

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY**

ROSSANA MCHUGH, on behalf of herself
and all other similarly situated,

Plaintiff,

v.

EQUINOX, INC.,

Defendant.

INDEX NO. 911677-24

ANDREA CARTER, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

EQUINOX, INC.,

Defendant.

INDEX NO. 901198-25

**ORDER GRANTING MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiffs Rossana McHugh and Andrea Carter (“Plaintiffs”) having moved for preliminary approval of their proposed class action settlement (“Settlement”) with Defendant Equinox, Inc., (“Defendant” or “Equinox”), including granting preliminary approval for settlement purposes, and setting the Final Approval Hearing no earlier than 120 days after the entry of the Preliminary Approval Order (NYSCEF Nos. ⁷⁻¹³ ↑);

NOW, upon the reading of Plaintiffs’ notice of motion for preliminary approval of class action settlement, Plaintiffs’ memorandum of law in support thereof; the declaration of Todd S. Garber (the “Garber Decl.”), with exhibits, on behalf of Plaintiffs in support thereof; and

WHEREAS, two putative class actions are pending before the Court entitled *McHugh v. Equinox, Inc.*, Index No. 911677-24 (Sup. Ct. Albany Cty.) and *Carter v. Equinox, Inc.*, Index No. 901198-25 (Sup. Ct. Albany Cty.) (collectively, the “Litigation”);

WHEREAS, Plaintiffs (also referred to as “Class Representatives”), for themselves and on behalf of the Settlement Class, and Equinox, have agreed to settle Plaintiffs’ claims related to a data incident allegedly occurred on Equinox’s computer network (the “Data Incident”);

WHEREAS, the Parties’ Settlement Agreement and Release (“Settlement Agreement”), together with the exhibits attached thereto, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice as to Defendant for the claims of the Settlement Class upon the terms and conditions set forth in the Settlement agreement, and the Court having read and considered the Settlement Agreement and exhibits attached thereto;

WHEREAS, capitalized terms not otherwise defined herein have the meanings set forth in the Settlement; and

WHEREAS, Class Counsel has provided exemplary representation that thoroughly and adequately represents the interests of the Class Members; and

WHEREAS, the Class Settlement provides fair compensation to the Class Members; and

WHEREAS, public policy considerations, including public policy in favor of resolving numerous potential individual claims in one class action case, favor preliminary approval of the Settlement; and

Upon due deliberation having been had, and the Court having found that the Settlement Agreement, (i) is the product of extensive, arm’s-length negotiations; and (iii) contains no obvious deficiencies, it is hereby

ORDERED that the Court has jurisdiction over the subject matter of the Action, the Plaintiffs, the Settlement Class Members, and Defendant, and venue is proper;

ORDERED pursuant to CPLR 9, the Court preliminarily certifies, for settlement purposes only, a Class consisting of all individuals who were mailed a notification by or on behalf of Equinox regarding the Data Incident, excluding (i) Defendant Equinox, any entity in which Defendant has a controlling interest, and Defendant's officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over this matter and members of their immediate families and their judicial staff; and (iii) all Settlement Class Members who timely and validly submit a Request for Exclusion.

ORDERED that the Court hereby appoints Plaintiffs as Settlement Class Representatives;

ORDERED that the Court determines that Todd Garber of Finkelstein, Blankinship, Frei-Pearson & Garber, LLP and David K. Lietz of Milberg PLLC have provided excellent representation to the class, and appoints those firms as class counsel;

ORDERED that the Court preliminarily finds that the requirements for class certification under CPLR 9 are satisfied for the reasons set forth in Plaintiffs' Motion for Preliminary Approval. For the purposes of the Settlement, the Court finds that the proposed Class is ascertainable and that the requirements of numerosity, commonality, typicality, and adequacy of representation are satisfied. The Court further finds preliminarily that, for the purposes of the settlement, there are predominant common questions of fact or law and that the Settlement is a superior means of resolving the Class Members' claims rather than individual suits;

ORDERED that the Settlement Agreement is preliminarily approved; and it is further

ORDERED that the proposed Class Notice, attached as Exhibits A-C to the Settlement Agreement, is approved and shall be distributed to the Class in accordance with the Settlement Agreement; and it is further

ORDERED that, upon passage of the deadline for opt-out requests and objections, Class Counsel shall promptly file a motion for final approval of the proposed settlement, the proposed service awards, and the proposed attorney's fees and cost awards; and it is further

ORDERED that the Final Approval Hearing shall take place on November 12, 2026 @ 11AM ~~or that the~~
~~Class shall be notified of the date for the hearing on the motion for Final Approval~~ after that date is determined by the Court; and it is further

ORDERED that this Order may be filed without further notice with the Clerk of the Court.

Date: June 25, 2026
 Albany, NY


 HON. RICHARD PLATKIN, A.J.S.C.