

**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.

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING

A court authorized this Notice. This is not a solicitation from a lawyer.

- This notice relates to a proposed settlement in a class action lawsuit which alleges that Defendant BAYCARE HEALTH SYSTEM, INC. (“Defendant” or “BayCare”) violated the Fair Credit Reporting Act (“FCRA”). Plaintiff ELAYNE FIGUEROA (“Plaintiff”) alleged that Defendant violated the FCRA by inserting extraneous information into forms purporting to grant Defendant authority to obtain and use consumer report information in background checks it performed for employment purposes. Defendant denies that it violated the law in any way whatsoever. Defendant has at all times maintained that its Consumer Disclosure and Authorization forms comply with the FCRA. Specifically, the Disclosure Regarding Background Investigation form provided to the Plaintiff and Settlement Class Members complied with the FCRA’s disclosure mandate, and by executing the Authorization of Background Investigation form the Plaintiff and Settlement Class Members expressly provided Defendant the requisite written FCRA authorization to have HireRight, Inc. procure a consumer report for employment purposes. The two sides disagree as to whether Defendant’s conduct was permitted under the FCRA, whether Defendant would be liable under the FCRA with respect to that conduct and, if so, the extent of any such liability. The parties have, however, agreed to resolve the lawsuit through a Court-supervised settlement.
- The proposed settlement class includes: “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.”.
- You are receiving this notice because Defendant’s records indicate that you may be eligible to receive benefits from this class action settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
Do Nothing	If you do nothing and the Court approves this settlement, you will receive a settlement payment. You will not be able to sue Defendant for the same issues as in this lawsuit again.
Ask to be Excluded by October 15, 2018	If you do not want to be included in the case and the settlement, you must exclude yourself. This is called “opting out.” This is the only option that allows you to sue Defendant for these same issues again.
Object by October 15, 2018	You may write to the Court about why you don’t like the settlement. You cannot object if you opt out.
Go to a Hearing on November 14, 2018	Ask to speak in Court about the fairness of the settlement.

- Your rights and options—and the deadlines to exercise them—are explained in this Notice; The Court still has to decide whether to approve this settlement, which may take some time.

TABLE OF CONTENTS

Basic Information.....3

1. Why did I get this notice?3

2. What is the lawsuit about?3

3. Why is this case a class action?4

4. Why is there a settlement?4

Who Is In The Settlement4

5. How do I know if I am part of the settlement?4

The Settlement Benefits – What You Get.....4

6. What does the settlement provide?4

7. How can I get a benefit?5

8. When would I get my benefit?.....5

9. What am I giving up to get a benefit or stay in the class?5

10. How do I get out of the settlement?5

11. If I don’t exclude myself, can I sue Defendant for the same thing later?6

12. If I exclude myself, can I get benefits from this settlement?6

The Lawyers Representing You.....6

13. Do I have lawyers in this case?.....6

14. How will the lawyers be paid?.....6

Objecting to the Settlement.....7

15. How do I tell the Court that I don’t like the settlement?7

16. What’s the difference between objecting and excluding?7

17. Where and when will the Court decide whether to approve the settlement?8

18. Do I have to come to the hearing?8

19.	May I speak at the hearing?	8
	Getting More Information.....	8
20.	Are there more details about the settlement?	8
21.	How do I get more information?.....	8

Basic Information

1. Why did I get this notice?

This notice has been sent for the benefit of potential members of the following Settlement 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.

Composition of the Settlement Class is based upon Defendant’s records. This Notice has been sent because members of the Settlement Class have a right to know about a proposed settlement of a class action lawsuit in which they are class members, and about all of their options, before the Court decides whether to approve the settlement. If the Court approves the settlement, and after objections or appeals relating to that settlement are resolved, the benefits provided for by the settlement will be available to members of the Settlement Class.

This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. A full copy of the Settlement Agreement is available to Class Members upon written request to Claims Administrator at *Figueroa v BayCare Health System Inc.*, PO Box 23648, Jacksonville, Florida 32241-3648. This Notice contains only a summary of the Settlement Agreement.

The Court in charge of this case is the United States District Court for the Middle District of Florida, Tampa Division, and the case is known as *Figueroa v. BayCare Health System, Inc.*, 8:17-cv-01780-JSM-AEP. The person who filed this lawsuit, ELAYNE FIGUEROA, is called the Plaintiff, and BAYCARE HEALTH SYSTEM, INC. is the Defendant.

2. What is the lawsuit about?

Plaintiff alleges that Defendant’s pre-employment Consumer Disclosure and Authorization Forms, and Defendant’s alleged procurement of consumer reports on the basis of those forms, violates the Fair Credit Reporting Act (“FCRA”). Based on this allegation, Plaintiff seeks statutory damages.

Defendant disputes the Plaintiff’s allegations and denies all liability to Plaintiff and the Settlement Class. In the lawsuit, Defendant has denied Plaintiff’s allegations and has raised a number of defenses to the claims asserted. Defendant has at all times maintained that its Consumer Disclosure and Authorization forms comply with the FCRA. Specifically, the Disclosure Regarding Background Investigation form provided to the Plaintiff and Settlement Class Members complied

with the FCRA's disclosure mandate, and by executing the Authorization of Background Investigation form the Plaintiff and Settlement Class Members expressly provided Defendant the requisite written FCRA authorization to have HireRight, Inc. procure a consumer report for employment purposes. No court has found Defendant violated the law in any way. No Court has found that the Plaintiff could recover any certain amount in this litigation. Although the Court has authorized Notice to be given of the proposed Settlement, this Notice does not express the opinion of the Court on the merits of the claims or defenses asserted by either side in the lawsuit.

3. Why is this case a class action?

Class actions are lawsuits in which the claims and rights of many people are decided in a single proceeding. In a class action, Representative Plaintiffs ("Class Representatives") seek to assert claims on behalf of all members of a class or Class of similarly situated people. In a class action, people with similar claims are treated alike. The court is guardian of the class's interests and supervises the prosecution of the class claims by Counsel for the Settlement Class to assure that the representation is adequate. Class members are not individually responsible for the costs or fees of counsel, which are subject to court award.

4. Why is there a settlement?

The Court did not decide this case in favor of the Class Representative or in favor of Defendant. Instead, Counsel for the Settlement Class investigated the facts and applicable law regarding the Class Representative's claims and Defendant's defenses. The parties engaged in lengthy and arm's-length negotiations to reach this settlement. The Class Representative and Counsel for the Settlement Class believe that the proposed settlement is fair, reasonable, and adequate and in the best interests of the class.

Both sides agree that, by settling, Defendant is not admitting any liability or that it did anything wrong. Both sides want to avoid the uncertainties and expense of further litigation.

Who Is In The Settlement

5. How do I know if I am part of the settlement?

You are a part of the settlement if between May 12, 2015 and May 12, 2017 you applied for employment or were employed by Defendant and Defendant procured or caused to be procured your consumer report on the basis of a consent form provided by HireRight, Inc. to you containing alleged extraneous information.

If you received a postcard notice, Defendant's records indicate you are a member of the Settlement Class. If you are not certain as to whether you are a member of the Settlement Class, you may contact the Claims Administrator to find out. In all cases, the question of class membership will be determined based on Defendant's records.

The Settlement Benefits—What You Get

6. What does the settlement provide?

If you are a member of the Settlement Class, you will receive benefits under the settlement.

If you are a member of the Settlement Class, you are eligible to receive a benefit under the settlement. Defendant has agreed to pay \$85,000.00 into a settlement fund. The fund will be divided *pro rata* among all Settlement Class members who do not opt out. The gross recovery for each class member who does not opt-out is approximately \$42.30. If the expected requests for attorneys' fees and expenses and the Plaintiff's award are granted by the Court, you should receive approximately \$20.41.

If any settlement funds remain after all checks have been distributed, and after all attorneys' fees, expenses and administrative costs have been paid, subject to Court approval, any unclaimed portion of the Settlement Fund after distributing the Net Settlement Fund proceeds and after the 60-day period for negotiating checks will constitute a "*cy pres*" fund and, subject to the Court's approval, will be donated to BayCare Emergency Assistance Program, Inc.

7. How can I get a benefit?

To receive your settlement payment, you do not have to do anything. Your interest as a member of the Settlement Class will be represented by the Plaintiff and Counsel for the Class. You will be bound by any judgment arising from the settlement. If the settlement is approved, you will receive a check for your share of the settlement fund.

8. When would I get my benefit?

The Court will hold a Fairness Hearing at 10:30 a.m. on November 14, 2018, in the United States District Court for the Middle District of Florida, Tampa Division, 801 North Florida Avenue, Tampa, Florida 33602, in Courtroom 17 to decide whether to approve the settlement. If the settlement is approved, there may be appeals. Payments to members of the Settlement Class will be made only if the settlement is finally approved. This may take some time, so please be patient.

9. What am I giving up to get a benefit or stay in the class?

Upon the Court's approval of the settlement, all members of the Settlement Class who do not exclude themselves (as well as spouses, heirs, and others who may possess rights on their behalf) will fully release Defendant (and its affiliates, subsidiaries, employees, and others who may be subject to claims with respect to Defendant as specified in the Settlement Agreement) for all claims, including claims for statutory damages and actual damages, arising out of or relating directly or indirectly in any manner whatsoever to the facts alleged or which could have been alleged or asserted in this case, including but not limited to any and all claims under the FCRA. This release may affect your rights, and may carry obligations, in the future. To view the full terms of this release, which are contained in the Settlement Agreement, please send a written request to Claims Administrator at *Figueroa v BayCare Health System, Inc.*, c/o Claims Administrator, PO Box 23648, Jacksonville, Florida, 32241-3648.

10. How do I get out of the Settlement?

If you choose to be excluded from the Settlement, you will not be bound by any judgment or other final disposition of the lawsuit. You will retain any claims against Defendant you might have. To request exclusion, you must state in writing your desire to be excluded from the Settlement Class. **Your request for exclusion must be sent by first class mail, postmarked on or before October**

15, 2018, addressed to:

Figueroa v. BayCare Health System, Inc.
c/o Claims Administrator
PO Box 23648
Jacksonville, Florida 32241-3648

If the request is not postmarked on or before October 15, 2018, your request for exclusion will be invalid, and you will be bound by the terms of the settlement approved by the Court, including without limitation, the judgment ultimately rendered in the case, and you will be barred from bringing any claims which arise out of or relate in any way to the claims in the case as specified in the Release referenced in paragraph 9 above.

11. If I don't exclude myself, can I sue Defendant for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Defendant for the claims that this settlement resolves regarding background check-related claims

12. If I exclude myself, can I get benefits from this settlement?

No. If you exclude yourself, you are not part of the settlement.

The Lawyers Representing You

13. Do I have a lawyer in this case?

The Court has appointed ELAYNE FIGUEROA as Class Representative. The Court has appointed Wenzel Fenton Cabassa, P.A. as Counsel for the Settlement Class:

Luis A. Cabassa, Esq.
Brandon J. Hill, Esq.
WENZEL FENTON CABASSA, P.A.
1110 North Florida Ave., Suite 300
Tampa, Florida 33602
Telephone: (813) 224-0431

Counsel for the Settlement Class represent the interests of the Settlement Class. You may hire your own attorney to advise you, but if you hire your own attorney, you will be responsible for paying that attorney's fees.

14. How will the lawyers be paid?

Class Counsel intend to apply to the Court for an award of attorneys' fees, in an amount not to exceed one-third of the settlement fund. The Court may award less. Class Counsel also will seek compensation for their out-of-pocket expenses and compensation for Plaintiff ELAYNE FIGUEROA in an amount not to exceed \$5,000.00. These amounts will be paid from the settlement fund, not by you.

Objecting To The Settlement

15. How do I tell the Court that I don't like the settlement?

You can object to any aspect of the proposed settlement by filing and serving a written objection. Your written objection must include: (1) your name, address, telephone number, email address and signature; (2) a detailed statement of the specific factual and legal basis for the objection(s) being asserted; (3) a notice of your intent to appear at the final Fairness Hearing at 10:30 a.m. on November 14, 2018, if you intend to appear; and (4) a detailed description of any and all evidence, including copies of any exhibits, which you may offer at the Fairness Hearing.

You must file any objection with the Clerk of the Court at the address below within 60 days of the postmark on this Notice.

United States District Court for the Middle District of Florida
Tampa Division
801 North Florida Avenue
Tampa, Florida 33602

You must also send your objection by first class mail, postmarked on or before October 15, 2018, to counsel for the Settlement Class and counsel for Defendant. These documents should be mailed to Settlement Class Counsel at:

Luis A. Cabassa, Esq.
Brandon J. Hill, Esq.
WENZEL FENTON CABASSA, P.A.
1110 North Florida Ave., Suite 300
Tampa, Florida 33602

And to counsel for BayCare Health System, Inc. at:

Thomas M. Gonzalez
tgonzalez@tsghlaw.com
Thompson, Sizemore, Gonzalez & Hearing, P.A.
One Tampa City Center
201 North Franklin Street, Suite 1600
Tampa, FL 33602-5246
Telephone: (813) 273-0050
Facsimile: (813) 273-0072
Attorneys for Defendant

Any member of the Settlement Class who does not file and serve an objection in the time and manner described above will not be permitted to raise that objection later.

16. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the Settlement. You can

object only if you stay in the Settlement. Excluding yourself is telling the Court that you don't want to be part of the Settlement. If you exclude yourself, you have no basis to object because the lawsuit no longer affects you.

17. Where and when will the Court decide whether to approve the settlement?

There will be a Fairness Hearing to consider approval of the proposed settlement at 10:30 a.m. on November 14, 2018, at the United States District Court for the Middle District of Florida, Tampa Division, 801 North Florida Avenue, Tampa, Florida 33602 in Courtroom 17. The hearing may be postponed to a later date without further notice. The purpose of the hearing is to determine the fairness, reasonableness, and adequacy of the terms of settlement; whether the Settlement Class is adequately represented by the Class Representative and Counsel for the Settlement Class; and whether an order and final judgment should be entered approving the proposed settlement. The Court also will consider Settlement Class Counsel's application on an award of attorneys' fees and expenses and Class Representative's compensation.

You will be represented at the Fairness Hearing by Counsel for the Settlement Class, unless you choose to enter an appearance in person or through your own counsel. The appearance of your own attorney is not necessary to participate in the Fairness Hearing.

18. Do I have to come to the hearing?

No. Counsel for the Settlement Class will represent the Settlement Class at the Fairness Hearing, but you are welcome to come at your own expense. If you send any objection, you do not have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, if you wish.

19. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing.

Getting More Information

20. Are there more details about the settlement?

This Notice is only a summary. For a more detailed statement of the matters involved in the lawsuit or the settlement, you may refer to the papers filed in this case during regular business hours at the office of the Clerk of the Court, United States District Court for the Middle District of Florida, Tampa Division, 801 North Florida Avenue, Tampa, Florida 33602, File: *Figueroa v. BayCare Health System, Inc.*, 8:17-cv-01780-JSM-AEP. The full Settlement Agreement and certain pleadings filed in this case can also be requested, in writing, from the Claims Administrator, identified in paragraph 10 above.

21. How do I get more information?

You can contact the Claims Administrator, identified in Paragraph 10 above. **Please do not contact the Court for information.**