

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

**JOSE CARBAJAL**, individually and on )  
behalf of all others similarly situated, )

Plaintiff, )

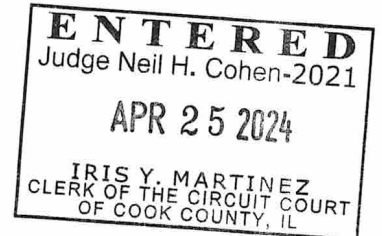
v. )

**FUCHS LUBRICANTS, CO.**, )

Defendant. )

No. 22 CH 12344

Calendar 13



**[PROPOSED] PRELIMINARY APPROVAL ORDER**

This matter having come before the Court on Plaintiff's Motion for 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 Jose Carbajal ("Plaintiff"), and Defendant Fuchs Lubricants, Co. ("Defendant") (collectively, 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, Memorandum and the Settlement Agreement, and the Court being fully advised,

**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.
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 individuals whose biometrics were captured, collected, stored, used or disseminated by or on behalf of Defendant within the state of Illinois at any time during the period of December 22, 2017 through the date of Preliminary Approval without providing a prior written consent.

5. For settlement purposes only, Plaintiff Jose Carbajal is hereby appointed as Class Representative.

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

James X. Bormes  
Catherine P. Sons  
Law Office of James X. Bormes, P.C.  
8 S. Michigan Ave., Suite 2600  
Chicago, IL 60603  
(312) 201-0575  
Fax: (312) 332-0600  
jxbormes@bormeslaw.com  
cpsons@bormeslaw.com

7. The Court recognizes that, pursuant to the Settlement Agreement, Defendant retains all rights to object to the propriety of class certification in the Action 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, and this Order will be vacated in its entirety.

8. The Court approves, in form and content, the Class Notice and Claim Form, attached to the Settlement Agreement as Exhibits A and B, 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 plan of notice 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, where Class Members are current or former employees of Defendant and may be readily ascertained by Defendant's records, and satisfies fully the requirements of due process, and any other applicable law, such that the Settlement Agreement and Final Approval Order will be binding on all 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 Class Notice 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 Claims 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.

11. The Claims Administrator may proceed with the distribution of Class Notice and Claim Form as set forth in the Settlement Agreement.

12. Class Members who wish to receive benefits under the Settlement Agreement must complete and submit a valid Claim Form in accordance with the instructions provided in the Class Notice and the Settlement Agreement.

13. All Claim Forms must be postmarked and emailed or mailed via U.S. Mail to the address specified in the Claim Form no later than 60 days after the date the Notice Packet is first mailed. Class Members who do not timely submit a Claim Form deemed to be valid in accordance with the Settlement Agreement shall not be entitled to receive any portion of the

Settlement Fund, but such Class Members shall otherwise be bound by the Settlement Agreement to the extent stated therein, including but not limited to the release of claims against Defendant.

14. 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. Class Members 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 Defendant relating to the claims released under the terms of the Settlement Agreement.

15. Any Person within the Settlement Class may request exclusion from the Settlement Class by expressly stating his/her request in a written exclusion request. In order to exercise the right to be excluded, a person within the Settlement Class must timely submit a written request for exclusion to the Claims Administrator providing his/her name, address and telephone number, the name and number of the case, and a clear statement that he or she wishes to be excluded from the Settlement Class. Any request for exclusion must be personally signed by the person requesting exclusion. Such written request for exclusion must be returned by mail to the Claims Administrator at the specified address, and must be postmarked no later than sixty (60) days after the date the Notice Packet is first mailed.

16. Any person in the Settlement Class who elects to be excluded shall not: (i) be bound by any orders or the Final Approval Order; (ii) be entitled to relief under the 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.

17. Class Counsel may file any motion seeking an award of attorneys' fees not to

exceed Seventy-Nine Thousand Three Hundred Eighty Dollars (\$79,380.00), costs not to exceed One Thousand Dollars (\$1,000.00), and an Incentive Award of Four Thousand Five Hundred Dollars (\$4,500.00) for the Class Representative, no later than fourteen (14) days before the Final Approval Hearing.

18. Any 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 that Class Counsel intends to seek and the payment of the Incentive Award to the Class Representative may do so, either personally or through an attorney, by mailing a written statement objecting to the Settlement to the Claims Administrator ("Objection"), together with the supporting documentation set forth below in Paragraph 19 of this Order, to the Claims Administrator no later than sixty (60) days after the date the Notice Packet is first mailed. The Claims Administrator will file the Objection with the Clerk of the Court and provide copies to counsel for the Parties. Addresses for Class Counsel, Defendant's Counsel, the Claims Administrator, and the Clerk of Court are as follows:

<b>Class Counsel</b>  James X. Bormes Catherine P. Sons Law Office of James X. Bormes, P.C. 8 South Michigan Avenue, Suite 2600 Chicago, IL 60603	<b>Defendant's Counsel</b>  Franklin Z. Wolf Craig R. Annunziata Fisher & Phillips LLP 10 South Wacker Drive, Suite 3450 Chicago, IL 60606
<b>Claims Administrator</b>  Analytics Consulting, LLC 18675 Lake Drive E Chanhassen, MN 55317	<b>Clerk of Court</b>  Clerk of the Circuit Court of Cook County Chancery Division 50 W. Washington Street, #802 Chicago, IL 60602

19. Any Class Member who has not requested exclusion and who intends to object

to the Settlement must submit a written objection to the Claims Administrator. The Objection must: (i) be signed personally by the Class Member submitting the objection (not just by an attorney submitting the objection on behalf of the Class Member); (ii) include the full name, current address, and current telephone number of the objecting Settlement Class Member; (iii) include a statement of the specific grounds for the objection; (iv) state whether the objecting Class Member intends to appear at the Final Approval Hearing and disclose the identity of all counsel who represent the objector and/or will appear at the Final Approval Hearing; and (v) enclose copies of any documents that the objector wishes to submit in support of his/her/their position. Objections not filed and served in accordance with this Order shall not be received or considered by the Court. Any 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 and costs, to the payment of the Incentive Award, and to the Final Approval Order and the right to appeal same.

20. A Class Member 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 Class Counsel's fee and costs application and/or the request for the 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 Class Member who submits a timely written objection to the Claims Administrator and

who indicates his/her intention to appear at the Final Approval Hearing on their own behalf or through counsel, such Class Member must also include in his/her written objection the identity of any witnesses he/she may call to testify, and all exhibits he/she intends to introduce into evidence at the Final Approval Hearing, which shall be attached.

21. No 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 Class Member who does not make his or her objection to the Settlement in the manner provided 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 Approval Order.

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 Class Member may prosecute, institute, commence, or continue any lawsuit (individual action or class action) with respect to the Released Claims against the Defendant or any of the Released Parties.

24. A hearing (the “Final Approval Hearing”) shall be held before the Court on August 6, 2024, at 9:30 a.m., via Zoom (Meeting ID: 940 2402 4757; Password: 739301), 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 an order prohibiting Class Members from further pursuing claims released in the Settlement Agreement;

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

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

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

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

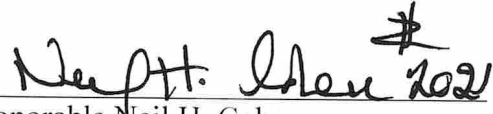
25. The Final Approval Hearing may be postponed, adjourned, transferred or continued by order of the Court without further notice to the Settlement Class. At or following the Final Approval Hearing, the Court may enter a judgment approving the Settlement Agreement and a Final Approval Order in accordance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

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

27. All discovery and other proceedings in the Action as between Plaintiff and Defendant are stayed and suspended until further order of the Court except such actions as may be necessary to implement the Settlement Agreement and this Order.

**IT IS SO ORDERED.**

ENTERED: 4-25-24

  
Honorable Neil H. Cohen