

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF NEW YORK

JASON WENTWORTH, on behalf of)
himself and all others similarly situated,)
)
Plaintiff,)
)
v.)
)
METRODATA SERVICES, INC.,)
)
Defendant.)

Case No. 1:17-cv-594

**ORDER ON JOINT MOTION FOR APPROVAL OF CY PRES DISTRIBUTION OF
SETTLEMENT FUNDS
(Doc. 87)**

In 2017, Plaintiff Jason Wentworth sued Defendant Metrodata Services, Inc. (“Metrodata”), alleging that Metrodata violated the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 *et seq.*, when it provided a consumer report about Plaintiff to a prospective employer. On November 9, 2020, the court granted Plaintiff’s motion to certify the class with respect to the § 1681c class. (Doc. 64.) On January 6, 2022, the court entered a final order and judgment approving the class settlement. (Doc. 86.)

The settlement provides that if funds remain in the settlement fund 90 days after distributions have been made to class members, all remaining funds “shall be disbursed to a cy pres beneficiary proposed by Class Counsel subject to Metrodata’s approval.” (Doc. 76-1 ¶ 4.6.) The settlement “preliminarily proposes” the Center for Employment Opportunities, Inc. (“CEO”) as cy pres beneficiary. (*Id.*) Before the court is a joint motion to designate CEO as cy pres beneficiary and to allow disbursement of all remaining settlement funds to CEO. (Doc. 87.)

The cy pres designee “should be those whose interests reasonably approximate those being pursued by the class.” *In re Citigroup Inc. Secs. Litig.*, 199 F. Supp. 3d 845, 848 (S.D.N.Y.

2016) (quoting *In re Lupron Mktg. & Sales Prac. Litig.*, 677 F.3d 21, 33 (1st Cir. 2012)). The requirement that the cy pres beneficiary's interests approximate the interests of the class "stems from the trust law requirement . . . to preserve the settlor's original purpose in creating the trust." *Id.* at 848.

This litigation alleges violations of the FCRA related to Defendants' use of consumer reports for employment purposes. The FCRA regulates the procurement, use, and content of consumer reports to ensure background checks and consumer reports are accurate and contain only lawfully reportable information. This litigation alleges that Metrodata's violation of the FCRA led class members to lose job opportunities, suffer embarrassment, and experience humiliation and other emotional and mental distress. (*See* Doc. 1 ¶ 73.)

CEO is a New York-based 501(c)(3) nonprofit that provides "comprehensive employment services to people newly released from New York State prisons and detention facilities." (Doc. 87 at 2–3.) CEO has facilitated more than 34,000 placements into full-time employment for formerly incarcerated individuals. (*Id.* at 3.)

The interests of CEO reasonably approximate those pursued by the class in this litigation. Accordingly, the allocation of the anticipated \$53,190.00 settlement fund balance to CEO as the cy pres designee is appropriate.

Conclusion

The Joint Motion for Approval of Cy Pres Distribution of Settlement Funds (Doc. 87) is GRANTED. The Center for Employment Opportunities, Inc. is designated as the cy pres beneficiary.

Dated this 1st day of July, 2022.



Geoffrey W. Crawford, Judge
United States District Court