

NOTICE OF CLASS ACTION SETTLEMENT

D'ERICA WASHINGTON v. ESA MANGEMENT, LLC
Superior Court of the State of California, County of Alameda
Case No.: RG18898705

If from March 27, 2013 through February 20, 2020, you applied for employment with ESA Management, LLC and ESA Management, LLC procured a background check report on you for employment purposes, a class action lawsuit may affect your rights and you may be entitled to a payment under this proposed settlement (the “Settlement”).

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

- This is a class action lawsuit that involves a class defined as “all persons who applied for employment with Defendant in the United States during the Class Period for whom Defendant procured a background check report for employment purposes.” The Class Period is defined as the period beginning on March 27, 2013 through February 20, 2020.
- Plaintiff in this class action alleges that ESA Management, LLC acquired consumer, investigative consumer, and/or consumer credit reports to conduct background checks on Plaintiff and other prospective current and former applicants for employment purposes without providing proper disclosures and obtaining proper authorization in violation of the Fair Credit Report Act and failed to provide prospective current and former employees with a Summary of Rights under the Fair Credit Reporting Act, along with similar state law claims under the California Investigative Consumer Reporting Agencies Act, and the California Consumer Credit Reporting Agencies Act.
- ESA Management, LLC denies Plaintiff’s claims, and asserts that it has complied with all of its legal obligations to applicants and its employees.
- There has been a Settlement that affects your legal rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiff’s claims or ESA Management, LLC’s defenses.
- You have several options available to you:

DO NOTHING	By doing nothing, you will receive a share of the settlement proceeds, and you will give up any rights to sue ESA Management, LLC and Released Parties separately regarding all claims and causes of action of whatever kind or nature that are alleged, related to or that reasonably could have arisen out of the same facts alleged in this class action.
ASK TO BE EXCLUDED (OPT OUT)	Get out of this lawsuit. Get no benefits from the Settlement. Keep rights. If you ask to be excluded, you will not receive a share of the Settlement proceeds, but, you keep any rights you may have to sue ESA Management, LLC and the Released Parties separately about the same legal claims alleged in this lawsuit.
OBJECT	Object to the terms of this Settlement.

Your options are explained in this notice.
To opt out or object, you must act by November 1, 2021.

1. Why did I get this notice?

A Settlement has been reached in a class action lawsuit that was brought on behalf of a class of people defined as all persons who applied for employment with Defendant in the United States during the Class Period for whom Defendant procured a background check report for employment purposes.”

You have received this notice because ESA Management, LLC’s records indicate that you are a member of this class.

2. What is this lawsuit about?

In this class action lawsuit, Plaintiff alleges on behalf of herself and a putative nationwide and California class the following claims against ESA Management, LLC (“Defendant”): (1) violation of 15 U.S.C. §§ 1681b(b)(2)(A) (Fair Credit Reporting Act); (2) violation of 15 U.S.C. §§ 1681d(a)(1) and 1681g(c) (Fair Credit Reporting Act); (3) violation of California Civil Code § 1786 *et seq.* (Investigative Consumer Reporting Agencies Act); (4) violation of California Civil Code § 1785 *et seq.* (Consumer Credit Reporting Agencies Act); (5) unfair competition (Business and Professions Code §§ 17200 *et seq.*). The class action lawsuit asserts claims for statutory damages, punitive damages, restitution, injunctive and equitable relief, and attorneys’ fees and costs.

ESA Management, LLC denies Plaintiffs’ claims, and asserts that it has complied with all of its legal obligations to applicants and its employees.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff’s allegations or ESA Management, LLC’s defenses.

4. Why did this case settle?

The Parties reached a Settlement in order to avoid the risk and expense of further litigation. Plaintiff and her attorneys believe the Settlement is fair, adequate and in the best interest of the class members to whom it applies given the outcome of their investigation, the consumption of time and resources required in connection with further litigation, and the uncertainty in the law governing some of the claims presented. Although ESA Management, LLC disputes Plaintiff’s claims and asserts it has complied with all of its legal obligations towards applicants and its employees, ESA Management, LLC has also concluded that further litigation would be protracted and expensive, and would also divert resources and management and employee time.

5. What are the terms of the settlement and how much will I receive?

Subject to final Court approval, Defendant will pay \$2,950,000.00 (the Gross Settlement Amount) for: (a) Settlement Payments to Participating Class Members; (b) the Court-approved Class Counsel’s fees and costs; (c) the Court-approved Service Payment to the Class Representative; and (d) the Settlement Administration Costs.

Participating Class Member Settlement Payments. After deductions from the Gross Settlement Amount for attorneys’ fees and costs, the Service Payment to the Class Representative, and the Settlement Administration Costs, there will be a Net Settlement Amount. From the Net Settlement Amount, Defendant will make a payment (Settlement Payment) to each Class Member who does not opt out of the Settlement Class as follows: (a) sixty-eight percent (68%) of the Net Settlement Amount shall be divided evenly among Class Members on a pro rata basis whose background

check Defendant procured or caused to be procured on or after March 27, 2016 through February 20, 2020; (b) thirty-two percent (32%) of the Net Settlement Amount shall be divided evenly among Class Members on a pro rata basis whose background check Defendant procured or caused to be procured from March 27, 2013 through March 26, 2016. If a Class Member does not cash his or her settlement check within 180 days from date of its issuance, the uncashed funds will revert back to the Qualified Settlement Fund and will be paid as a *cy pres award* to the National Center for Youth Law, a 501c(3) non-profit organization.

While the precise amount of your Settlement Payment is not known at this time, if Defendant procured or caused to be procured a background check on you from March 27, 2013 through March 26, 2016, you estimated Settlement Payment is \$18.70. If Defendant procured or caused to be procured a background check on you from March 27, 2016 through February 20, 2020, you estimated Settlement Payment is \$30.97.

None of the Parties or attorneys makes any representations concerning the tax consequences of this settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

If Notice to a Class Member was returned as undeliverable, and if the Settlement Administrator cannot locate a valid address for a Class Member with reasonable efforts, the Class Member will not be mailed a check and the money that would have gone to that Class Member will be redistributed to the other Participating Class Members whose Notices were not returned as undeliverable.

Class Counsel Attorneys' Fees and Costs, Service Payment to Class Representative, and Administrative Costs. Class Counsel will ask the Court for an award of reasonable attorneys' fees up to one-third of the Gross Settlement Amount and reasonable litigation costs. Class Counsel will also ask the Court to authorize a service payment to Class Representative in an amount not to exceed \$10,000.00, in addition to the Class Representative's portion of the Net Settlement Amount. The Parties estimate the costs of administering the Settlement will be \$130,000.00 but in any event, shall not exceed \$150,000.00.

6. What do I have to do to receive a share of the Settlement?

If you wish to receive a payment under the terms of this Settlement, you do not have to do anything. However, it is advisable to confirm your current mailing address with the Settlement Administrator in order to ensure you receive your settlement share. You will be covered by the release summarized in Section 7, below.

7. What claims are being released by the proposed Settlement?

If the Court grants final approval of the Settlement, then, as of the Effective Date, Plaintiff and each member of the Settlement Class shall fully and finally compromise, release, resolve, relinquish, and discharge each and all Released Parties from any and all claims, causes of action, demands, and obligations, and all other forms of legal or equitable relief that were or could have been raised, whether such claims are known or unknown, arising from the factual allegations made in the Action relating in any way to background checks, reference checks, investigations, and/or consumer reports of any kind, including, without limitation, claims based on alleged violations of the Fair Credit Reporting Act (15 U.S.C. §§ 1681 *et seq.*), the California Investigative Consumer Reporting Agencies Act (California Civil Code §§ 1786 *et seq.*), the California Consumer Credit Reporting Agencies Act (California Civil Code §§ 1785 *et seq.*), California Business and

Professions Code section 17200 *et seq.* or any other source of obligation, based on federal, state or local law, that is now recognized by law or that may be created or recognized in the future by statute, regulation, judicial decision, or in any other manner, arising out of the facts that were alleged, or could have been alleged in regard to the subject of those allegations in the Action, through February 20, 2020. The parties agree that the judgment and release of claims provided herein shall have *res judicata* effect.

“Released Parties” means Defendant ESA Management, LLC, and all of its past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and its respective successors and predecessors in interest, subsidiaries, affiliates, members, parents, and attorneys.

8. What if I do not wish to be involved?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement by submitting an Opt-Out Request. If you opt-out, you will receive no money from the Settlement, and you will not be bound by its terms.

To opt-out, you must submit by First-Class Mail, a letter or written request to the Settlement Administrator and postmarked by November 1, 2021 that includes your name and signature, the last four digits of your Social Security Number and the following statement or something similar to “I request to be excluded from the class action proceedings in the matter of *D’erica Washington v. ESA Management, LLC*, Case No. RG18898705 pending in the California Superior Court, County of Alameda.”

If you do not submit a valid and timely executed Opt-Out Request (as evidenced by the postmark,) your Opt-Out Request will be rejected and you will be a member of the Settlement Class and bound by all the terms of the Settlement and any judgment entered once the Settlement is approved by the Court.

The address for the Settlement Administrator is: Phoenix Settlement Administrators, PO Box 7408, Orange, CA 92863.

9. What if I have an objection?

If you have not submitted an Opt-Out Request and believe the Settlement should not be finally approved by the Court for any reason you may object to the Settlement. To object to the Settlement you may submit by First-Class Mail a written objection to the Settlement Administrator and postmarked by November 1, 2021 that includes your name and signature, the last four digits of your Social Security Number, the reasons for the objection, whether you intend to appear at the Final Approval Hearing, and the name of the case: *D’erica Washington v. ESA Management, LLC*, Case No. RG18898705 pending in the California Superior Court, County of Alameda.” You may also object to the Settlement by attending the final fairness hearing, even if you have not filed a written objection.

The Settlement Administrator shall forward copies of any objections to Class Counsel and Defendant’s Counsel within three (3) days of receipt. Class Counsel shall submit copies of any objections received to the Court in conjunction with the filing of the motion for Final Approval of the Settlement.

The address for the Settlement Administrator is: Phoenix Settlement Administrators, PO Box 7408, Orange, CA 92863

Even if you submit an objection, you will be bound by the terms of the Settlement unless the Settlement is not finally approved by the Court.

10. Do I need a lawyer?

You do not need to hire your own lawyer, because Class Counsel is working on your behalf. However, if you want your own lawyer, you are free to hire one at your own expense.

<u>Class Counsel:</u> SETAREH LAW GROUP Shaun Setareh William Pao 9665 Wilshire Boulevard, Suite 430 Beverly Hills, CA 90212 Telephone: (310) 888-7771	<u>Counsel for ESA Management, LLC</u> LITTLER MENDELSON, P.C. Lindbergh Porter Kurt R. Bockes 333 Bush Street, 34th Floor San Francisco, CA 94104 (415) 433-1940
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11. What happens next in the case?

The Settlement has only been preliminarily approved by the Court. The Court will hold a hearing in Dept. 23 of the Alameda County Superior Court, 1225 Fallon St, Oakland, CA 94612 on December 14, 2021, at 3:00 p.m. (Pacific Time), to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel’s requests for attorneys’ fees and costs, the Service Payment to the Class Representative, and the Settlement Administration Costs. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing.

12. How can I receive more information?

This notice is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you may review the detailed Stipulation of Settlement on file with the Clerk of the Court. The pleadings and other records in this litigation may be examined at any time during regular business hours at the Office of the Clerk of the Alameda County Superior Court, 1225 Fallon St, Oakland, CA 94612. The pleadings and other records in this litigation may also be examined online on the Alameda County Superior Court’s website, known as “DomainWeb,” at <http://publicrecords.alameda.court.ca.gov/PRS/>. After arriving at the website, click the “Search by Case Number” link, then enter RG18898705 as the case number and click “SEARCH.” Images of every document filed in the case may be viewed through the “Register of Actions” at a minimal charge. You may also view image of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

Any questions regarding this Notice should be directed to the Settlement Administrator or to Class Counsel at the addresses listed above in this Notice. For further information, you may also telephone the Settlement Administrator at (888) 570-0014.

Please do not telephone the Court, the Office of the Clerk, or ESA Management, LLC for information regarding this Settlement.