

Exhibit E

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re LUXOTTICA OF AMERICA, INC. DATA SECURITY BREACH LITIGATION)	No. 1:20-cv-00908-MRB
)	
)	<u>CLASS ACTION</u>
)	
This Document Relates To:)	Judge Michael R. Barrett
)	
ALL ACTIONS.)	
)	

**[PROPOSED] ORDER GRANTING PLAINTIFFS’ UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Before this Court is Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement (“Motion”). The Court has reviewed the Motion and Settlement Agreement between Plaintiffs and Defendant Luxottica of America, Inc. (“Luxottica” or “Defendant”). After reviewing Plaintiffs’ unopposed request for preliminary approval, this Court grants the Motion and preliminarily concludes that the proposed Settlement is fair, reasonable, and adequate.

IT IS HEREBY ORDERED THAT:

1. The Settlement, as provided for in the Settlement Agreement,¹ is fair, reasonable, and adequate, subject to further consideration at the Final Approval Hearing described below. The Court finds pursuant to Fed. R. Civ. P. 23(e)(1)(B)(i) that the terms of the Settlement Agreement appear to be fair, reasonable, and adequate such that it will likely be able to finally approve the Settlement Agreement under Fed. R. Civ. P. 23(e)(2) after the hearing on final approval of the Settlement Agreement. Specifically, the Court preliminarily finds: that the Named Plaintiffs and their counsel have adequately represented the putative Class, that the settlement negotiations were conducted at arm's-length and were supervised by a well-respected mediator, that the Settlement Agreement treats Settlement Class Members equitably relative to each other, and that the relief offered by the Settlement Agreement appears to be adequate, taking into account: (a) the costs, risks, and delay of trial and appeal; (b) the effectiveness of any proposed method of distributing relief to the class; including the method of processing class-member claims; (c) the terms of any proposed award of attorney's fees, including timing of payment; and (d) any agreement required to be identified under Rule 23(e)(3).

2. The Court does hereby preliminarily and conditionally approve and certify, for settlement purposes, the following Class:

All residents of the United States of America whose PII or PHI was compromised in the Data Incident.²

The Settlement Class specifically excludes: (a) Luxottica and its respective officers and directors; (b) all members of the Settlement Class who timely and validly request exclusion from the Settlement Class; (c) the Judge and Magistrate Judge assigned to evaluate the fairness of this settlement; and (d) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating,

¹ All capitalized terms used in this Order shall have the same meanings as set forth in the Settlement Agreement.

² "Data Incident" shall mean the incident occurring in 2020 wherein Defendant's appointment records were accessed by an unauthorized party.

causing, aiding, or abetting the Data Incident or who pleads *nolo contendere* to any such charge.

3. The Court finds pursuant to Fed. R. Civ. P. 23(e)(1)(A) that the Parties have provided sufficient information for it to be able to determine whether to give notice of settlement to the Class.

4. The Court further finds pursuant to Fed. R. Civ. P. 23(e)(1)(B)(ii) that it will likely be able to certify the Class for settlement purposes after the hearing on final approval of the Settlement Agreement, for the following reasons: the Class is ascertainable; it consists of roughly 829,454 Settlement Class Members satisfying numerosity; there are common questions of law and fact including whether Defendant failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information compromised in the Data Incident, satisfying commonality; the proposed Class Representatives' claims are typical in that they are members of the Class and allege that they have been damaged by the same conduct as the other members of the Class; the proposed Class Representatives and Interim Settlement Class Counsel fully, fairly, and adequately protect the interests of the Class; questions of law and fact common to members of the Class predominate over questions affecting only individual members for settlement purposes; and a class action for settlement purposes is superior to other available methods for the fair and efficient adjudication of this Action.

5. The Court appoints Plaintiffs Astrid Ela f/k/a Jessie Crockett, Michael Doyle, Phillip Gervais, John Gloss, Larry Payne (on behalf of his minor child, M.P.), and Donna Rivera as the Settlement Class Representatives.

6. The Court appoints Dorothy P. Antullis of Robbins Geller Rudman & Dowd LLP; Bryan L. Bleichner of Chestnut Cambronne, PA; and Hassan A. Zavareei of Tycko & Zavareei, LLP as Interim Settlement Class Counsel.

7. The Court appoints Kroll as the Settlement Administrator.

8. A Final Approval Hearing shall be held before the Court on ___[date]_____, 2024 at ___[time]_____ for the following purposes:

(a) To determine whether the proposed Settlement is fair, reasonable, and adequate to the Class and should be approved by the Court;

(b) To determine whether to grant Final Approval, as defined in the Settlement Agreement;

(c) To determine whether the Notice Plan as conducted was appropriate;

(d) To determine whether the claims process under the Settlement is fair, reasonable, and adequate and should be approved by the Court;

(e) To determine whether Class Counsel's request for fees, costs, and service awards should be approved by the Court;

(f) To determine whether the settlement benefits are fair, reasonable, and adequate; and

(g) To rule upon such other matters as the Court may deem appropriate.

9. The Court approves, as to the form and content, the Notices (including the Short Form Notices and Long Form Notice). Furthermore, the Court approves the implementation of the Settlement Website and the proposed methods of mailing or distributing the notices substantially in the form as presented in the exhibits to Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, and finds that such Notice Plan meets the requirements of Federal Rule of Civil Procedure 23 and due process, is the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons or entities entitled to notice.

10. The Court preliminarily approves the following Settlement Timeline for the purposes of conducting the Notice Plan, settlement administration, claims processing, and other execution of the proposed Settlement:

SETTLEMENT TIMELINE

<u>Event</u>	<u>Proposed Date</u>	<u>Court-Adopted Date</u>
Defendant provides list of Settlement Class Members and contact information to the Settlement Administrator	10 days following entry of Preliminary Approval Order	
Notice Date	30 days following entry of Preliminary Approval Order	
Reminder Notice	40-55 days after Notice Date	
Motion for Attorneys' Fees and Litigation Expenses, and Class Representative Service Awards	45 days after Notice Date	
Objection Deadline	Received by 60 days after Notice Date	
Opt-Out Deadline	Mailed by 70 days after Notice Date	
Settlement Administrator Shall Provide List of Opt-Outs to the Parties' Counsel	10 days after Opt-Out Date	
Motion for Final Approval	35 days prior to Final Fairness Hearing	
<u>Final Fairness Hearing</u>	No earlier than 115 days following Notice Date	
Claim Deadline	120 days after Notice Date	

11. In order to be a timely claim under the Settlement, a Claim Form must be mailed to the Settlement Administrator, or submitted online, no later than 120 days after the Notice Date.

Interim Settlement Class Counsel and the Settlement Administrator will ensure that all specific dates and deadlines are added to the Notice and posted on the Settlement Website after this Court enters this Order in accordance with the timeline being keyed on the grant of this Order.

12. All requests to opt-out of the proposed Settlement must be mailed to the Settlement Administrator no later than 70 days after the Notice Date. Any request to opt out of the Settlement must be in writing, and clearly manifest the Person's intent to opt-out of the Settlement Class. The request for exclusion shall also be signed by the individual, and to the extent possible, contain words or phrases such as "opt-out," "opt out," or words or phrases to that effect indicating an intent not to participate in the settlement or be bound by this Agreement. Opt-out notices shall not be rejected simply because they were inadvertently sent to the Court or Class Counsel so long as they are timely mailed or received by the Court, Kroll, or Interim Settlement Class Counsel. Settlement Class Members who seek to opt-out shall receive no benefit or compensation under the Settlement Agreement.

13. Settlement Class Members may submit an objection to the proposed Settlement under Federal Rule of Civil Procedure 23(e)(5). For an Objection to be valid, it must be in writing and received by Settlement Class Counsel and counsel for Defendant, or by the Settlement Administrator, within 60 days of the Notice Date and include each and all of the following:

- (i) the objector's full name and address;
- (ii) the Action's case name and number;
- (iii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (*e.g.*, copy of the objector's settlement notice, copy of original notice of the Data Incident, or a statement explaining why the objector believes he or she is a Settlement Class Member);

(iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable;

(v) the identity of any and all counsel (if any) representing the objector in connection with the objection;

(vi) a statement whether the objector and/or his or her counsel will appear at the Final Fairness Hearing;

(vii) a list of all class action settlements in which the objector and/or his counsel has submitted objections; and

(viii) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative (if any) representing him or her in connection with the objection.

Any Objection failing to include the requirements expressed above will be deemed to be invalid. Furthermore, any Settlement Class Member objecting to the Settlement agrees to submit to any discovery related to the Objection.

For all objections received, Interim Settlement Class Counsel will file them with the Court as an exhibit to the motion for final approval of the settlement.

14. All Settlement Class Members shall be bound by all determinations and judgments in this Action concerning the Settlement, including, but not limited to, the release provided for in the Settlement Agreement, whether favorable or unfavorable, except those who timely and validly request exclusion from the Class. The persons and entities who timely and validly request exclusion from the Class will be excluded from the Class and shall not have rights under the Settlement Agreement, shall not be entitled to submit Claim Forms, and shall not be bound by the Settlement Agreement or any Final Approval Order as to Luxottica in this Action.

15. Pending final determination of whether the Settlement Agreement should be approved, Plaintiffs and the Class are barred and enjoined from commencing or prosecuting any claims asserting any of the Released Claims against Luxottica.

16. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the potential Settlement Class Members and retains jurisdiction to consider all further requests or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modification as may be agreed to by the Parties or as ordered by the Court, without further notice to the Class.

IT IS SO ORDERED this ____ day of _____, 2024.

THE HONORABLE MICHAEL R. BARRETT
UNITED STATES DISTRICT JUDGE