

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ROBERT GROGAN and HELENA CRUZ,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

MCGRATH RENTCORP,

Defendant.

Case No. 3:22-cv-00490-AGT

**~~PROPOSED~~ FINAL APPROVAL
ORDER**

Hearing Date: February 2, 2024
Hearing Time: 10:00 a.m.
Hearing Location: Courtroom A, 15th Floor
450 Golden Gate Ave.
San Francisco, CA
Judge: Judge Alex Tse

WHEREAS, the Court, having considered the Settlement Agreement filed on November 22, 2022 (Doc. 40-2) (the “Settlement”) between and among Plaintiffs Robert Grogan and Helena Cruz (“Plaintiffs” or “Settlement Class Representative”), individually and on behalf of the Settlement Class, and Defendant McGrath Rentcorp. (“McGrath” or “Defendant”) (collectively, the “Parties”), having considered the Court’s Order Granting Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”), having held a Final Approval Hearing on February 2, 2024, having considered all of the submissions and arguments with respect to the Settlement, and otherwise being fully informed, and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. Plaintiffs’ Motion for Final Approval of Class Action Settlement is **GRANTED**.

1 2. This Order incorporates herein and makes a part hereof, the Settlement (including its
2 exhibits) and the Preliminary Approval Order. Unless otherwise provided herein, the terms defined in the
3 Settlement and Preliminary Approval Order shall have the same meanings for purposes of this Order.

4 3. The Court has personal jurisdiction over Plaintiffs, the Settlement Class Members, and
5 Defendant for purposes of this settlement, and has subject matter jurisdiction over this matter including,
6 without limitation, jurisdiction to approve the Settlement, confirm certification of the Settlement Class
7 for settlement purposes only, to settle and release all claims released in the Settlement, and to dismiss
8 the Action with prejudice.
9

10 **I. CERTIFICATION OF THE SETTLEMENT CLASS**

11 4. Based on its review of the record, including the Settlement, all submissions in support of
12 the Settlement, and all prior proceedings in the Action, the Court finally certifies the following Settlement
13 Class and California Settlement Subclass (collectively, the “Settlement Class”) for settlement purposes
14 only:
15

16 All persons whose personal information, which may include health
17 information, was potentially exposed to unauthorized access as a result
18 of an Incident affecting Defendant’s computer network that occurred
19 in 2021.

20 Excluded from the Settlement Class are any individuals that validly opt out of the Settlement,
21 identified in Exhibit A hereto, each of whom submitted a timely and valid request for exclusion from the
22 Settlement Class prior to the Opt-Out Deadline. Such persons shall not receive the benefits of the
23 Settlement and shall not be bound by this Order.

24 5. For settlement purposes only, with respect to the Settlement Class, the Court
25 confirms that the prerequisites for a class action pursuant to Federal Rule of Civil Procedure 23 have
26 been met, in that: (a) the Settlement Class is so numerous that joinder of all individual Settlement Class
27 members in a single proceeding is impracticable; (b) questions of law and fact common to all members
28 of the Settlement Class predominate over any potential individual questions; (c) the claims of Plaintiffs

1 are typical of the claims of the Settlement Class; (d) Plaintiffs and proposed Class Counsel will fairly and
2 adequately represent the interests of the Settlement Class; and (e) a class action is the superior method to
3 fairly and efficiently adjudicate this controversy.
4

5 **II. NOTICE TO THE SETTLEMENT CLASS**

6 6. The Court finds that Notice has been given to the Settlement Class in the manner
7 directed by the Court in the Preliminary Approval Order. The Court finds that such Notice: (i) was
8 reasonable and constituted the best practicable notice under the circumstances; (ii) was reasonably
9 calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the
10 Action, the terms of the Settlement including its Releases, their right to exclude themselves from
11 the Settlement Class or object to all or any part of the Settlement, their right to appear at the Final
12 Approval Hearing (either on their own or through counsel hired at their own expense), and the
13 binding effect of final approval of the Settlement on all persons who do not exclude themselves
14 from the Settlement Class; (iii) constituted due, adequate, and sufficient notice to all persons or
15 entities entitled to receive notice; and (iv) fully satisfied the requirements of the United States
16 Constitution (including the Due Process Clause), and any other applicable law.
17
18

19 7. Furthermore, the Court finds that notice under the Class Action Fairness Act was
20 effectuated within the time required by 28 U.S.C. § 1715, and that ninety (90) days has passed without
21 comment or objection from any governmental entity.
22

23 **III. FINAL APPROVAL OF THE SETTLEMENT**

24 8. The Court finds that the Settlement resulted from arm's-length negotiations between Class
25 Counsel and Defendant.

26 9. The Court hereby finally approves in all respects the Settlement as fair, reasonable,
27 and adequate, and in the best interest of the Settlement Class.
28

1 10. The Court finds that Plaintiffs and Class Counsel fairly and adequately
2 represented the interests of Settlement Class Members in connection with the Settlement.

3 11. The Parties shall consummate the Settlement in accordance with the terms
4 thereof. The Settlement, and each and every term and provision thereof, including its Releases, shall be
5 deemed incorporated herein as if explicitly set forth herein and shall have the full force and effect of an
6 order of this Court.

7 **IV. DISMISSAL OF CLAIMS AND RELEASE**

8
9 12. The Action is hereby dismissed with prejudice as to all Parties including the
10 Settlement Class and without cost to any party, except as otherwise provided herein or in the
11 Settlement.

12 13. Upon the Effective Date, and in consideration of the benefits set forth in the Settlement,
13 the Releasing Parties (Plaintiffs and all Settlement Class Members who do not timely and properly
14 exclude themselves from the Settlement, and each of their respective heirs, executors, administrators,
15 representatives, agents, partners, successors, attorneys, and assigns) shall release the Released Parties
16 (McGrath RentCorp and each of its present and former parents, subsidiaries, divisions, affiliates,
17 predecessors, successors, and assigns, and the present and former directors, officers, employees, agents,
18 insurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers,
19 independent contractors, wholesalers, resellers, distributors, retailers, and the predecessors, successors,
20 and assigns of each of them as well as covered entities associated with the data breach) from the Released
21 Claims.
22

23
24 14. For purposes of this Final Approval Order, “Released Claims” means all claims and causes
25 of action that were or could have been raised in either of the lawsuits, including but not limited to any
26 causes of action under California Civil Code §1798.150 or §17200 *et seq.*, and all similar statutes in effect
27 in any states in the United States as defined herein; negligence; negligence per se; breach of contract;
28

1 breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy;
2 misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness;
3 failure to provide adequate notice pursuant to any breach notification statute or common law duty; and
4 including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory
5 relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services,
6 the creation of a fund for future damages, statutory damages, punitive damages, special damages,
7 exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either
8 has been asserted, or could have been asserted, by any Class Member against any of the Released Parties
9 based on, relating to, concerning or arising out of the Incident and alleged theft of Personal Information
10 arising from the Incident or the allegations, facts, or circumstances described in either the complaint filed
11 by Plaintiff Grogan or Plaintiff Cruz, and includes claims that the Releasing Parties did not know or
12 suspect to exist in his/her favor at the time of the release that, if known by him or her, might have affected
13 his or her settlement with, and release of, the Released Persons, or might have affected his or her decision
14 not to object to and/or participate in this Agreement. The Parties stipulate and agree that upon the
15 Effective Date, the Representative Plaintiffs expressly shall have, and each of the other Settlement Class
16 Members shall be deemed to have, and by operation of the Judgment shall have, waived the provisions,
17 rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights,
18 and benefits conferred by any law of any state, province, or territory of the United States which is similar,
19 comparable, or equivalent to California Civil Code § 1542, which provides:

22 A general release does not extent to claims that the creditor or releasing party does not know or
23 suspect to exist in his or her favor at the time of executing the release and that, if known by him
24 or her, would have materially affected his or her settlement with the debtor or released party.

25 15. Settlement Class Members, including the Representative Plaintiffs, and any of them, may
26 hereafter discover facts in addition to, or different from, those that they now know or believe to be true
27 with respect to the subject matter of the Released Claims, but the Representative Plaintiffs expressly
28

1 have, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment
2 shall have, upon the Effective Date, fully, finally, and forever settled and released any and all Released
3 Claims. The Parties acknowledge, and the Settlement Class Members shall be deemed by operation of
4 the Judgment to have acknowledged, that the foregoing waiver is a material element of the Agreement
5 of which the Release set forth in Section IX below is a part. Released Claims shall not include the right
6 of any Class Member or any of the Released Persons to enforce the terms of the settlement contained in
7 the Settlement Agreement and shall not include the claims of Class Members who have timely excluded
8 themselves from the Settlement Class.
9

10 **V. ATTORNEYS' FEES, COSTS, AND EXPENSES AND REPRESENTATIVE**
11 **PLAINTIFFS' SERVICE AWARD**

12 16. The Court awards attorneys' fees of \$466,66.67 and reimbursement of costs and expenses
13 in the amount of \$27,051.20, and payment of a service award in the amount of \$5,000 to each Plaintiff.
14 The Court directs the Settlement Administrator to pay such amounts in accordance with the terms of
15 the Settlement. Class Counsel, in their sole discretion to be exercised reasonably, shall allocate and
16 distribute the attorneys' fees, costs, and expenses awarded by the Court among Plaintiffs' counsel of
17 record in the Action.
18

19 **VI. OTHER PROVISIONS**

20 17. Without affecting the finality of this Final Approval Order in any way, the Court retains
21 continuing and exclusive jurisdiction over the Parties and the Settlement Class for the purpose of
22 consummating, implementing, administering, and enforcing all terms of the Settlement.

23 18. Nothing in this Final Approval Order, the Settlement, or any documents or statements
24 relating thereto, is or shall be deemed or construed to be an admission or evidence of any violation of any
25 statute or law or of any liability or wrongdoing by Defendant.
26

27 19. In the event the Effective Date does not occur, this Final Approval Order shall be rendered
28 null and void and shall be vacated and, in such event, as provided in the Settlement, this Order and all

1 orders entered in connection herewith shall be vacated and null and void, the Parties shall be restored to
2 their respective positions in the Action, all of the Parties' respective pre-Settlement claims and defenses
3 will be preserved, and the terms and provisions of the Settlement shall have no further force and effect
4 with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose,
5 and any judgment or order entered by the Court in accordance with the terms of the Settlement shall be
6 treated as vacated, *nunc pro tunc*.

7
8 **IT IS SO ORDERED.**

9 Dated: February 6, 2024

By: 

The Honorable Alex Tse
United States Magistrate Judge

EXHIBIT A

1. Kroll Record Identification Number- 6467813NRGGGY