

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

RICHARD ROGERS and MICHAEL STEWART, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

BNSF RAILWAY COMPANY, a Delaware corporation,

Defendant.

No. 2019-CH-04393

Hon. Pamela McLean Meyerson

Judge Pamela McLean Meyerson

JUN 18 2024

Circuit Court – 2097

FINAL ORDER AND JUDGMENT

This matter coming to be heard on Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement (the "Motion"), due and adequate notice having been given to the Settlement Class, and the Court having considered the papers filed and proceedings in this matter, and being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED as follows:

1. Unless otherwise noted, all capitalized terms in this Final Order and Judgment shall have the same meaning as ascribed to them in the Settlement Agreement between Plaintiffs Richard Rogers and Michael Stewart ("Plaintiffs") and Defendant BNSF Railway Company ("Defendant") (collectively "the Parties").

2. This Court has jurisdiction over the subject matter of the State Case and personal jurisdiction over all parties to the State Case, including all Settlement Class Members.

3. The Court preliminarily approved the Settlement Agreement on March 5, 2024. The Court finds that adequate notice was given to members of the Settlement Class pursuant to the

terms of the Preliminary Approval Order and the form of the Class Notice as approved by the Court.

4. The Court has read and considered the papers filed in support of the Motion for Final Approval, including the Settlement Agreement and exhibits thereto and supporting declarations.

5. The Court held a Final Approval Hearing on June 17, 2024, at which time the Parties and all other interested persons were afforded the opportunity to be heard in support of and in opposition to the Settlement.

6. Based on the papers filed with the Court and the presentations made to the Court by the Parties and other interested persons at the Final Approval Hearing, the Court now gives Final Approval to the Settlement and finds that the Settlement Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class. The complex legal and factual posture of the Litigation, the relief provided to the Settlement Class, and the fact that the Settlement Agreement is the result of arm's-length negotiations, further support this finding.

7. Pursuant to 735 ILCS 5/2-801 and 2-802, the Court finally certifies, for settlement purposes only, the following Settlement Class:

“All individuals whose fingerprint information was registered using an Auto-Gate System at any of BNSF’s four Illinois facilities at any time between April 4, 2014 and March 5, 2024.”

8. The Court finds that six individuals have made timely and valid requests for exclusion from the Settlement. A list of such individuals is attached hereto as Exhibit A. No individual filed any objection to the Settlement.

9. For settlement purposes only, the Court confirms the appointment of Richard Rogers and Michael Stewart as Class Representatives of the Settlement Class.

10. For settlement purposes only, the Court confirms the appointment of the following counsel as Class Counsel, and finds they are experienced in class litigation and have adequately represented the Settlement Class:

Myles McGuire
Evan M. Meyers
David L. Gerbie
Brendan Duffner
MCGUIRE LAW, P.C.
55. W. Wacker Dr., 9th Fl.
Chicago, IL 60601

Jon Loevy
Michael I. Kanovitz
LOEVY & LOEVY, P.C.
311 N. Aberdeen St., 3rd Floor
Chicago, Illinois 60607

11. With respect to the Settlement Class, this Court finds, for settlement purposes only, that: (a) the Settlement Class defined above is so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Settlement Class, and those common questions predominate over any questions affecting only individual members; (c) the Class Representatives and Class Counsel have fairly and adequately protected, and will continue to fairly and adequately protect, the interests of the Settlement Class; and (d) certification of the Settlement Class is an appropriate method for the fair and efficient adjudication of this Litigation.

12. The Court has determined that the Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.

13. The Parties to the Settlement Agreement shall perform their obligations thereunder.

14. The Court dismisses this action with prejudice and without costs (except as otherwise provided herein and in the Settlement Agreement) as to Plaintiffs' and all Settlement

Class Members' claims against Defendant. The Court adjudges that the Released Parties shall be released for all Released Claims as described in the Settlement Agreement.

15. The Court adjudges that Plaintiffs and all Settlement Class Members (the Releasing Parties) shall be deemed to have fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties as set forth in the Settlement Agreement.

16. The Court further adjudges that, upon entry of this Order, the Settlement Agreement and the above-described release of the Released Claims will be binding on, and have *res judicata* preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and all other Settlement Class Members and their respective predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing, as set forth in the Settlement Agreement. The Released Parties may file the Settlement Agreement and/or this Final Order and Judgment in any action or proceeding that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

17. Plaintiffs and the Settlement Class Members are permanently barred and enjoined from asserting, commencing, prosecuting, or continuing any of the Released Claims described in the Settlement Agreement against any of the Released Parties.

18. The Court approves payment of attorneys' fees, inclusive of costs and expenses, to Class Counsel in the amount of \$26,544,179.26. This amount shall be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement. The Court, having considered the materials submitted by Class Counsel in support of final approval of the Settlement and their request for attorneys' fees, costs and expenses, finds the award of attorneys' fees, costs and

expenses appropriate and reasonable for the following reasons. First, the Court finds that the Settlement provides substantial benefits to the Settlement Class. Second, the Court finds the payment fair and reasonable in light of the substantial work performed, and the result obtained, by Class Counsel. Third, the Court concludes that the Settlement was negotiated at arm's-length without collusion, and that any negotiation of the attorneys' fees only followed agreement on the settlement benefits for the Settlement Class Members. Finally, the Court notes that the Class Notice specifically and clearly advised the Settlement Class that Class Counsel would seek an award in the amount sought.

19. The Court approves Service Awards in the amount of \$15,000.00 for each of the Class Representatives, Richard Rogers and Michael Stewart, and specifically finds such an amount to be reasonable in light of the services performed by Plaintiffs for the Settlement Class, including personally taking on the risks and burden of litigation, agreeing to be deposed in this matter, testifying at trial, and helping achieve the results to be made available to the Settlement Class. This amount shall be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement.

20. The Court approves the Parties' agreement to distribute any *cy pres* funds to the American Red Cross and the Chicago Bar Foundation. Such funds, if any, shall be comprised of the value of uncashed settlement checks following the Second Distribution and paid in accordance with the Settlement Agreement.

21. Neither this Final Order and Judgment, nor the Settlement Agreement, nor the payment of any consideration in connection with the Settlement shall be construed or used as an admission or concession by or against Defendant or the Released Parties of any fault, omission, liability, or wrongdoing, or of the validity of any of the Released Claims as set forth in the

Settlement Agreement. The Final Approval of the Settlement does not constitute any position, opinion, or determination of this Court, one way or another, as to the merits of the claims or defenses of Plaintiffs, the Settlement Class Members, or Defendant.

22. No objections were filed in this matter, and any objections to the Settlement Agreement are overruled and denied in all respects. The Court finds that no reason exists for delay in entering this Final Order and Judgment. Accordingly, the Clerk is hereby directed forthwith to enter this Final Order and Judgment and dismiss this action with prejudice.

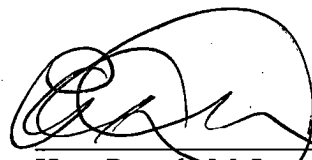
23. The Parties, without further approval from the Court, are hereby permitted to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to the Settlement Agreement) so long as they are consistent in all material respects with the Final Order and Judgment and do not limit the rights of the Settlement Class Members.

24. This is a final order disposing of all matters in this case.

IT IS SO ORDERED.

Judge Pamela McLean Meyerson

ENTERED: JUN 18 2024
Circuit Court – 2097



Hon. Pamela McLean Meyerson
Circuit Court Judge
Circuit Court of Cook County, IL

Exhibit A

1. Reginald Clay
2. Lawrence Hawkins
3. Peyton Hightower
4. Samuel Tooks
5. John Fischer
6. Diego Delgado

Judge Pamela McLean Meyerson

JUN 18 2024

Circuit Court – 2097