

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**ELAYNE FIGUEROA, on behalf  
of herself and on behalf of all others  
similarly situated,**

**Plaintiff,**

v.

**CASE NO.: 8:17-cv-01780-JSM-AEP**

**BAYCARE HEALTH SYSTEM, INC.,**

**Defendant.**

**ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS SETTLEMENT**

Before the Court is the Joint Motion (Dkt. 74) of Named Plaintiff, ELAYNE FIGUEROA, and Defendant, BAYCARE HEALTH SYSTEM, INC., seeking: (1) preliminary approval of the Settlement Agreement between Named Plaintiff, the putative class, and Defendant; (2) preliminarily certifying a class for settlement purposes; (3) approving the form and manner of notice to the class; and, finally (4) scheduling a fairness hearing for the final consideration and approval of the Parties' class action settlement. The Court has considered the Joint Motion, proposed settlement agreement, and the entire record of this case. The Motion will be granted, and the court hereby Orders as follows:

1. **Incorporation of Definitions.** This Order incorporates by reference the definitions set forth in the Joint Motion for preliminary approval and the proposed settlement agreement, and all terms used herein shall have the same meaning as set forth in those filings.

2. **Preliminary Approval of Proposed Settlement.** The Parties' Settlement Agreement, including all exhibits thereto, is preliminarily approved as fair, reasonable, adequate, and within the range of reasonableness for preliminary settlement approval. The Court

preliminarily finds that the Agreement resulted from extensive arm's length negotiations and is sufficient to warrant notice of the Settlement to persons in the Settlement Classes and a full hearing on the approval of the Settlement.

3. **Class Certification for Settlement Purposes Only**. The parties seek certification of one settlement class based on Rule 23(b)(3) of the Federal Rules of Civil Procedure. Pursuant to Rule 23(c), the court conditionally certifies, for settlement purposes only, the following Settlement Class:

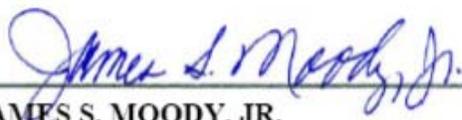
**Disclosure and Authorization Class**: All BayCare employees and job applicants who applied for or worked in a position at BayCare in the United States and who were the subject of a consumer report that was procured by BayCare within two years of the filing of this complaint through the date of final judgment as to whom BayCare used the "Consumer Disclosure and Authorization form," "Authorization of Background Investigation," provided by HireRight, Inc., to satisfy its stand-alone disclosure requirements under the FCRA, (referenced herein as the "Settlement Class").

In connection with this conditional certification, the Court makes the following preliminary findings for settlement purposes only:

- A. The Settlement Class of approximately 2,009 members appears to be so numerous that joinder of all members is impracticable;
- B. There appear to be questions of law or fact common to the Settlement Class for purposes of determining whether this Settlement should be approved;
- C. Plaintiff's claims appear to be typical of the claims being resolved through the proposed settlement;
- D. Plaintiff appears to be capable of fairly and adequately protecting the interests of the Settlement Class Members in connection with the proposed settlement;
- E. Common questions of law and fact appear to predominate over questions affecting only individual persons in the Settlement Class. Accordingly, the Settlement Class appears to be sufficiently cohesive to warrant settlement by representation; and

- F. Certification of the Settlement Class appears to be superior to other available methods for the fair and efficient resolution of the claims of the Settlement Classes.
4. **Class Counsel**. Based on the considerations in Rule 23(g), the Court appoints Luis A. Cabassa and Brandon J. Hill of Wenzel Fenton Cabassa, P.A. as Class Counsel for the Settlement Class.
5. **Class Representative**. Based on the findings above, the court appoints Named Plaintiff Elayne Figueroa as Class Representative for the Settlement Class.
6. **Class Notice**. The parties' Class Notice is approved for distribution in accordance with the schedule included in the Settlement Agreement.
7. **Initial Motion for Fees and Expenses**. Pursuant to Rule 23(h), Class Counsel is directed to file their motion for attorney fees and expenses within ten days after the mailing of the Class Notice.
8. **Opt-Outs and Objections**. Class Members shall have the right to either opt-out or object to this settlement pursuant to the procedures and schedule included in the Settlement Agreement.
9. **Final Approval Hearing**. A Final Approval Hearing is set for **November 14, 2018, at 10:30 a.m.** in Courtroom 17, Sam M. Gibbons U.S. Courthouse, 801 North Florida Avenue Tampa, Florida 33602.

**IT IS SO ORDERED** this 20<sup>th</sup> day of July 2018.

  
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**JAMES S. MOODY, JR.**  
**UNITED STATES DISTRICT JUDGE**

Copies furnished to:  
Counsel of record