

## Consumers About Whom Employment Background Investigations LLC Issued Consumer Reports *Could Get Money from a Class Action Settlement*

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

- There has been a class action lawsuit filed against Employment Background Investigations, LLC (“EBI”). The lawsuit claims that EBI’s reports contained criminal history that should not have been included in those reports, and EBI should have corrected those inaccuracies when consumers disputed with EBI. EBI denies it did anything wrong and denies any liability whatsoever.
- On July 11, 2024 the Court preliminarily approved a settlement in which EBI agreed to make cash payments to certain individuals. This Notice is being provided to inform you about the proposed additional terms of the Settlement.
- You may be eligible for a payment from the Settlement if EBI provided a report about you to an employer that contained criminal-history information and you later disputed that information to EBI.
- The Settlement will provide \$157,200 to eligible Class Members.
- Your legal rights are affected by the proposed Settlement even if you do nothing.
- Your rights and options relating to the Settlement — and the deadlines to exercise them — are explained in this notice. Please read this entire notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>Do Nothing</b>	Get a cash payment if you qualify. If EBI provided a report about you to an employer that contained criminal-history information and you later disputed that information to EBI, you will automatically receive a payment from the Settlement Fund, expected to be \$400. If the Settlement is approved, you will give up any rights you may have as to EBI about the same legal claims in this Settlement ( <i>see</i> Question 21).
<b>Object to the Settlement</b>	Write to the Court about why you do not like the proposed Settlement ( <i>see</i> Question 16). Objections are due on September 14, 2024,.
<b>Opt Out of the Claim Form Settlement Class</b>	You may exclude yourself from the Claim Form Class. If you do not want to remain a member of the Claim Form Settlement Class and want to keep any rights you may have as to EBI, you must take steps to exclude yourself. This is sometimes referred to as “opting out” of the Settlement Class. Opting out gives you the right to bring your own claim but does not guarantee that any such claim would be successful.  To exclude yourself from the Claim Form Class, you must send a written request for exclusion to the Settlement Administrator by September 14, 2024.
<b>Go to a Hearing</b>	Ask to speak in Court about the fairness of the proposed Settlement ( <i>see</i> Questions 18-20).

## BASIC INFORMATION

### **1. Why was this notice issued?**

A Court authorized this notice to inform you about the proposed Settlement and your rights. Before any final judgment is entered, the Court will have a hearing to decide whether to approve the Settlement. This notice is only a summary of the Settlement. More details about the proposed Settlement are in the Settlement Agreement available at [www.martinezfcrsettlement.com](http://www.martinezfcrsettlement.com).

The lawsuit is known as *Martinez v. Employment Background Investigations, LLC*, No. 1:22-cv-3143-JMS (D. Md.). Judge J. Mark Coulson of the United States District Court for the District of Maryland is overseeing the case. The person who sued is called the “Plaintiff” or “Named Plaintiff.” The company that they sued is called “EBI” or the “Defendant.”

### **2. What is this lawsuit about?**

The lawsuit claims that EBI violated the Fair Credit Reporting Act: when it allegedly (1) provided to employers reports that contained criminal-history information but did not provide to the consumers on whom those reports were created “at the time” notice that EBI was reporting that information and, alternatively, (2) that EBI did not have in place strict procedures designed to ensure the criminal-history information EBI reported was complete and up-to-date.

The Court did not decide whether either side was right or wrong. Defendant denied all allegations, claims, and charges of wrongdoing or liability. If the case proceeded, Defendant intended to vigorously defend against the claims asserted in the lawsuit. Instead, both sides agreed to the Settlement to resolve the case and provide benefits to consumers.

### **3. Why is this a class action?**

A class action tries to bring similar claims into one case in one court. In a class action, one or more people called “Class Representatives” (in this case, Joe Martinez) bring the case to court. They have their name listed in the title of the case. They sue on behalf of themselves and other people who have similar claims — called the Class or Class Members — which in this case may include you. One court resolves the issues for everyone in the Class. The Class Representative filed this case as a proposed class action.

### **4. Why is there a proposed Settlement?**

The Court has not decided which side is right or wrong in this case. Instead, both sides agreed to a settlement to avoid the costs and risks of a lengthy trial and appeals process. Class Members will receive the benefits described in this notice. The Parties think the proposed Settlement is best for all Class Members.

### **5. What are the different Settlements in this case?**

This case involves two settlement groups. You are part of the “Automatic Payment Class,” which automatically pays Class Members for whom EBI prepared a consumer report that contained criminal history information and who later disputed the criminal history information with EBI. This Settlement provides automatic payments of \$400 to those Class Members without them having to do anything. The second settlement group, for which there is a separate notice, allows for payments to members of a different class who submit claim forms for those payments.

The Court will hold a final hearing to decide whether to approve the Settlement on October 29, 2024 (see Question 18).

If the Court approves the Settlement and you are part of the Automatic Payment Class, you will receive a payment in the mail once certain deadlines expire, which we estimate to be about 40 days after the Court finally approves the Settlement.

Additional information can be found at [www.martinezfcrasettlement.com](http://www.martinezfcrasettlement.com)

#### **6. How do I know if I am part of the Automatic Payment Settlement Class?**

The Court has decided that the following consumers are in the Automatic Payment Settlement Class: all individuals who, between November 17, 2021 and January 31, 2023, were the subject of a consumer report prepared by EBI, on which criminal record information was reported, and where the individual then disputed the inclusion of criminal record information with EBI.

The complete criteria for who is included can be found in the Settlement Agreement, available at [www.martinezfcrasettlement.com](http://www.martinezfcrasettlement.com).

#### **7. What benefits does the Settlement provide?**

EBI has agreed to pay \$157,200 (the “Settlement Class Fund”) for the benefit of the Automatic Payment Settlement Class. Payments will be made by check or electronic payment to each Automatic Payment Settlement Class Member who is eligible for a payment (see Question 8). The Payments will be approximately \$400, the amount of the Fund divided by the estimated 393 members of the Class.

More details about the benefits are available at [www.martinezfcrasettlement.com](http://www.martinezfcrasettlement.com).

#### **8. How can I get a payment?**

Automatic Payment Settlement Class Members will only qualify to get a payment if they remain in the Class.

The checks will be mailed to the address on this Class Notice. If your address has changed or is changing, you should update your information at [www.martinezfcrasettlement.com](http://www.martinezfcrasettlement.com) or contact the Settlement Administrator at [info@martinezfcrasettlement.com](mailto:info@martinezfcrasettlement.com).

**9. If I am a member of the Automatic Payment Settlement Class, when will I get my payment?**

Payments will be made to Automatic Payment Settlement Class Members after the Court grants “final approval” to the Settlement and all appeals are resolved. It is always uncertain whether appeals can be resolved and resolving them can take time. Please be patient. You can visit [www.martinezfcrasettlement.com](http://www.martinezfcrasettlement.com) after October 29, 2024 to check on the progress of the Court-approval process.

**10. How does the Settlement affect my rights?**

If the Court approves the Settlement, you will receive an automatic monetary payment. As part of receiving that money, you will give up any possible legal remedy against EBI or the Released Parties for any claims under two sections of the FCRA, 15 U.S.C. § 1681e(b) and 1681k, and any equivalent state laws. This is called “releasing” your claims and is part of receiving payment.

The Court’s decisions in this case will apply to you even if you object to this Settlement or have any other claim, lawsuit, or proceeding pending against EBI relating to the same claims. If you have any questions about the release, you should visit the Settlement website for more information or consult with a lawyer (see Question 14).

If you do not exclude yourself from the Automatic Payment Settlement Class (see Question 11), you will agree to a “Release of Claims,” stated below, which describes exactly the legal claims that you will give up.

“Released Claims” means all claims under 15 U.S.C. § 1681e(b) and 15 U.S.C. § 1681k, and any and all other analogous state law claims.

**11. Can I choose not to be in the Automatic Payment Settlement Class?**

Yes, you may exclude yourself from the Automatic Payment Settlement Class. If you do not want to remain a member of the Automatic Payment Settlement Class and want to keep any rights you may have as to EBI, you must take steps to exclude yourself. This is sometimes referred to as “opting out” of the Settlement Class. Opting out gives you the right to bring your own claim but does not guarantee that any such claim would be successful.

To exclude yourself from the Automatic Payment Settlement Class, you must send a written request for exclusion to the Settlement Administrator, at the address below:

Martinez v. Employment Background Investigation  
c/o Settlement Administration Exclusion  
PO Box 23459  
Jacksonville, FL 32241

To be valid, the proposed exclusion request must contain:

- Your name, original signature, current postal address, and current telephone number, and
- A statement that you want to be excluded from the Automatic Payment Settlement Class in *Martinez v. Employment Background Investigations, LLC*.

Your exclusion request must be postmarked no later than **September 14, 2024**.

You cannot exclude yourself by telephone or by e-mail. You also cannot exclude yourself by mailing a request to any location other than the address specified above or by mailing a request after the deadline. You also cannot exclude yourself as part of a group, aggregate, or class involving more than one consumer.

**12. If I do not exclude myself from the Automatic Payment Settlement Class, can I bring a claim against EBI for the same thing later?**

No. Unless you exclude yourself from the Automatic Payment Settlement Class, you will not be able to bring any possible claim you may have against EBI for any alleged violations of FCRA Sections 1681e(b) or 1681k, or state-law equivalents. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately.

**13. If I exclude myself from the Automatic Payment Settlement Class, can I get a payment?**

No. If you exclude yourself from the Automatic Payment Settlement Class, you will not receive a cash payment.

**14. Do I have a lawyer in this case?**

Yes. The Court approved the following lawyers as “Class Counsel” to represent you and other Money Settlement Class Members:

- Leonard Bennett and Craig Marchiando, of Consumer Litigation Associates, P.C., in Newport News, Virginia; and
- Octavio Gomez of The Consumer Lawyers PLLC, in Tampa, Florida.

You will not be charged for these lawyers. You may hire your own attorney, if you so choose, but you will be responsible for paying your attorney’s fees and expenses.

You may contact the attorneys representing you for further information or assistance at: (757) 930-3660 or write to: Craig C. Marchiando, Consumer Litigation Associates, P.C., 763 J. Clyde Morris Blvd., Suite 1-A, Newport News, VA 23601

**15. How will the lawyers be paid?**

Class Counsel will ask the Court to approve attorneys’ fees and expenses in an amount up to 30% of the Settlement Class Funds for both Settlements, or \$230,640. If the Court approves that amount,

it will be paid separately by EBI, and will not reduce the amount any Class Member receives.

## **16. How do I tell the Court if I do not agree with the proposed Settlement?**

If you are a Class Member, you can object to the Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views before deciding whether to approve the Settlement.

To object, you must send a letter (or file your objection) with the Court by mailing it to the “Clerk of the United States District Court, District of Maryland, 101 W Lombard Street, Baltimore, MD 21201.” Your objection letter must be received by the Clerk no later than **September 14, 2024**.

Your objection letter must include:

- Your name, address, e-mail address, and telephone number;
- The name of the case and the case number: *Martinez v. Employment Background Investigations, LLC*, No. 1:22-cv-3143-JMC (D. Md.); and
- A written statement about why you object to the Settlement.

If you are submitting an objection through an attorney, in addition to the above information, your objection must include:

- Identity, mailing address, email address, and phone number for your attorney;
- A statement of whether you or your attorney intend to appear at the Final Fairness Hearing; and
- A written statement detailing the specific basis for each objection, including any legal and factual support that you wish to bring to the Court’s attention and any evidence you wish to introduce in support of the objection.

You may also appear at the final approval hearing, either in person or through your own lawyer. If you intend to have a lawyer present, your lawyer must enter a written Notice of Appearance of Counsel with the Court no later than **September 14, 2024**. If you appear through your own lawyer, you are responsible for paying that lawyer.

For more information about the final approval hearing, *see* Questions 18-20 below.

If you do not follow the process outlined above, you will not be allowed to object, appear at the final approval hearing, or appeal the final approval of the proposed Settlement or the dismissal of the case.

**17. What is the difference between objecting and opting-out?**

Objecting is simply telling the Court that you do not like something about the Settlement. Opting out, or excluding yourself, means that you will not be included in the Settlement.

You can object **or** opt out of the Automatic Payment Settlement Class but you cannot do both. If you exclude yourself, you have no basis to object to the Settlement because it will no longer affect you. You must remain a member of the Class to object to the Settlement.

Go to [www.martinezfcrasettlement.com](http://www.martinezfcrasettlement.com) to learn more about your rights in the Settlement.

**18. When and where will the Court decide whether to finally approve the proposed Settlement?**

The Court will hold a final approval hearing to decide whether to approve the proposed Settlement. You may attend and you may ask to speak at the hearing, but you do not have to.

The hearing will be on October 29, at 2024, before Judge Coulson, at the United States District Court for the District of Maryland, United States Courthouse, 101 W Lombard Street, Baltimore, MD 21201.

At the hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court will consider all timely and proper objections. The Court will listen to people who have asked for permission to speak at the hearing (see Question 20).

After the hearing, the Court will decide whether to approve the proposed Settlement. There may be appeals. We do not know how long these decisions will take.

The Court may change the date of the final approval hearing without further notice to the Class or may decide to conduct the hearing remotely. Please check the website, [www.martinezfcrasettlement.com](http://www.martinezfcrasettlement.com), for updates on the hearing date, the court-approval process, and the Effective Date.

**19. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. However, you are welcome to come to the hearing at your own expense. You may also pay your own lawyer to attend, but it is not necessary.

If you send an objection, you do not have to come to Court to talk about it. As long as you filed your written objection on time and it includes the required information, the Court will consider it.

**20. May I speak at the hearing?**

You or your lawyer may ask the Court for permission to speak at the final approval hearing. To do so, you must tell the Court in your objection letter that you or your lawyer would like to speak at

the hearing. You must also follow the process outlined in Question 16. You cannot speak at the hearing if you do not follow this procedure.

**21. What happens if I do nothing at all?**

If you do nothing, you will receive a cash payment if you are eligible for one. If the Court approves the proposed Settlement, you will be bound by the Court's final judgment and the released claims explained in the Settlement Agreement.

**22. How do I get more information?**

This notice is only a summary of the Settlement. More details about this Settlement, the dates when appeals are no longer allowed and when the Settlement is final, deadlines, and your options are available in a longer document called the Settlement Agreement.

You can get a copy of the entire Settlement Agreement by visiting [www.martinezfcrsettlement.com](http://www.martinezfcrsettlement.com). The website also provides answers to commonly asked questions, plus other information, to help you determine whether you are a Class Member. In addition, some of the key documents in the case will be posted on the website.

You also may write with questions to the Settlement Administrator at Martinez v. Employment Background Investigation, c/o Settlement Administration, PO Box 23459, Jacksonville, FL 32241, email [info@martinezfcrsettlement.com](mailto:info@martinezfcrsettlement.com), or call the toll-free number, 1-800-290-2388.

**Do not write or call the judge or any court personnel concerning this lawsuit or notice.**