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**IN THE COURT OF COMMON PLEAS OF MONROE COUNTY, PENNSYLVANIA –
CIVIL DIVISION**

JOHN DOE 1, <i>et al</i> ,	:	Civil Action No. 6384 cv 2015
	:	
Plaintiffs,	:	
v.	:	Class Action Complaint – Pursuant
	:	to 18 PA.C.S. § 6111, Breach of
	:	Confidentiality, Invasion of Privacy,
MONROE COUNTY, <i>et al</i> ,	:	and Declaratory and Injunctive
	:	Relief
Defendants.	:	

**PLAINTIFFS’ UNCONTESTED MOTION FOR PRELIMINARY APPROVAL OF
SETTLEMENT AND NOTICE PROGRAM**

The named Plaintiffs in this action (the “Plaintiffs” or “Representative Plaintiffs”) move, uncontested, for preliminary approval of the settlement between the Parties, and move for approval of the notice program, and in support thereof assert the following:

Background of the Litigation

1. On September 8, 2015, Plaintiffs commenced the instant action by filing a Class Action Complaint, utilizing John/Jane Doe aliases, on behalf of themselves and all persons similarly situated (the “Class”) against Defendants, Monroe County (the “County”), Monroe County Sheriff’s Office (“Sheriff’s Office”), former Monroe County Sheriff Todd Martin (“Sheriff”) and the Employee John/Jane Does (collectively, the “Defendants”).

2. On November 4, 2015, this Court sealed this matter.

3. On December 13, 2017, the Court granted Plaintiffs’ motion for a preliminary injunction.

4. On January 23, 2018, Defendants filed their Answer, after the Court's Order of December 13, 2017 regarding Defendants' Preliminary Objections.

5. On February 7, 2019, this Court granted Plaintiffs' Motion for Class Certification and by Order of May 2, 2019, approved Plaintiffs' Notice of Class Certification.

6. The certified Class, pursuant to this Court's February 7, 2019 Order and the stipulation of the Parties, is

Those individuals, who allegedly had their confidential license to carry firearms applicant information disclosed by Defendants in violation of their right to privacy and 18 Pa.C.S. § 6111(i) from September 8, 2009 through March 11, 2016, as a result of un-enveloped communications, including, but not limited to, postcards that were (1) sent to the applicant/licensee and the applicant/licensee's references containing information submitted by the applicant/licensee and (2) sent by the applicant/licensee's references to the Defendants.

7. The certified Class encompasses approximately 12,000 members.

8. On November 25, 2019, this Court granted Plaintiffs' partial Motion for Summary Judgment and scheduled a damages hearing, which, due to COVID-19, was continued and is currently scheduled for July 17, 2020.

9. In preparation for the damages hearing, the Parties entered into substantial, adversarial settlement negotiations, during which, the Parties discussed their respective positions and Defendants informed Plaintiffs of the issues they intend to raise at the July 17, 2020 damages hearing and on appeal after any judgment is made final and provided copies of the Pennsylvania Counties Risk Pool coverage document (*i.e.* insurance policy), which reflects that Defendants have a maximum coverage of \$5,000,000.00, which is eroded by attorneys' fees incurred.

10. After extensive arm's length settlement negotiations involving competent and experienced counsel for the Parties, the Parties agreed to the terms set forth in the Settlement

Agreement. A true and correct copy of the Settlement Agreement between the Parties, with Exhibits, is attached hereto as Exhibit “1.”

Preliminary Approval of the Settlement – Pa.R.C.P. 1714(a)

11. Under Pennsylvania law, settlements are favored in class action lawsuits. However, a class action may not be settled without a hearing and court approval. Pa.R.C.P. 1714(a). The class action approval process requires two steps, the first of which consists of a preliminary evaluation and, if appropriate, approval of the settlement followed by notice, pursuant to Pa.R.C.P. 1714(c), to the Class members. After notifying the Class members, a final approval hearing (also called a fairness hearing) must be held where arguments for and against the settlement are heard by the Court.

12. To be preliminarily approved, a settlement must fall within a “range of reasonableness” or “range of possible approval.” Based on the analysis provided in Plaintiffs’ Memorandum of Law, including analysis of the seven factors identified as relevant by the Pennsylvania Supreme Court, the proposed settlement as set forth in the Settlement Agreement between the Parties falls both within the “range of reasonableness” and “range of possible approval” and should be preliminarily approved by the Court.

Approval of the Notice Program

13. As explained above, once the Settlement is preliminarily approved, notice of the Settlement must be provided to all Class members, pursuant to Pa.R.C.P. 1714(c).

14. According to the Pennsylvania Superior Court, such notice must present a fair recital of the subject matter and proposed terms of the proposed settlement, although it may consist of a very general description of the proposed settlement, including a summary of the monetary and other benefits that the class would receive and an estimation of the attorneys’ fees

and other expenses. The notice must also inform the Class members of an opportunity to be heard regarding the propriety of the proposed settlement. The notice need not provide a complete source of settlement information and it is enough that the notice contains facts sufficient to alert interested persons to the terms of the proposed settlement and also the means by which further inquiry can be made and objection recorded.

15. The Notice Program set forth in the Settlement Agreement between the Parties, and the proposed Class Notices, which have been reviewed and approved by counsel for all Parties, and a true and correct copy of which is attached to the Settlement Agreement as Exhibit “D,” meet the foregoing requirements since they describe the Settlement in relatively simple terms, explain how to opt out or object to the Settlement, and provide the deadline to do so, inform the Class members of the date and purpose of the Final Approval hearing and the amount of proposed attorneys’ fees and expenses, and explain the ways in which additional information about the Settlement can be obtained, such as through the Settlement Website.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request that this Honorable Court:

(a) Hold a Preliminary Approval Hearing regarding the foregoing on July 17, 2020;
and

(b) Thereafter issue the attached proposed Preliminary Approval Order:

(1) Preliminarily approving the Settlement between the Parties (as set forth in the Settlement Agreement between the Parties) pending notification of the Settlement Class members, the opportunity by Class members to opt out or object to the proposed Settlement, and the Final Approval Hearing; and

(2) Approving the Class Notice and the Notice Program as set forth in the

Settlement Agreement between the Parties.

Respectfully Submitted,

Date: July 10, 2020



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