

## UNITED STATES OF AMERICA

STATE OF ILLINOIS

COUNTY OF DU PAGE

## IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

ASHLEY FETT ET AL.

Plaintiff

-VS-

NAPER GROVE VISION CARE PC

Defendant

2025LA000922  
CASE NUMBER**FILED**

26 May 19 AM 09: 52



CLERK OF THE

18TH JUDICIAL CIRCUIT

DUPAGE COUNTY, ILLINOIS

**ORDER****ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT AND CERTIFYING CLASS FOR SETTLEMENT PURPOSES ONLY**

The Parties[1] to the above-captioned action have agreed to a settlement, the terms and conditions of which are set forth in a Settlement Agreement, a copy of which is attached to the Motion for Preliminary Approval as Exhibit A. The Parties reached the Settlement through arm's-length negotiations after conducting appropriate discovery into the claims, defenses, and damages at issue. Under the Settlement, subject to the terms and conditions therein, and upon the Court's Final Approval, Plaintiffs and the proposed Settlement Class will fully, finally, and forever resolve, discharge, and release their claims in exchange for the benefits outlined in the Settlement Agreement.

Plaintiffs filed a Motion for Preliminary Approval of the Class Action Settlement on May 18, 2026. Upon considering the Motion for Preliminary Approval and exhibits thereto, the Settlement Agreement, the record in these proceedings, the representations and recommendations of Class Counsel, and the requirements of law, the Court finds: (1) the Parties have provided the Court with information sufficient to enable it to determine that Notice should be given to the Settlement Class; (2) the proposed Settlement Class meets the requirements of 735 ILCS 5/2-801 for settlement and should be certified for settlement purposes only; (3) the persons and entities identified below have adequately represented the proposed Settlement Class and should be appointed as Class Representatives and Class Counsel; (4) the Settlement is the result of informed, good-faith, arm's-length negotiations between the Parties and their capable and experienced counsel and is not the result of collusion; (5) the Settlement is within the range of reasonableness and should be preliminarily approved; (6) the proposed Notice Program and proposed forms of Notice satisfy Illinois law and Due Process requirements, and are reasonably calculated to apprise the Settlement Class of the pendency of the Action, class certification, the terms of the Settlement, the Application for Attorneys' Fees, Costs, and Service Awards, and their rights to opt-out of the Settlement or object to the Settlement; (7) the Claim Process set forth in the Agreement should be preliminarily approved; (8) good cause exists to schedule and conduct a Final Approval Hearing to assist the Court in determining whether to grant Final Approval of the Settlement and enter the Final Approval Order and Final Judgment, and whether to grant Class Counsel's Application for Attorneys' Fees, Costs, and Service Awards; and (9) the other related matters pertinent to the Preliminary Approval of the Settlement should also be approved.

Based on the foregoing, **IT IS HEREBY ORDERED AND ADJUDGED** as follows:

**Provisional Certification and Appointment of Class Representatives and Class Counsel**

1. The Court finds, for settlement purposes only, that the factors set forth in 735 ILCS 5/2-801 are present and that certification of the proposed Settlement Class for settlement purposes only is appropriate under Section 2-801. The Court therefore provisionally certifies the following Settlement Class for settlement purposes only:

the Class List and includes all individuals whose Private Information may have been impacted by the Data Incident.

Excluded from the Settlement Class are (a) all persons who are directors and officers of Defendant; (b) governmental entities; and (c) the Judge assigned to the Action, that Judge's immediate family, and Court staff.

1. Specifically, the Court finds, for settlement purposes only, that the Settlement Class satisfies the following factors of Section 2-801:

i. Numerosity: In the Action, approximately 20,093 individuals are members of the proposed Settlement Class. Their joinder is impracticable. Thus, the numerosity requirement is met for settlement purposes only.

ii. Commonality and Predominance: Courts analyze commonality and predominance under Section 2-801 by identifying the substantive issues that will control the outcome of the case. *Cruz v. Unilock Chicago*, 383 Ill. App. 3d 752, 773 (Ill.App. 2d Dist. 2008). Commonality and predominance are satisfied here for settlement purposes only. The common controlling substantive issues include whether Defendant had unreasonable data security practices that led to the Data Incident and whether Plaintiffs' and Settlement Class Members' data was exposed as a result of the Data Incident. Resolution of these common questions would require evaluation of the merits under a single objective standard. Therefore, the commonality and predominance requirements are met for settlement purposes only.

iii. Typicality: The Plaintiffs' claims are typical of the Settlement Class for Settlement only because they concern the same Data Incident, arise from the same legal theories, and allege the same types of harm and entitlement to relief. Typicality is therefore satisfied.

iv. Adequacy: When evaluating adequacy, Illinois courts look to whether the named plaintiff has the same interests as those of the class and whether they will fairly represent them. *CE Design Ltd. v. C & T Pizza, Inc.*, 32 N.E.3d 150, 156 (Ill.App. 1 Dist. 2015). Adequacy is satisfied here for settlement purposes only because there are no conflicts of interest between the Plaintiffs and the Settlement Class, and Plaintiffs have retained competent counsel to represent them and the Settlement Class. Class Counsel regularly handle data breach litigation similar to the present Action and have dedicated substantial resources to the prosecution of the Action. Moreover, Plaintiffs and Class Counsel have competently represented the interests of the Settlement Class in the Action.

v. A Class Action Is the Appropriate Method for Fair and Efficient Adjudication of This Controversy: A class action is the most appropriate method for the fair and efficient adjudication of this controversy, rather than bringing individual suits which could result in inconsistent determinations and unjust results. Resolution of the common issues for thousands of members of the Settlement Class in a single, coordinated proceeding is superior to thousands of individual lawsuits addressing the same legal and factual issues.

1. Plaintiffs Ashley Fett and Paul Mifsud are designated as Class Representatives.

2. The following attorneys and firms are appointed as Class Counsel for settlement purposes only: Gary M. Klinger of Milberg PLLC and Kenneth J. Grunfeld of Kopelowitz Ostrow, P.A.

**Preliminary Approval of the Settlement**

1. The Court preliminarily approves the proposed Settlement because it is fair, reasonable, and in the best interest of the Settlement Class. Under Section 2-806 of the Illinois Code of Civil Procedure, class claims may be settled only with court approval. 735 ILCS 5/2-806. At the preliminary approval stage, the Court's task is merely to determine whether the proposed Settlement is within the range of possible approval.
2. The Court preliminarily approves the Settlement as fair, reasonable and in the best interest of the Settlement Class. The Court finds that it has information sufficient to determine that Notice should be given to the Settlement Class. The information provided indicates that the Class Representatives and Class Counsel have adequately represented the Settlement Class, and that the Settlement reached is the product of informed, good-faith, arm's-length negotiations between the Parties and their capable and experienced counsel. The Court further preliminarily finds that the Settlement is within the range of reasonableness and possible judicial approval, such that: (a) a presumption of fairness is appropriate for the purposes of Preliminary Approval; and (b) it is appropriate to effectuate Notice to the Settlement Class, as set forth below and in the Settlement Agreement, and schedule a Final Approval Hearing to assist the Court in determining whether to grant Final Approval of the Settlement and enter a Final Approval Order and Final Judgment.
3. Subject to Final Approval of the proposed Settlement, and subject to the provision of the Notice required by this Preliminary Approval Order, the Court approves the provisions of the Agreement making the Settlement and its Releases binding on all Settlement Class Members, whether or not they receive actual notice of the Action or the Settlement so long as the Notice Program is effectuated pursuant to the terms of the Agreement.

**Approval of Notice, Notice Program, Claim Form, and Direction to Effectuate Notice**

1. The Court approves the form and content of the Notice to be provided to the Settlement Class, substantially in the forms attached to the Settlement Agreement as *Exhibits 2–3*. Class Counsel and Defendant's Counsel may make immaterial necessary changes to the forms without seeking approval of the Court. The Court further finds the Notice Program is the best practicable under the circumstances and is reasonably calculated to apprise the Settlement Class of the pendency of the Action, class certification, the terms of the Settlement, their rights to opt-out of the Settlement or object to the Settlement, and the Application for Attorneys' Fees, Costs, and Service Awards. The Notice Program will provide sufficient notice to all persons entitled to notice. The Notice Program satisfies all applicable requirements of law, including, but not limited to, Section 2-803 and the constitutional requirement of Due Process.
2. The Court further approves the Claim Process and Claim Form, attached to the Agreement as *Exhibit 1*.
3. The Court approves the appointment of Simpluris as the Settlement Administrator.
4. The Settlement Administrator shall implement the Notice Program as set forth in the Agreement, including using the forms of Postcard Notice and Long Form Notice that are approved by this Preliminary Approval Order.

**Final Approval Hearing, Opt-Outs, Objections, and Claim Process**

1. A Final Approval Hearing shall be held before the Court on October 20, 2026, at 9:00 a.m. to determine, among other things: (a) whether the Settlement should be granted Final Approval as fair, reasonable, and in the best interest of the Settlement Class; (b) whether Settlement Class Members should be bound by the Releases set forth in the Agreement; (c) whether the Settlement Class should be finally certified; (d) the amount of the Service Awards for Plaintiffs, if any; and (e) the amount of attorneys' fees and costs to be awarded to Class Counsel, if any. The Final Approval Hearing may be adjourned or continued by the Court without the provision of additional Notice other than updating the Settlement Website. Further, the Final Approval Hearing may be held virtually, in which case instructions for such virtual hearing shall be posted on the Settlement Website.
2. The Court approves the opt-out, objection, and Claim Process, including claims procedures and requirements, as set forth in the Agreement.

**Motion for Final Approval**

1. Plaintiffs shall file their Motion for Final Approval and Application for Attorneys' Fees and Costs and Service Awards, along with a proposed Final Approval Order and Final Judgment as an attachment, no later than 45 days prior to the initial date set for the initial Final Approval Hearing.

**Stay/Bar of Other Proceedings**

1. All proceedings in the Action are hereby stayed until further order of the Court, except as may be necessary to implement the terms of the Settlement. Pending final determination of whether the Settlement should be granted Final Approval, Plaintiffs, all Settlement Class members, and persons purporting to act on their behalf, are enjoined from commencing or prosecuting (either directly, representatively, or in any other capacity) against any of the Released Parties any action or proceeding in any court, arbitration forum or tribunal asserting any of the Released Claims.
2. Based on the foregoing, the Court sets the following schedule:

**Deadline to Begin Notice Program** - 25 days after entry of the Preliminary Approval Order

**Deadline to file Motion for Final Approval** - 45 days before the initial date set for the Final Approval Hearing

**Deadline to Opt-Out of the Settlement** - 30 days before the initial date set for the Final Approval Hearing

**Deadline to make Objections** - 30 days before the initial date set for the Final Approval Hearing

**Deadline to submit a Claim** - 30 days before the initial date set for the Final Approval Hearing

**Final Approval Hearing** - To date place on October 20, 2026, at 9:00 am room 2008.

[1] All capitalized terms used herein shall have the same meanings as those defined in Section II of the Settlement Agreement filed in this Action.

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DuPage Attorney Number: 368326

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File Date: 05/19/2026

JUDGE MAUREEN RIORDAN

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