficiently Adjudicated as a Class Action:

Finally, a class action is the most appropriate method for the fair and efficient adjudication of the controversy presented in this action, satisfying the requirement of 735 ILCS 5/2-801(4). Class certification promotes efficiency, the interests of judicial economy, and uniformity of judgment because, among other reasons, the many members of the Settlement Class will not be forced to separately pursue the relatively small claims alleged in this action and seek relief in various courts around the country. Thus, the class action mechanism is the most fair and efficient method to resolve this dispute.

5. The Representative Plaintiffs are Geraldine Donahue, Sadiki Lawrence, Oneeb Rehman, Mat Jessop, Aaron Huffman, Shannon Alatalo, and Ryan Artman. Based upon the Court's familiarity with the claims and parties, the Court's finding that the Representative Plaintiffs are members of the Settlement Class and will fairly and adequately represent the interests of the Settlement Class, and that Class Counsel at Hedin Hall LLP and Scott D. Owens, P.A. are qualified, experienced, and well-equipped to conduct this litigation, the Court preliminarily finds that the Representative Plaintiffs and Class Counsel are appropriate representatives on behalf of the Settlement Class.

6. If the Settlement Agreement is terminated or is not consummated for any reason whatsoever, the certification of the Settlement Class shall be void, and Plaintiffs and Defendants shall be deemed to have reserved all of their rights as set forth in the Settlement Agreement, including but not limited to the issues related to all claims, defenses, and issues under 735 ILCS 5/2-801.

II. THE SETTLEMENT FUND

7. Pursuant to the Settlement Agreement, Defendants and/or the Insurers shall deposit a total of fourteen million and 00/100 dollars (\$14,000,000.00) into the Settlement Fund as set forth in and per the terms of the Settlement Agreement. The Settlement Fund will be maintained by the Settlement Administrator for the benefit of the Settlement Class and Class Counsel and will be disbursed to the Settlement Class and Class Counsel by the Settlement Administrator pursuant

to the terms of the Settlement Agreement and as set forth herein. All of the monies deposited by Defendants and/or the Insurers into the Settlement Fund will be placed in an interest-bearing escrow account established and maintained by the Settlement Administrator. The interest generated, if any, will accrue to the benefit of the Settlement Class and is to be added into the Settlement Fund. Defendants shall make deposits into the Settlement Fund in accordance with the following schedule:

a. Within fifteen (15) days of the entry of the Preliminary Approval Order, Defendants will disburse to the Settlement Administrator two hundred fifty thousand dollars (\$250,000) of the Settlement Fund to be used by the Settlement Administrator for preliminary Settlement Administration Costs, including the costs to complete the Class Notice Plan, establish and maintain the Settlement Website, establish and maintain a toll-free number for questions by class members, as well as any other initial administration costs to the Parties. To the extent that additional Settlement Administration Costs are incurred after this initial payment, but before the Effective Date, the Settlement Administrator will bill, and Defendants shall pay, such additional costs. For any additional costs of Settlement Administration that are paid by Defendants, Defendants shall receive a credit against the amounts required to be paid into the Settlement Fund, such that the total amount paid by Defendants shall equal, but in no circumstances exceed, Fourteen Million and 00/100 Dollars (\$14,000,000.00).

b. All Settlement Administration Costs will be drawn from the Settlement Fund by the Settlement Administrator, subject to the written approval of Defendants (via their counsel) and Class Counsel.

8. The Settlement Fund will constitute Defendants' exclusive payment obligation under the Settlement Agreement and will be used to pay: (a) Settlement Shares paid to Settlement Class Members, as prescribed by the Settlement Agreement; (b) any Fee Award to Class Counsel, as awarded by the Court; and (c) any Service Awards to the Class Representatives, as awarded by the Court; (d) Settlement Administration Costs, including costs of notice. No portion of the

Settlement Fund will be returned to Defendants, except as provided in Section 12 (“Termination of the Agreement”) of the Settlement Agreement.

9. Any distribution of the Settlement Fund to the Settlement Class or any other person, other than the Settlement Administrator pursuant to the terms hereof, shall be made by the Settlement Administrator and shall commence only after the Effective Date pursuant to the terms of the Settlement Agreement. The Aggregate Fees, Costs, and Expenses shall be paid from the Settlement Fund prior to any distribution of Settlement Shares to the Settlement Class. The remainder of the Settlement Fund shall be used to pay Settlement Shares in accordance with the provisions of the Settlement Agreement and as set forth herein.

10. If the Settlement Agreement is not approved or for any reason the Effective Date does not occur, no payments or distributions of any kind shall be made, other than payments to the Settlement Administrator for services rendered and costs incurred.

11. The Court finds that the Settlement Fund is a “qualified settlement fund” as defined in Section 1.468B-1 of the Treasury Regulations in that it satisfies each of the following requirements:

(a) The escrow account for the Settlement Fund is established pursuant to this Order and is subject to the continuing jurisdiction of this Court;

(b) The escrow account for the Settlement Fund is established to resolve or satisfy one or more Approved Claims that have resulted or may result from an event that has occurred and that has given rise to at least one Approved Claim asserting liability arising out of an alleged violation of law; and

(c) The assets of the escrow account for the Settlement Fund shall be the only assets in the escrow account of the Defendant, the transferors of the payment to the Settlement Fund.

12. Under the “relation back” rule provided under Section 1.468B-1(j)(2)(i) of the Treasury Regulations, the Court finds that:

(a) The escrow account for the Settlement Fund meets the requirements of paragraphs 12(b) and 12(c) of this Order prior to the date of this Order approving the establishment of the Settlement Fund subject to the continued jurisdiction of this Court; and

(b) Defendants and the Settlement Administrator may jointly elect to treat the escrow account for the Settlement Fund as coming into existence as a “qualified settlement fund” on the later of the date the escrow account for the Settlement Fund met the requirements of paragraph 12 of this Order or January 1 of the calendar year in which all of the requirements of paragraph 12 of this Order are met. If such a relation-back election is made, the assets held by the Settlement Fund on such date shall be treated as having been transferred to the escrow account on that date.

III. NOTICE TO SETTLEMENT CLASS MEMBERS

13. The Court has considered the proposed Exhibits B and C attached to the Settlement Agreement and finds that the form, content, and manner of notice proposed by the parties and approved herein meet the requirements of due process and applicable law, are the best notice practicable under the circumstance, constitute sufficient notice to all persons and entities entitled to notice, and satisfy the Constitutional requirements of notice. The Court approves the notices in all respects, including the proposed forms of notice and the notice provisions of the Settlement Agreement, and orders that notice be given in substantial conformity therewith. The costs of disseminating the Class Notice shall be paid from the Settlement Fund in accordance with the Settlement Agreement.

14. All costs of providing the Class Notice as provided herein, including the costs of identifying address information for Settlement Class Members and the costs of printing, web hosting and/or disseminating the Class Notice, shall be paid for out of the Settlement Fund, subject to the terms hereof. In the event that the Settlement Agreement is terminated pursuant to its terms, Defendants shall bear any costs of providing Class Notice already incurred.

15. The Court hereby approves the form, content and requirements of the Class Notices annexed to the Settlement Agreement as Exhibits B and C and the procedure for notice set forth under Section 6 in the Settlement Agreement.

16. The Court hereby finds that compliance with the procedures in Section 6 of the Settlement Agreement is the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class, the terms of the Settlement Agreement, and the Final Approval Hearing, and shall satisfy the requirements of the United States Constitution, and any other applicable law, rule and/or regulation.

IV. CONFIDENTIALITY

17. Any information received by the Settlement Administrator in connection with the Settlement Class that pertains to a particular Settlement Class Member, or information submitted in conjunction with a Request for Exclusion (other than the identity of the entity requesting exclusion), shall not be disclosed to any other person or entity other than Class Counsel, Defendants' Counsel, and the Court, or as otherwise provided in the Settlement Agreement.

V. REQUEST FOR EXCLUSION FROM THE SETTLEMENT CLASS AND OBJECTIONS TO THE SETTLEMENT

18. Settlement Class Members who wish to be excluded from Settlement Class shall mail a written Request for Exclusion to the Settlement Administrator, so that it is postmarked no later than forty-five (45) days after the Notice Date (the "Opt-Out Deadline"), and shall clearly state the following: the name, address, telephone number, of the individual or entity who wishes to be excluded from the Settlement Class, and provide all such information as may be required by the Settlement Agreement or requested by the Settlement Administrator.

19. Any objection any Settlement Class Member wishes to make to the Settlement must be in writing and mailed to Class Counsel, Defense Counsel, and the Clerk of the Court at the addresses set forth in the Class Notice, postmarked no later than forty-five (45) days after the Notice Date (the "Objection Deadline"), shall contain a caption or title that identifies it as

“Objection to Class Settlement in *Donahue v. Everi Holdings, Inc., et al.*, No. 2018CH15419” and also shall contain the following information: (i) the objector’s name, address, and telephone number; (ii) the name, address, and telephone number of any attorney for the objector or any other person otherwise assisting the objector or who otherwise stands to potentially benefit financially with respect to such objection; (iii) the factual basis and legal grounds for the objection, including any documents sufficient to establish the basis for his or her standing as a Settlement Class Member, including the date(s) he or she engaged in debit card or credit card transactions processed by Everi and covered by this Settlement; and (iv) identification of the case name, case number, and court for any prior class action lawsuit in which the objector and/or the objector’s attorney or any other person assisting with such objection (if applicable) has objected to a proposed class action settlement in the past five (5) years.

VI. APPOINTMENT OF SETTLEMENT ADMINISTRATOR

20. The Court appoints Angeion Group, LLC as the Settlement Administrator. Responsibilities of the Settlement Administrator shall include the following: (a) completing Class Notice, as provided in Section 6 of the Settlement Agreement; (b) obtaining complete address information for Settlement Class Members (where possible) and new addresses for returned e-mails and mail; (c) establishing and maintaining a Settlement Website, from which Settlement Class Members can access copies of the Complaint, the Settlement Agreement, the Short Form Notice, the Long Form Notice, Class Counsel’s Fee and Cost Application and an application for Services Awards, this Preliminary Approval Order and other important documents and information about the Settlement; (d) establishing and maintaining a toll-free telephone number and fielding telephone inquiries about the Settlement; (e) reviewing, processing and approving Claims; (f) acting as a liaison between Settlement Class Members and the Parties; (g) directing the mailing of Benefit Checks to Settlement Class Members; (h) providing copies of any requests for exclusion that are received to Defendants’ Counsel and Class Counsel as they are received; (i) preparing and providing a declaration to Defendants’ Counsel and Class Counsel, no later than seven (7) calendar days prior to the Final Approval Hearing, that will attest to the compliance with the provisions of

the Settlement Agreement related to Class Notice and list each Settlement Class Member who timely and validly opted out of the Settlement; and (j) performing any other tasks reasonably required to effectuate the Settlement.

VII. FINAL APPROVAL HEARING AND SCHEDULE

21. A hearing (the “Final Approval Hearing”) is hereby scheduled to be held before the Court no earlier than ninety (90) days from the date of entry of the Preliminary Approval Order.

22. The Final Approval Hearing is hereby scheduled to be held before the Court for the following purposes:

(a) to determine whether the applicable prerequisites for settlement of a class action under 735 ILCS 5/2-801 are met;

(b) to determine whether the Settlement is fair, reasonable and adequate, and should be approved by the Court;

(c) to determine whether any objections to the Settlement should be overruled;

(d) to determine whether the Attorneys’ Fees and Costs requested by Class Counsel and Incentive Awards to the Representative Plaintiffs should be approved, and whether a Judgment finally approving the Settlement should be entered;

(e) to consider the distribution of the Settlement Fund pursuant to the Settlement Agreement; and

(f) to rule upon such other matters as the Court may deem appropriate.

23. Class Counsel shall file a motion for final approval of the Settlement, and respond to any objections to the Settlement, no later than ten days (10) before the Final Approval Hearing. The Final Approval Hearing may be postponed, adjourned, transferred or continued by order of the Court without further notice to the Settlement Class. After the Final Approval Hearing, the Court may enter a Judgment approving the Settlement Agreement and an Order dismissing the Action in accordance with the Settlement Agreement that will adjudicate the rights of all Settlement Class Members.

24. No later than seven (7) calendar days prior to the Final Approval Hearing, the Settlement Administrator will file with the Court and serve both Class Counsel and Defendant's Counsel a declaration stating that the Class Notice required by the Settlement Agreement has been completed in accordance with the terms of this Preliminary Approval Order.

25. On or before twenty (20) days prior to the Opt-Out Deadline and Objection Deadline, Class Counsel shall file and serve (i) a Fee and Cost Application; and (ii) any application for a Service Awards to the Representative Plaintiffs. For clarity, the deadlines the parties shall adhere to are as follows:

Class Notice Mailed (and emailed where email addresses are available) by: September 4, 2020 (the "Notice Date") (*within 15 days after entry of Preliminary Approval Order*)

Class Counsels' Fee and Cost Application by September 28, 2020 (*no later than 20 days prior to the Opt-Out Deadline and Objection Deadline*)

Objection/Opt-Out Deadline: October 19, 2020 (*45 days from the Notice Date*)

Final Approval Submissions: November 20, 2020 (*10 days prior to Final Approval Hearing*)

Final Approval Hearing: **November 30, 2020** at **10:30 a.m.** (*at least 90 days after the Preliminary Approval Date*)

26. Pending final determination of whether the Settlement should be approved, the Plaintiffs and/or Defendants shall cooperate in seeking orders that no Settlement Class Member (either directly, in a representative capacity, or in any other capacity), and anyone who acts or purports to act on their behalf, shall institute, commence or prosecute any action that asserts Released Claims against the Defendants or other Released Parties.

27. If a Settlement Class Member wants to appear at the Final Approval Hearing and be heard with respect to objecting to the Settlement, that person or entity must file with the Court and serve on Class Counsel and Defendants' Counsel a written notice of the intention to appear at the Final Approval Hearing and object. Such written statement and notice must be submitted to the Court either by mailing them to the Clerk of Court, or by filing them in person at the courthouse, and postmarked no later than forty-five (45) days after the Notice Date. Settlement Class Members

who fail to file timely written objections in the manner specified above by the Objection Date shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. If a Settlement Class Member wishes to present witnesses or evidence at the Final Approval Hearing in support of a timely and validly submitted objection, all witnesses must be identified in the objection, and true and correct copies of all supporting evidence must be appended to, or served with, the objection. Failure to identify witnesses or provide copies of supporting evidence in this manner waives any right to introduce such testimony or evidence at the Final Approval Hearing. If a Settlement Class Member hires an attorney to represent him or her, at the Settlement Class Member's own expense, that attorney must file a notice of appearance with the clerk of the Court on or before the Objection Deadline.

VIII. OTHER PROVISIONS

28. If the Settlement does not become effective, the order certifying the Settlement Class and all preliminary and/or final findings or stipulations regarding certification of the Settlement Class shall be automatically vacated, voided and treated as if never filed, and the parties will retain and reserve all positions with respect to the litigation, and the litigation shall proceed as if no settlement had been reached.

29. The Court finds that Defendants have made no admissions of liability or wrongdoing of any kind associated with the alleged claims in the operative Complaint. Defendants have made no admission of liability or wrongdoing regarding each and every material factual allegation and all claims asserted against it in the Action. Nothing herein will constitute an admission of wrongdoing or liability, or of the truth of any allegations in the Action. Nothing herein will constitute an admission by Defendants that the Action or Related Actions are properly brought on a class or representative basis, or that class(es) may be certified, other than for settlement purposes. The Court further finds that the Settlement of the Action, the negotiation and execution of this Settlement, and all acts performed or documents executed pursuant to or in furtherance of the Settlement: (i) are not and will not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendants or of the truth of


any allegations in the Action or Related Actions; (ii) are not and will not be deemed to be, and may not be used as an admission or evidence of any fault or omission on the part of Defendants in any civil, criminal, or administrative proceeding in any court, arbitration forum, administrative agency, or other tribunal; and (iii) are not and will not be deemed to be and may not be used as an admission of the appropriateness of these or similar claims for class certification.

30. At least ten (10) days prior to the final approval hearing, the claims administrator, through counsel, shall provide to the Court a summary of the administration. Said summary shall include, among other things, the total number of notices mailed to prospective class members, total number received, total number deemed undeliverable, total number of claims submitted, approximate number and amount of class member awards, and approximate amount of administration costs.

31. *Cy pres* awards, if any, to nonprofit organization(s) shall be approved by the parties and the Court.

32. The Court retains jurisdiction to consider all further matters arising out of or connected with the Settlement.

JUDGE DAVID B. ATKINS

 AUG 20 2020
Circuit Court-1879

DATED: August __, 2020

Hon. David B. Atkins
Circuit Judge