

FILED

**IN THE CIRCUIT COURT FOR THE NINETEENTH JUDICIAL CIRCUIT DEPARTMENT
LAKE COUNTY, ILLINOIS**

CRISPIN GONZALEZ, individually and on behalf of himself and all other similarly situated persons, known and unknown,)
)
 Plaintiffs,)
)
 v.)
)
 ONWENTSIA CLUB,)
)
 Defendant.)

**Erin Cartwright Weinstein
Clerk of the Court
Lake County, Illinois**

Case No. 24 CH 00000033

**ORDER PRELIMINARILY
APPROVING CLASS ACTION SETTLEMENT**

This matter having come before the Court on Plaintiffs’ Unopposed Motion in Support of Preliminary Approval of Class Action Settlement (the “Motion”), the Court having reviewed in detail and considered the Motion and memorandum in support of the Motion, the Class Action Settlement Agreement (“Settlement Agreement”) between Plaintiff, Crispin Gonzalez, and the Onwentsia Club (the “Club” or “Defendant”) (together, the “Parties”), and all other papers that have been filed with the Court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Capitalized terms used in this Order that are not otherwise defined herein have the same meaning assigned to them as in the Settlement Agreement.
2. The terms of the Settlement Agreement are preliminarily approved as fair, reasonable, and adequate. There is good cause to find that the Settlement Agreement was negotiated at arms-length between the Parties, who were represented by experienced counsel, who exchanged information and negotiated settlement over a period of several months.

3. For settlement purposes only, the Court finds that the prerequisites to class action treatment under Section 2-801 of the Illinois Code of Civil Procedure – including numerosity, commonality and predominance, adequacy, and appropriateness of class treatment of these claims – have been preliminarily satisfied.

4. The Court hereby conditionally certifies, pursuant to Section 2-801 of the Illinois Code of Civil Procedure, and for the purposes of settlement only, the following Settlement Class consisting of:

all persons whose Biometric Data was possessed, captured, collected, stored, used, transmitted, or disseminated by or on behalf of the Club or its biometric technology between February 6, 2019, and the date of this Preliminary Approval Order.

5. For settlement purposes only, Plaintiff Crispin Gonzalez is hereby appointed as Class Representative.

6. For settlement purposes only, the following counsel are hereby appointed as Class Counsel:

James M. Dore
Daniel I. Schlade
JUSTICIA LABORAL LLC
6232 N. Pulaski Road, Suite 300
Chicago, IL 60646
P: 773.415.4898; E: jdore@justicialaboral.com; dschlade@justicialaboral.com

7. The Court recognizes that, pursuant to the Settlement Agreement, the Club retains all rights to object to the propriety of class certification in the Litigation in all other contexts and for all other purposes should the Settlement not be finally approved. Therefore, as more fully set forth below, if the Settlement is not finally approved, and litigation resumes, this Court's preliminary findings regarding the propriety of class certification shall be of no further force or effect whatsoever, this Order will be vacated in its entirety, and the Litigation shall return to the *status quo ante*, as if no Settlement had been negotiated or entered.

8. The Court approves, in form and content, the Form Class Notice, the Notice Plan, and the Claim Form, attached to the Settlement Agreement as Exhibits A, B, and C, respectively, and finds that they meet the requirements of Section 2-803 of the Illinois Code of Civil Procedure and satisfy Due Process.

9. The Court finds that the Notice Plan as set forth in the Settlement Agreement meets the requirements of Section 2-803 of the Illinois Code of Civil Procedure and constitutes the best notice practicable under the circumstances, including web publication notice, email notice to potential Settlement Class Members where such emails are known to the Parties, and by direct individual notice by mail to potential Settlement Class Members, where the Club's records reflect the last known addresses of the potential Settlement Class Members, and satisfies fully the requirements of Due Process, and any other applicable law, such that the Settlement Agreement and Final Order and Judgment will be binding on all Settlement Class Members. In addition, the Court finds that no notice other than that specifically identified in the Settlement Agreement is necessary in this action. The Parties, by agreement, may revise the Form Class Notice or Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.

10. Analytics Consulting LLC is hereby appointed Settlement Administrator to supervise and administer the notice process, as well as to oversee the administration of the Settlement, as more fully set forth in the Settlement Agreement. The Settlement Administrator may proceed with the distribution of Form Class Notice and Claim Form and establishing the Website Notice on the Settlement Website as set forth in the Settlement Agreement and the Notice Plan.

11. The Settlement Class Members shall be bound by all determinations and orders

pertaining to the Settlement, including the release of all claims to the extent set forth in the Settlement Agreement, whether favorable or unfavorable, unless such persons request exclusion from the Settlement Class in a timely and proper manner, as hereinafter provided. The individuals in the Settlement Class who do not timely and validly request exclusion shall be so bound even if they have previously initiated or subsequently initiate litigation or other proceedings against the Club or the Released Parties relating to the claims released under the terms of the Settlement Agreement.

12. Any individual within the Settlement Class may request exclusion from the Settlement Class by expressly stating his or her request in a written exclusion request. Such exclusion requests must comply with the subsequent paragraph and be received by the Settlement Administrator at the address specified in the Form Class Notice in written form, by first class mail, postage prepaid, and postmarked, no later than August 1, 2024.

13. In order to exercise the right to be excluded, an individual within the Settlement Class must timely send a written request for exclusion to the Settlement Administrator providing his or her full name and address, a signature, the name and number of this Lawsuit, and a statement that he or she wishes to be excluded from the Settlement Class and does not want to become a Settlement Class Member. The request for exclusion must be personally signed by the individual requesting exclusion. Any requests to be excluded that do not include all of the foregoing information and a personal signature, or that are sent to an address other than that designated in the Form Class Notice, or that are not postmarked within the time specified, shall be deemed to be invalid and the individuals serving such a request shall be Settlement Class Members and shall be bound as Settlement Class Members by the Agreement, if approved, and the release in it. So-called “mass” or “class” opt-outs shall not be allowed.

14. Any individual in the Settlement Class who validly elects to be excluded shall not: (i) be bound by any orders or the Final Order and Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of this Settlement Agreement.

15. As set forth in the Settlement Agreement, if more than Ten (10) individuals in the Settlement Class elect to be excluded from the Settlement Class and do not become a Settlement Class Member, the Club shall have the option to cancel or terminate this Agreement, which shall have the effects described in Paragraph 7 of this Order and in the Settlement Agreement.

16. Class Counsel may file any motion seeking an award of attorneys' fees, costs and expenses, as well as an Incentive Award for the Class Representative, no later than August 29, 2024.

17. Any Settlement Class Member who has not requested exclusion from the Settlement Class and who wishes to object to any aspect of the Settlement Agreement, including the amount of the attorneys' fees and expenses that Class Counsel intends to seek and the payment of any Incentive Award, may do so, either personally or through an attorney, by filing a written objection, together with the supporting documentation set forth below in Paragraphs 18 and 19 of this Order, with the Clerk of the Court, and served upon Class Counsel, Defendant's counsel, and the Settlement Administrator no later than August 1, 2024. Addresses for Class Counsel, Defendant's Counsel, the Settlement Administrator, and the Clerk of Court are as follows:

Class Counsel:

James M. Dore
Daniel I. Schlade
JUSTICIA LABORAL LLC
6232 N. Pulaski Road, Suite 300
Chicago, IL 60646
773.415.4898
jdore@justicialaboral.com

Defendant's Counsel:

Ian H. Fisher
TAFT, STETTINIUS & HOLLISTER LLP
111 E. Wacker Dr., Ste. 2600
Chicago, IL 60601
312.836.4043
ifisher@taftlaw.com

dschlade@justicialaboral.com

and to

Bryan E. Jacobson
CHAPMAN AND CUTLER LLP
320 S. Canal Street, 26th Floor
Chicago, IL 60606
312.845.3407
bjacob@chapman.com

Settlement Administrator:

Gonzalez v Onwentsia Club
c/o Analytics Consulting LLC
PO Box 2002
Chanhasen MN 55317-2002

Clerk of Court:

Clerk of the Circuit Court of Lake County
Chancery Division
Lake County Courthouse & Administrative Complex
18 North County Street
Waukegan, IL 60085

18. Any individual in the Settlement Class who has not requested exclusion and who intends to object to this Agreement must state, in writing, his or her full name, address, and telephone number and all grounds for the objection, along with factual and legal support for the stated objection. If represented by counsel, the objecting Settlement Class Member must also provide the name and telephone number of his or her counsel. Objections not filed and served in accordance with this Order shall not be received or considered by the Court. Any Settlement Class Member who fails to timely file and serve a written objection in accordance with this Order shall be deemed to have waived, and shall be forever foreclosed from raising, any objection to the Settlement, to the fairness, reasonableness, or adequacy of the Settlement, to the payment of attorneys' fees, costs, and expenses, to the payment of an Incentive Award, and to the Final Approval Order and the right to appeal same.

19. An individual in the Settlement Class who has not requested exclusion from the Settlement Class and who has properly submitted a written objection in compliance with the Settlement Agreement, may appear at the Final Approval Hearing in person or through counsel to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate.

Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of the Settlement and/or Plaintiffs' counsel's Fee and Expense Application and/or the request for an Incentive Award to the Class Representative are required to indicate in their written objection their intention to appear at the Final Approval Hearing on their own behalf or through counsel. For any Settlement Class Member who files a timely written objection and who indicates his/her intention to appear at the Final Approval Hearing on their own behalf or through counsel, such Settlement Class Member must also include in his or her written objection the identity of any witnesses he or she may call to testify, and all exhibits he or she intends to introduce into evidence at the Final Approval Hearing, which shall also be attached.

20. No Settlement Class Member shall be entitled to be heard, and no objection shall be considered, unless the requirements set forth in this Order and in the Settlement Agreement are fully satisfied. Any Settlement Class Member who does not make his or her objection to the Settlement in the manner provided herein, or who does not also timely provide copies to the designated counsel of record for the Parties at the addresses set forth herein, shall be deemed to have waived any such objection by appeal, collateral attack, or otherwise, and shall be bound by the Settlement Agreement, the releases contained therein, and all aspects of the Final Order and Judgment.

21. If an individual in the Settlement Class submits both (a) a request to be excluded from the Settlement Class and avoid becoming Settlement Class Members and (b) an objection to the Settlement, then (x) such individual's request to be excluded shall be null and void, (y) he or she shall be deemed a Settlement Class Member, and (z) provided he or she has complied with the provisions of Paragraphs 18 and 19 of this Order for objecting, he or she shall have his or her objection considered by the Court.

22. All papers in support of the final approval of the proposed Settlement shall be filed no later than fourteen (14) before the Final Approval Hearing.

23. Pending the final determination of the fairness, reasonableness, and adequacy of the proposed Settlement, no individual in the Settlement Class may prosecute, institute, commence, or continue any lawsuit (individual action or class action) with respect to the Released Claims against any of the Released Parties.

24. A hearing (the “Final Approval Hearing”) shall be held before the Court on September 12, 2024 at 9:30 a.m. via Zoom (Judge’s Zoom Information located at: <https://19thcircuitcourt.state.il.us/2186/Daily-Remote-Court-Session-Schedule-C301>), or in person at the Lake County Courthouse and Administrative Complex, 18 North County Street, Courtroom C-301, Waukegan, IL 60085 (or at such other time or location as the Court may without further notice direct) for the following purposes:

(a) to finally determine whether the applicable prerequisites for settlement class action treatment under 735 ILCS 5/2-801 have been met;

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

(c) to determine whether the judgment as provided under the Settlement Agreement should be entered, including a bar order prohibiting Settlement Class Members from further pursuing claims released in the Settlement Agreement;

(d) to consider the application for an award of attorneys’ fees, costs and expenses of Class Counsel;

(e) to consider the application for an Incentive Award to the Class Representative;

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

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

26. The Final Approval Hearing may be postponed, adjourned, transferred or continued by order of the Court without further notice to the Settlement Class. At or following the Final Approval Hearing, the Court may enter a judgment approving the Settlement Agreement and a Final Judgment and Order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

27. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

28. All discovery and other proceedings in the Litigation as between Plaintiff and the Club are stayed and suspended until further order of the Court.

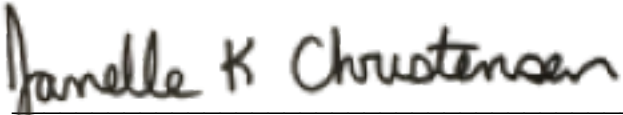
29. For clarity, the key deadlines set forth above and in the Settlement Agreement are as follows:

Event	Date/Deadline
Class Notice Mailed by:	July 8, 2024.
Settlement Website launched by:	July 15, 2024.
Deadline for Objections and requesting Exclusions:	August 1 , 2024
Class Counsel's Fee and Expense Application:	August 29, 2024
Class Representatives Motion for Incentive Award	August 29, 2024
Final Approval Motion:	August 29, 2024
Final Approval Hearing:	September 12, 2024 at 9:30 a.m. Via Zoom – Judge's Zoom Information located at:

Deadline to Submit Claims:	https://19thcircuitcourt.state.il.us/2186/Daily-Remote-Court-Session-Schedule-C301 September 26, 2024
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IT IS SO ORDERED.

ENTERED: _____



Hon. Janelle K. Christensen