

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

RICHARD ROGERS, individually and on )  
behalf of similarly situated individuals, )

*Plaintiff,* )

v. )

ILLINOIS CENTRAL RAILROAD )  
COMPANY, an Illinois corporation, )

*Defendant.* )

No. 19-CH-05129

Hon. Cecilia A. Horan

Judge Cecilia A. Horan

JUN 29 2022

Circuit Court - 2186

**PRELIMINARY APPROVAL ORDER**

This matter having come before the Court on Plaintiff's Unopposed Motion in Support of 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 Illinois Central Railroad Company, and Plaintiff Richard Rogers, (together, 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 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, and was reached after a full-day, arm's-length mediation with the Hon. James R. Epstein (Ret.) of JAMS Chicago and a second arm's-length mediation whereby the Parties finally came to an agreement in principle.

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 who accessed an Illinois Central Railroad Company (d/b/a “CN”) facility in Illinois through the SpeedGate System at any time between April 22, 2014 through June 27, 2022.

5. For settlement purposes only, Plaintiff Richard Rogers is hereby appointed as Class Representative.

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

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

7. The Court recognizes that, pursuant to the Settlement Agreement, Defendant retains all rights to object to the propriety of class certification in the Litigation 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, with the Parties’ agreement in Section III of the Settlement Agreement to control.

8. The Court approves, in form and content, the Claim Form, the Short Form Class Notice, and the Long Form Class Notice attached to the Settlement Agreement as Exhibits A, C, and D, respectively, 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 Notice Plan 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 individuals who have used Defendant's SpeedGate System to access Defendant's facilities in Illinois 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 Settlement 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 Notice Plan and its attendant documents 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. Epiq Class Actions & Claims Solutions is hereby appointed Settlement 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 Settlement Administrator may proceed with the execution of the Notice Plan as set forth in the Settlement Agreement.

12. Settlement 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 Notice Plan on or before **September 26, 2022**.

13. All Claim Forms must be either mailed via U.S. Mail or by FedEx or UPS to the address specified in the Claim Form or be electronically submitted to the Settlement Administrator

via the Settlement Website or via email no later than **September 26, 2022**. Settlement Class Members who do not timely submit a Claim Form deemed to be valid in accordance with Section VI of the Settlement Agreement shall not be entitled to receive any portion of the Settlement Fund.

14. Settlement 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. Settlement 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 Defendant or the Releasees 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 their request in a written exclusion request. Such exclusion requests must be received by the Settlement Administrator electronically via the Settlement Website, or at the address specified in the Class Notice in written form, by first class mail (or by FedEx or UPS), postage prepaid, and postmarked, no later than the Objection/Exclusion Deadline: **September 10, 2022**.

16. In order to exercise the right to be excluded, a person within the Settlement Class must timely mail or electronically submit a written request for exclusion to the Settlement Administrator providing their name, address, telephone number, the name and number of the case, a statement that they wish to be excluded from the Settlement Class, and a signature. Any request for exclusion submitted via first class mail must be personally signed by the Person requesting exclusion. Any request for exclusion submitted online may be signed electronically. No person within the Settlement Class, or any person acting on behalf of, in concert with, or in participation with that person within the Settlement Class, may request exclusion from the Settlement Class of any other person within the Settlement Class. Mass or class exclusions are not permitted.

17. Any person in the Settlement Class who elects to be excluded shall not: (i) be bound by any order or final Judgment; (ii) be entitled to relief under this 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.

18. Class Counsel may file any motion seeking an award of attorneys' fees, costs and expenses, as well as an Incentive Award for the Class Representative, in accordance with the terms of the Settlement Agreement, no later than **August 19, 2022**.

19. Any Settlement 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, costs, and expenses 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 filing a written objection, together with the supporting documentation set forth below in Paragraph 20 of this Order, with the Clerk of the Court, and served upon Class Counsel, Defendant's Counsel, and the Settlement Administrator no later than **September 10, 2022**. Contact Information for Class Counsel, Defendant's Counsel, the Settlement Administrator, and the Clerk of Court are as follows:

|  |  |
|--|--|
| <b>Class Counsel</b><br>Myles McGuire<br>Evan M. Meyers<br>David L. Gerbie<br>Brendan Duffner<br>McGuire Law, P.C.<br>55 W. Wacker Drive, 9th Floor<br>Chicago, IL 60601 | <b>Defendant's Counsel</b><br>Andrew J. Butcher<br>Charles Andrewsavage<br>Jared S. Kramer<br>Scopelitis, Garvin, Light, Hanson &<br>Feary, P.C.<br>30 W. Monroe Street, Suite 1600<br>Chicago, IL 60603 |
| <b>Settlement Administrator</b><br>Epiq Class Actions & Claims Solutions<br>P.O. Box 4656<br>Portland, OR 97208-4656   | <b>Clerk of Court</b><br>Clerk of the Circuit Court of Cook County<br>Chancery Division<br>50 W. Washington Street, #802<br>Chicago, IL 60602  |

20. Any Settlement Class Member who has not requested exclusion and who intends to object to the Settlement must state, in writing, all objections and the basis for any such objection(s), and must also state in writing: (i) the objector's full name, address, email address, and current telephone number; (ii) the case name and number of the Litigation; (iii) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (iv) the identification of any other objections they have filed, or has had filed on their behalf, in any other class action cases in the last four years; and (v) the objector's signature. If represented by counsel, the objecting Settlement Class Member must also provide the name and telephone number of their counsel. If the objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, they must state as such in the written objection and must also identify any witnesses they may call to testify at the Final Approval Hearing and all exhibits they intend to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, the written objection. Objections not filed and served in accordance with this Order shall not be received or considered by the Court. Any Settlement 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, costs, and expenses, to the payment of an Incentive Award, and to the Final Approval Order and the right to appeal same.

21. A Settlement 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 Plaintiff's Counsel's Fee and Expense Application and/or the request for an 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 Settlement Class Member who files a timely written objection and who indicates their intention to appear at the Final Approval Hearing on their own behalf or through counsel, such Settlement Class Member must also include in their written objection the identity of any witnesses they may call to testify, and all exhibits they intend to introduce into evidence at the Final Approval Hearing, which shall be attached.

22. No Settlement 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 Settlement Class Member who does not make their objection to the Settlement in the manner provided herein, or who does not also timely provide copies to the designated counsel of record for the Parties at the addresses set forth 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.

23. All papers in support of the final approval of the proposed Settlement shall be filed no later than ten (10) days before the Final Approval Hearing.

24. Pending the final determination of the fairness, reasonableness, and adequacy of the proposed Settlement, no Settlement Class Member may prosecute, institute, commence, or continue any lawsuit (individual action or class action) with respect to the Released Claims against any of the Releasees.

25. A hearing (the "Final Approval Hearing") shall be held before the Court on **October 3, 2022 at 10:00 a.m.** in Courtroom 2008 of the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602 (or via remote means as the Court may without further notice direct) 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 Settlement Class Members from further pursuing claims released in the Settlement Agreement;

(d) to consider the application for an award of attorneys' fees, costs and expenses 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.

26. 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 Settlement Class Members.

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

28. All discovery and other proceedings in the Litigation 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.



29. For clarity, the deadlines set forth above and in the Settlement Agreement are as follows:

|                                     |   |
|-------------------------------------|---|
| <b>Notice to be completed by:</b>   | <b><u>July 27, 2022</u></b>                 |
| <b>Fee and Expense Application:</b> | <b><u>August 19, 2022</u></b>               |
| <b>Objection Deadline:</b>          | <b><u>September 10, 2022</u></b>            |
| <b>Exclusion Request Deadline:</b>  | <b><u>September 10, 2022</u></b>            |
| <b>Final Approval Submissions:</b>  | <b><u>September 23, 2022</u></b>            |
| <b>Final Approval Hearing:</b>      | <b><u>October 3, 2022 at 10:00 a.m.</u></b> |
| <b>Claims Deadline:</b>             | <b><u>September 26, 2022</u></b>            |

**IT IS SO ORDERED.**

ENTER:

/s/ Cecilia A. Horan Judge No. 2186  
Meeting ID: 956 5899 1093  
Password: 129359  
Dial-in: 312-626-6799

Judge Cecilia A. Horan  
JUN 29 2022  
Circuit Court - 2186