

UNITED STATES OF AMERICA

STATE OF ILLINOIS

COUNTY OF DU PAGE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

PAUL LUKIS ET AL.

Plaintiff

-VS-

ONEPLUS USA CORP

Defendant

2023LA000573  
CASE NUMBER

**FILED**

**23 Aug 10 AM 10: 36**



**CLERK OF THE  
18TH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS**

**ORDER**

**FINAL PROPOSED PRELIMINARY APPROVAL ORDER**

This matter having come before the Court on Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, the Court having reviewed in detail and considered the Motion and Memorandum in support of the Motion, the Class Action Settlement Agreement between Plaintiffs Eric Wade, Kristopher Pacheco, Paul Lukis, Quinn Haine and Marlon Siguenza (collectively, "Plaintiffs"), and Defendant OnePlus USA Corp. ("OnePlus" or "Defendant"), 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.

**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 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 arm's 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 735 ILCS 5/2-801 – 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 735 ILCS 5/2-801, and for the purposes of settlement only, the following Settlement Class:

**The Settlement Class:**

The Settlement Class consists of two Settlement Sub-Classes:

- i. Settlement Subclass 1: all individuals who purchased a OnePlus 9 or OnePlus 9 Pro smartphone device in the United States between March 23, 2021, and July 6, 2021, and
- ii. Settlement Subclass 2: all individuals who purchased a OnePlus 9 or OnePlus 9 Pro smartphone device in the United States between July 7, 2021, and January 23, 2022.

The Settlement Class specifically excludes: (1) officers and directors of OnePlus and its parents, subsidiaries, affiliates and any entity in which OnePlus has a controlling interest; (2) all judges assigned to hear any aspect of the Action, as well as their staff and immediate family, (3) Settlement Class Counsel, their staff members and their immediate family, and (4) any persons or entities who or which

exclude themselves by submitting a timely and valid request for exclusion that is accepted by the Court.

5. For settlement purposes only, Plaintiffs are designated and appointed as Settlement Class Representatives.

6. For settlement purposes only, the following counsel are designated and appointed as Class Counsel: Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman, PLLC and Neal J. Deckant and Sean L. Litteral of Bursor & Fisher, P.A.

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.

8. The Court approves, in form and content, the forms of Notice attached to the Settlement Agreement as Exhibits A and B and finds that the planned Notice set forth in the Settlement Agreement meets the requirements of 735 ILCS 5/2-803 and constitutes the best notice practicable under the circumstances, 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 Class Notice and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.

9. KCC, LLC 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.

10. The Settlement Administrator may proceed with the distribution of Class Notice as set forth in the Settlement Agreement.

11. Unless they exclude themselves from the Settlement Class in a timely and proper manner, Settlement Class Members shall be bound by all determinations and orders pertaining to the Settlement, including the release of all Released Parties from any and all Released Claims, as set forth in the Settlement Agreement. 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 any Released Party relating to the Released Claims released under the terms of the Settlement Agreement.

12. Any person falling within the definition of the Settlement Class may, upon a valid and timely request, exclude themselves or "opt out" from the Settlement Class. Any such person may "opt-out", on or before the Objection/Exclusion Deadline, which is 90 days after entry of the Preliminary Approval Order. Any Members of the Settlement Class so excluded shall neither be bound by the terms of the Settlement Agreement nor entitled to any of its benefits.

13. 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.

14. Any person in the Settlement Class who elects to be excluded shall not: (a) be bound by any orders or the Final Approval Order; (b) be entitled to relief under the Settlement Agreement; (c) gain any rights by virtue of the Settlement Agreement; or (d) be entitled to any aspect of the Settlement Agreement.

15. Defendant has the right to terminate the Settlement Agreement if the number of Members of the Settlement Class who have filed a valid request for exclusion exceeds 100 Settlement Class Members.

16. 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 and costs that Class Counsel intends to seek and

the payment of the service awards to the Settlement Class Representatives, may do so, either personally or through an attorney, by filing a written objection, together with the supporting documentation set forth in Paragraph 17 of this Order, with the Clerk of the Court, and served upon Class Counsel, Defendant's Counsel, and the Settlement Administrator no later than 90 days after entry of the Preliminary Approval Order.

17. Any Settlement Class Member who intends to object to the Settlement Agreement must present the objection in writing on a timely basis and must: (a) include the case name and case number; (b) include the full name, mailing address, and telephone number of the Settlement Class Member objecting to the Settlement (the "Objector"); (c) include the Objector's signature, or the like signature or affirmation of an individual authorized to act on the Objector's behalf; (d) state with specificity the grounds for the objection; (e) state whether the objection applies only to the Objector, to a specific subset of the class, or to the entire class; (f) include the name, address, bar number, and telephone number of counsel for the Objector, if represented by an attorney in connection with the objection; and (g) state whether the Objector intends to appear at the Final Approval Hearing, either in person or through counsel. If the Objector or his or her attorney intends to present evidence at the Final Approval Hearing, the objection must contain a detailed description of all evidence the Objector will offer at the Final Approval Hearing, including copies of any and all exhibits that the Objector may introduce at the Final Approval Hearing. To the extent any Settlement Class Member objects to the proposed Settlement, and such objection is overruled in whole or in part, such Settlement Class Member will be forever bound by the Final Approval Order and accompanying Judgment.

18. 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 Agreement 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 Plaintiffs' Counsel's application for a Settlement Class Representative Service Award or Settlement Class Counsel Attorneys' Fees and Costs Award 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.

19. 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.

20. Pending the final determination of the fairness, reasonableness, and adequacy of the proposed Settlement Agreement, no Settlement Class Member may prosecute, institute, commence, or continue any lawsuit with respect to the Released Claims against the Released Parties.

21. The Final Approval Hearing shall be held before the Court on January 4, 2024 at 10:00 a.m. in Courtroom 2020 of the Circuit Court of DuPage County, Illinois (or at such other time and location 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 Agreement is fair, reasonable and adequate, and should be approved by the Court;
- c. to determine whether the Final Approval Order as provided under the Settlement Agreement should be entered including an order prohibiting Settlement Class Members from further pursuing the Released Claims in the Settlement Agreement;
- d. to consider the application for a Settlement Class Counsel Attorneys' Fees and Costs Award;
- e. to consider the application for Settlement Class Representative Service Awards; and
- f. to rule upon such other matters as the Court may deem appropriate.

22. Class Counsel shall file papers in support of their Settlement Class Counsel Attorneys' Fees and Costs Award with the Court no later than fourteen days prior to the Exclusion/Objection Deadline.

23. 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 final order approving the Settlement Agreement and a Final Approval Order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

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

25. The Court will have continuing jurisdiction over the Action for the purpose of implementing the Settlement until the Action and all related matters are fully resolved, and for enforcement of the Settlement, the Settlement Agreement and Final Order thereafter.

26. All discovery and other proceedings in the Litigation as between Plaintiffs 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.

27. The Parties to the Settlement Agreement are directed to carry out their obligations under the terms thereof.

28. In accordance with the provisions of the Settlement Agreement specifying the procedures for settlement administration and payment to Settlement Class Members, the Court enumerates below the following deadlines:

<b>Event</b>	<b>Reference timeframe</b>	<b>Date</b>
Settlement Class Notice	30 days after entry of the Preliminary Approval Order	September 9, 2023
Settlement Class Counsel Attorneys' Fees and Costs Award	14 days before Objection/Exclusion Deadline	October 25, 2023
Objection/Exclusion Deadline	90 days after entry of the Preliminary Approval Order	November 8, 2023
Final Approval Motion	49 days before Final Approval Hearing	November 16, 2023
Final Approval Hearing		January 4, 2024 at 10:00 a.m. in Room 2020 via

Zoom.

29. The Court hereby strikes the August 30, 2023 and November 20, 2023 status hearing dates from the court's calendar.

Submitted by: GARY M. KLINGER

Attorney Firm: MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN

DuPage Attorney Number: 368326

Attorney for: PLAINTIFFS

Address: 227 W MONROE STREET, SUITE 2100

City/State/Zip: CHICAGO, IL, 60606

Phone number: 866-252-0878

Email : gklinger@milberg.com

Entered:  File Date: 08/10/2023

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JUDGE ANGELO J KAPPAS

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