

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

Fernandez et al. v. 90 Degree Benefits, LLC et al., Case No. 2:22-cv-00799-SCD

If 90 Degree Benefits notified you of Data Incidents which occurred on or around February 2022 and December 2022, you may be eligible for benefits from a class action settlement.

A court authorized this Notice. This is not a solicitation from a lawyer.

Si necesita ayuda en español, comuníquese con el administrador al 1-877-203-8169.

- A Settlement has been reached in a class action lawsuit against 90 Degree Benefits, Inc. f/k/a EBSO, Inc. i/s/h/a 90 Degree Benefits – Wisconsin (f/k/a EBSO, Inc.) and Preferred Care Services, Inc. i/s/h/a 90 Degree Benefits, LLC (“90 Degree Benefits” or “Defendants”) concerning alleged data security incidents affecting Defendants which occurred in or around February 2022 and December 2022 (the “Data Incidents”).
- The lawsuit is called *Fernandez et al. v. 90 Degree Benefits, LLC et al., Case No. 2:22-cv- 00799-SCD* (the “Action”). The lawsuit alleges that the Data Incidents potentially exposed certain personal information and/or protected health information of the Plaintiffs and the members of the putative class.
- The Settlement Class includes all individuals who were sent a notification by Defendants that their personal information and/or protected health information was or may have been compromised in the Data Incidents. It excludes: (1) the judges presiding over this Action, and members of their direct families; (2) Defendants, their subsidiaries, parent companies, successors, predecessors, and any entity in which Defendants or their parents have a controlling interest and their current or former officers, directors, and employees; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.
- Your legal rights are affected regardless of whether you act. Please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A CLAIM FORM	This is the only way you may receive benefits from this Settlement. The deadline to submit a Claim Form is November 16, 2023 .
EXCLUDE YOURSELF FROM THE SETTLEMENT	You will receive no payment, but you will retain any rights you currently have with respect to Defendant and the issues in this case. The deadline to exclude yourself from the Settlement is October 17, 2023 .
OBJECT TO THE SETTLEMENT	Write to the Settlement Administrator explaining why you do not agree with the Settlement. The deadline to object is October 17, 2023 .
ATTEND THE FINAL APPROVAL HEARING	You or your attorney may attend and speak about your objection at the Final Approval Hearing. The Final Approval Hearing will be held on November 16, 2023 .
DO NOTHING	You will not get any benefits from the Settlement, and you will give up certain legal rights. You will remain in the Settlement Class and be subject to the Release.

- These rights and options, and the deadlines to exercise them, are explained in this Notice. For complete details and terms, please see the Settlement Agreement available at 90DBSettlement.com.
- The Court in charge of this case still has to decide whether to approve the Settlement. No Settlement benefits or payments will be provided unless the Court approves the Settlement and it becomes final.

BASIC INFORMATION

1. What is this Notice and why should I read it?

The Court authorized this Notice to inform you about a proposed Settlement with Defendants. The case is called *Fernandez et al. v. 90 Degree Benefits, LLC et al.*, Case No. 2:22-cv-00799-SCD. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, Plaintiffs and Class Representatives Robert Fernandez, Steven Greek, Jon Boyajian, and Jenny Olmstead—sue on behalf of a group of people who have similar claims. Together, this group is called a “Class” and consists of “Class Members.” In a class action, the court resolves the issues for all class members, except those who exclude themselves from the class.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

Plaintiffs claim Defendants failed to implement and maintain reasonable security measures to adequately protect the personal information and/or protected health information in its possession and to prevent the Data Incidents from occurring.

Defendants deny they are liable for the claims made in the lawsuit and deny any allegations of wrongdoing. More information about the complaint in the lawsuit can be found on the Settlement Website at 90DBSettlement.com.

4. Why is there a Settlement?

The Court has not decided whether the Plaintiffs or Defendant should win this case. Instead, both sides agreed to this Settlement. That way, they can avoid the uncertainty, risks, and expense of ongoing litigation, and Settlement Class Members will be eligible to get compensation now rather than years later—if ever. The Class Representatives and attorneys for the Settlement Class Members, called Class Counsel, agree the Settlement is in the best interests of the Settlement Class Members. The Settlement is not an admission of wrongdoing by the Defendants.

WHO'S INCLUDED IN THE SETTLEMENT?

5. How do I know if I am in the Settlement Class?

You are part of the Settlement as a Settlement Class Member if you received a notification letter from Defendants stating that your personal information and/or protected health information was or may have been compromised in the Data Incidents.

If you are still not sure whether you are included in the Settlement Class, you can contact the Settlement Administrator by calling 1-877-203-8169, by emailing Info@90DBSettlement.com, or by visiting the Settlement Website at 90DBSettlement.com.

This Settlement Class does not include (1) the judges presiding over this Action, and members of their direct families; (2) Defendants, their subsidiaries, parent companies, successors, predecessors, and any entity in which Defendants or their parents have a controlling interest, and their current or former officers, directors, and employees; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

THE SETTLEMENT BENEFITS

6. What does the Settlement provide?

Under the proposed Settlement, Defendants will pay (or cause to be paid) \$990,000.00 into a Settlement Fund. The Settlement Fund, plus interest accrued thereon, will pay notice and administration costs, Court-approved attorneys' fees and costs, Court-approved service awards for Class Representatives, and certain Settlement Fund taxes and tax expenses (the "Net Settlement Fund"). The Net Settlement Fund will be used to provide eligible Settlement Class Members with payments and benefits described below.¹

Reimbursement for Lost Time and Out-of-Pocket Losses: If you spent time responding to the Data Incidents, you may be eligible to receive compensation for Lost Time. If you incurred financial losses that are traceable to the Data Incidents, you may be eligible to receive reimbursement for Out-of-Pocket Losses.

- A. **Lost Time:** A claim for reimbursement may also include a claim for up to three hours of time spent in response to the Data Incidents. Lost Time will be compensated at \$25.00 per hour and requires a brief description of the action taken in response to the Data Incidents and the time associated with those actions.
- B. **Out-of-Pocket Losses:** A claim for reimbursement may include, but is not limited to, the following provided the expenses were incurred primarily as a result of the Data Incidents: (1) unreimbursed costs, expenses, losses or charges incurred as a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of your personal information; (2) costs incurred on or after January 28, 2022, associated with purchasing or extending additional credit monitoring or identity theft protection services and/or accessing or freezing/unfreezing credit reports with any credit reporting agency; and (3) other miscellaneous expenses incurred relating to any ordinary out-of-pocket loss such as notary, fax, postage, copying, mileage and long-distance telephone charges.

Claims for out-of-pocket expenses or losses and Lost Time are subject to a combined cap of \$5,000.00 per individual.

Credit Monitoring: All Settlement Class Members are eligible to receive one (1) year of identity theft protection and credit monitoring, which includes identity theft monitoring, alerts, three-bureau credit monitoring, fraud resolution, and up to \$1 million identity theft insurance coverage for certain costs, identity restoration, and unauthorized electronic fund transfers.

Alternative Cash Payment: In lieu of filing a claim for reimbursement of Out-of-Pocket Losses, attested time, or for credit monitoring, all Settlement Class Members may file a claim for an alternative cash payment of \$50.00. By filing a claim for an alternative cash payment, Settlement Class Members are giving up their right to file a claim for any other benefits made available under this Settlement.

Confirmatory Discovery: Defendants have also agreed to provide documents and information to Class Counsel showing that Defendants have taken data security measures to remedy the issues that led to the Data Incidents and have implemented other business practices to help ensure information security.

Residual Credit Monitoring Services: In the event that there are funds remaining in the Settlement Fund after payments for Lost Time, Out-of-Pocket Losses, credit monitoring, and alternative cash payments, the funds will be used to increase the number of years of credit monitoring services provided to Settlement Class Members who claim it, up to a total of five (5) years.

Residual Cash Payment: In the event that there are funds remaining in the Settlement Fund after payments for Lost Time, Out-of-Pocket Losses, credit monitoring, alternative cash payments, and residual credit monitoring services, the funds will be used to make a pro rata cash payment to all Settlement Class Members who submit a valid Claim Form, up to a total of \$100.00 per claimant.

For complete details and terms, please see the Settlement Agreement at 90DBSettlement.com.

¹ If the benefits claimed by all Settlement Class Members meets or exceeds the amount of the Net Settlement Fund, then the payments and/or benefits for your claim may be reduced pro rata, pursuant to paragraphs 67 through 69 of the Settlement Agreement, by the Settlement Administrator so the aggregate cost of all payments and benefits does not exceed the amount of the Net Settlement Fund.

HOW TO GET BENEFITS

7. How do I make a claim?

To qualify for a Settlement benefit, you must complete and submit a Claim Form.

Settlement Class Members who want to submit a claim must fill out and submit a Claim Form online at the Settlement Website, 90DBSettlement.com, or by mail to the Settlement Administrator at P.O. Box 5075, Portland, OR 97208-5075. Claim Forms are available through the Settlement Website or by calling 1-877-203-8169.

All Claim Forms must be submitted no later than November 16, 2023.

8. When will I get my payment?

The hearing to consider the fairness of the Settlement is scheduled for **November 16, 2023**. If the Court approves the Settlement, eligible Settlement Class Members whose claims were approved by the Settlement Administrator will be sent payment after all appeals and other reviews, if any, are completed. Please be patient.

THE LAWYERS REPRESENTING YOU

9. Do I have a lawyer in this case?

Yes, the Court has appointed Mason LLP as “Class Counsel” to represent you and all Settlement Class Members. You will not be charged for these lawyers. You can ask your own lawyer to appear in Court for you at your own expense if you want someone other than Class Counsel to represent you.

10. How will the lawyers be paid?

To date, Class Counsel has not received any payment for their services in conducting this litigation on behalf of the Class and have not been paid for their out-of-pocket expenses. Class Counsel will ask the Court for an award of attorneys’ fees and for the reimbursement of litigation costs and expenses which were incurred in connection with the Action not to exceed 33% of the Settlement Fund, or \$330,000.00. Such sums as may be approved by the Court will be paid from the Settlement Fund.

Class Counsel will also request a service award payment of \$2,500.00 for each Class Representative to be paid from the Settlement Fund.

The Court will determine the proper amount of any attorneys’ fees, costs, and expenses to award Class Counsel and the proper amount of any service awards to the Class Representatives.

Class Counsel will file their request for attorneys’ fees, costs, expenses, and service awards for the Class Representatives with the Court, which will also be posted on the Settlement Website at 90DBSettlement.com.

YOUR RIGHTS AND OPTIONS

11. What claims do I give up by participating in this Settlement?

If you do not exclude yourself from the Settlement, you will not be able to sue Defendants about the Data Incidents, and you will be bound by all decisions made by the Court in this case, the Settlement, and its included Release. This is true regardless of whether you submit a Claim Form. However, you may exclude yourself from the Settlement (*see* Question 14). If you exclude yourself from the Settlement, you will not be bound by any of the Released Claims described in the Settlement Agreement available on the Settlement Website at 90DBSettlement.com.

12. What happens if I do nothing at all?

If you do nothing, you will receive no benefits under the Settlement. You will be in the Settlement Class, and if the Court approves the Settlement, you will also be bound by all orders and judgments of the Court, the Settlement, and its included Release. You will be deemed to have participated in the Settlement and will be subject to the provisions of Question 11 above. Unless you exclude yourself, you won't be able to file a lawsuit or be part of any other lawsuit against Defendants for the claims or legal issues released in this Settlement.

13. What happens if I ask to be excluded?

If you exclude yourself from the Settlement, you will receive no benefits under the Settlement. However, you will not be in the Settlement Class and will not be legally bound by the Court's judgments related to the Settlement Class and Defendants in this class action.

14. How do I ask to be excluded?

You can ask to be excluded from the Settlement. To do so, you must send a written notification to the Settlement Administrator stating that you want to be excluded from the Settlement in *Fernandez et al. v. 90 Degree Benefits, LLC et al.*, Case No. 2:22-cv-00799-SCD. Your written notification must include: (1) the name of the proceeding; (2) your full name and current address; (3) your signature; and (4) the words "Request for Exclusion" or a comparable statement that you wish to not participate in the Settlement at the top of the communication. You must mail your exclusion request, postmarked no later than **October 17, 2023**, to the following address:

Fernandez et al. v. 90 Degree Benefits, LLC et al.
Settlement Administrator
P.O. Box 5075
Portland, OR 97208-5075

You cannot exclude yourself by phone or email. Any individual who wants to be excluded from the Settlement must submit his or her own exclusion request. No group opt-outs shall be permitted.

15. If I don't exclude myself, can I sue Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Defendants for the claims or legal issues released in this Settlement, even if you do nothing.

16. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, do not submit a Claim Form to ask for any benefits.

17. How do I object to the Settlement?

If you do not exclude yourself from the Settlement Class, you can object to the Settlement if you do not agree with any part of it. You can give reasons why you think the Court should deny approval by filing an objection. To object, you must mail a written objection to the Settlement Administrator stating that you object to the Settlement in *Fernandez et al. v. 90 Degree Benefits, LLC et al.*, Case No. 2:22-cv-00799-SCD. Your objection must be filed no later than **October 17, 2023**.

The objection must be in writing and signed by you. The objection must include: (1) the name of the proceedings; (2) your full name, current mailing address, and telephone number; (3) a statement that states with specificity the grounds for the objection, as well as any documents supporting the objection; (4) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (5) the identity of any attorneys representing the objector; (6) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear and/or wishes to be heard at the Final Approval Hearing; (7) a list of all other matters in which the objecting Settlement Class Member and/or his/her attorney has lodged an objection to a class action settlement; and (8) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

You must mail the objection to the Settlement Administrator at the address listed below, postmarked no later than **October 17, 2023**:

Fernandez et al. v. 90 Degree Benefits, LLC et al.
Settlement Administrator
P.O. Box 5075
Portland, OR 97208-5075

18. What's the difference between objecting and excluding myself from the Settlement?

Objecting simply means telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself from the Settlement Class is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

19. When and where will the Court hold a hearing on the fairness of the Settlement?

The Court will hold the Final Approval Hearing on **November 16, 2023**. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees, costs, and expenses and the service awards to Class Representatives.

The location, date, and time of the Final Approval Hearing are subject to change by Court order. Any changes will be posted at the Settlement Website, 90DBSettlement.com., or through the Court's publicly available docket. You should check the Settlement Website to confirm the date and time.

20. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to attend the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. If your written objection was filed or mailed on time and meets the other criteria described in the Settlement, the Court will consider it. However, you may appear on your behalf or pay a lawyer to attend on your behalf to assert your objection if you would like.

21. May I speak at the hearing?

Yes. If you do not exclude yourself from the Settlement Class, you (or your attorney) may appear and speak at the Final Approval Hearing concerning any part of the proposed Settlement.

GETTING MORE INFORMATION

22. Where can I get additional information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, available at 90DBSettlement.com, or available by writing to *Fernandez et al. v. 90 Degree Benefits, LLC et al.*, Settlement Administrator, P.O. Box 5075, Portland, OR 97208-5075.

Please do not call the Court, the clerk of the Court, the judge, or the Defendants with questions about the Settlement or claims process.