

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JAMI KANDEL, MOCHA GUNARATNA, and
RENEE CAMENFORTE, individually and on
behalf of all others similarly situated,

Plaintiffs,

vs.

DR. DENNIS GROSS SKINCARE, LLC, a New
York Limited Liability Company,

Defendant.

Case No. 1:23-cv-01967-ER

Honorable Edgardo Ramos

**DECLARATION OF BRYAN HELLER IN SUPPORT OF PLAINTIFFS' UNOPPOSED
MOTION FOR PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT**

I, Bryan Heller, do hereby declare and state as follows:

1. I am a Co-Founding partner and the Chief Product Officer of ClaimScore, LLC (“ClaimScore”), a technology company that assists with claims administration. The following statements are based on my personal knowledge and information provided by other ClaimScore principals and employees working under my supervision, and if called upon to do so, I could and would testify competently about these issues.

2. I graduated from the Pennsylvania State University with a Bachelor of Science degree. Prior to ClaimScore, I spent the first 13+ years of my career at a Consulting Engineering firm, in the Environmental Services Group, with a primary focus on contaminated site remediation, landfill post-closure compliance and landfill gas to energy projects. Each of the three focus areas required the review of 100s of thousands of data points to drive federal and state compliance, as well as maximize renewable energy generation. In addition to complex data analysis, I also was required to develop custom tools to deploy complex Expert System Artificial Intelligence algorithms (which automated the data review processes), produce state and federally compliant data sets, and drive energy production optimization decisions. Both federal and state compliance required that the data be scrutinized for quality assurance and multiple lines of evidence was required to prove the data was of “known quality”.

3. In 2020, I started a technology company focused on athletic training and nutrition, and, using complex data analysis and algorithms, led the development of an Artificial Intelligence/Machine Learning training application for athletes. As part of that company, my team was also responsible for the collection and analysis of marketing data to drive campaign decisions and optimize campaign performance.

4. In early 2022, I co-founded ClaimScore with a group of partners who had significant experience in consumer class actions and the administration of them. Since ClaimScore’s inception, I have managed a development team and been primarily responsible for engineering the AI algorithms, scoring criteria and overseeing the development of our proprietary cloud-architecture infrastructure.

5. ClaimScore is a technology company that assists with the administration of class actions and, in particular, with the review and assessment of claims made in the settlement of class actions. ClaimScore is the only independent software solution that reviews claims in real-time, and reports the findings of that review in real-time. ClaimScore has become the industry-leading anti-fraud solution for class actions.

6. ClaimScore was retained by Clarkson Law Firm P.C., Plaintiffs' counsel in this case, to work with the proposed Administrator, EisnerAmper. ClaimScore has been asked, in conjunction with EisnerAmper, to review the claims in this case and apply ClaimScore's proprietary software solution to each claim during the review process to minimize fraud and to ensure that only legitimate claims are approved for payment. ClaimScore will bill \$0.025 per claim for its services, and will be paid by Digital Disbursements, who ClaimScore understands will be the payment provider utilized by EisnerAmper in this case.

7. A description of ClaimScore's methodology is set forth below. Please note, ClaimScore requested portions of this declaration be redacted to protect the integrity of ClaimScore's proprietary Intellectual Property and prevent our system from being reverse engineered by individuals responsible for submitting fraudulent claims.

ABOUT CLAIMSCORE AND ITS SCORING METHODOLOGY

8. As noted, ClaimScore is a technology company that reviews and assesses claims made in the settlement of class actions. The ClaimScore team has over 40 years of class action case experience, and includes both class action attorneys, individuals with class action claim administration experience, data analysts, and a full software development team. Our founders have represented litigants on both sides of consumer (and other) class actions and have administered numerous cases in state and federal courts throughout the United States.

9. ClaimScore was developed, specifically based on its founders' education and expertise, to review and validate claims in class action settlements, individually and in real-time, based on objective criteria that is applied consistently and uniformly to all people making claims in these settlements. ClaimScore's technology combines a 65+ point expert-system artificial

intelligence algorithm with a neural-network machine learning system to ensure an accurate, objective, and transparent review of each individual claim made in the settlement of consumer class actions. The platform is stacked on a complex cloud-architecture to optimize claim review rates.

10. ClaimScore's validation system reviews each claim individually against each of the 65+ criteria. Additionally, all case-specific validation requirements are integrated into ClaimScore's algorithm, thus ensuring each claim is accurately evaluated against the requirements set forth in the Settlement Agreement. Each claim begins with a ClaimScore of 1,000 and is reduced each time it fails a criterion. Claims with scores above 700 are marked as "approved"; however, if the claim was submitted with a proof of purchase which must be reviewed by a human prior to final determination and receives a score equal to or greater than 700 ClaimScore marks the claim as "pending". If a claim's score drops below 700, ClaimScore marks it as rejected.

11. ClaimScore developed a proprietary neural-network machine learning model to determine the weight of each step of each criterion based on the prevalence of valid and invalid claims failing the pertinent criteria step. Once the score weights were established, they were applied to ClaimScore's expert system AI algorithm that evaluates each claim against the 65+ points.

12. Claims are not rejected for single criterion unless they are specified in the Settlement Agreement. If any of the other criteria fail, the claim will lose points, but multiple failures are required before ClaimScore recommends the claim be rejected.

13. Once a claimant fails a certain number of criteria, and the ClaimScore drops below 700, ClaimScore recommends that the claim be rejected as non-compliant with the specific terms of a Settlement Agreement, including an analysis that the claim contains "indicia of fraud". When developing ClaimScore, the score of 700 was selected as the threshold for rejection, in part because most people are familiar with how the credit score system works, and the 700-metric aligns with that system. A 700-passing score was also selected because a 300-point deduction would allow claims to fail certain criteria, yet still be approved. In other words, potential claimants are provided

with a certain “cushion” to ensure that they are not simply selected for exclusion based on a single criterion; the claim needs to fail multiple criteria before the score is reduced to below 700.

14. The 700 score was established as the breakpoint for valid and invalid claims prior to developing the weights for each criterion. Said differently, when building the neural-network machine learning model to evaluate the effectiveness of the criteria at predicting fraud, that analysis was based on the score of 700. If the combination of criteria was weighted too heavily and legitimate claims were pushed below 700, the model lessened the weights to ensure absolute fairness to the proposed claimant. When the combination of criteria was weighted too lightly and not effectively pushing illegitimate claims below 700, the model more heavily weighted the criteria.

15. To maximize transparency, each claim is tagged with deduction codes associated with the criteria it fails, thus ensuring that the parties, the administrator and the Court definitively know all specific reasons why each claim was rejected. This coding approach creates complete transparency for each claimant.

16. To be clear, ClaimScore does not reject claimants based on “one-off” criteria (which is the current approach utilized by many settlement administrators). ClaimScore refers to this as “group and slash”. In contrast, the ClaimScore methodology applies the criteria agreed to in the settlement agreement, and measures “other indicia of fraud” against a full set of criteria to provide each claimant with a score. That score then determines, up front, whether a claimant actually meets the definition of “class member” pursuant to the settlement agreement. Under the ClaimScore system, all claims are assessed against all of the 65+ criteria uniformly, and no single claim fails simply because it fails to meet a single criterion.

17. ClaimScore is currently being utilized for Real-Time Claims Management services in numerous state and federal court class actions. Those services use the same technology to be deployed in this current case.

18. A sample of currently active or recently finalized class action settlements where ClaimScore has been Court-appointed to provide Real-Time Claims Management services are listed below:

- a. *Danielle Skarpnes v. Elixir Cosmetics OPCO, LLC*, Case No. CU23-04638 (Superior Court of California, County of Solano) (Nationwide class of purchasers who were subject to allegedly deceptive and misleading business practices regarding cosmetic products contents and the potential side effects associated with the products).
- b. *Ignacio Perez v. Rash Curtis & Associates*, Case No. 4:16-cv-03396-YGR (N.D. Cal.) (Direct Notice Class of the largest Telephone Consumer Protection Act (TCPA) settlement in history with a recovery \$75.6 million for individuals who allegedly received unwanted calls from a debt collection company);
- c. *Lipsky, et al. v. American Behavioral Research Institute, LLC, d/b/a Relaxium*, Case No. 50-2023-CA-011526-XXXX-MB (Palm Beach County Cir. Court Florida) (Nationwide class of purchasers who were subject to allegedly deceptive and misleading business practices regarding the efficacy and automatic billing practices of Relaxium® - a line of supplements to promote sleep, relaxation, focus, and immune defense);
- d. *Wyland v. Woopla, Inc.*, Case No. 2023-CI-00356 (Commonwealth of Kentucky Henderson County Cir. Court) (Kentucky class of purchasers of online gambling products);
- e. *Whiting v. Yellow Social Interactive, Ltd.*, Case No. 2023-CI-00358 (Commonwealth of Kentucky Henderson County Cir. Court) (Kentucky class of purchasers of online gambling products);

- f. *Rosenfeld et al. v. AC2T, Inc.*, Case No. 506882/2023 (Supreme Court of New York, County of Kings) (Nationwide class of purchasers of mosquito repellent);
- g. *O'Malley, et al. v. FloSports, Inc.*, Case No. 3:22-cv-04920-JSC (N.D. Cal.) (Direct Notice class of purchasers who were subject to allegedly deceptive and misleading business practices regarding the efficacy and automatic billing practices of an online subscription to the FloSports platform.)

ClaimScore's Criteria Overview

19. Each of ClaimScore's criteria has been carefully crafted and weighted specifically to distinguish between valid and invalid claimants. Although, both valid and invalid claims may pass or fail each individual criterion, it is the millions of combinations of the criteria that ultimately lead to a claimant being identified as valid or invalid. For visibility, ClaimScore tags each claim with Deduction Codes that provide insight into which criteria a claim has failed; however, please note, deduction codes may cover several criteria within similar categories.

ClaimScore Deliverables

20. ClaimScore's results are aggregated into a real-time analytical dashboard. The dashboard includes a summary displaying the total number of claims; the number and percentage of approved claims; the number and percentage of pending claims; as well as the number and percentage of rejected claims. Additionally, it provides a visualization of the claim submission period on a timeline, which distinguishes between approved, pending and rejected claims. Lastly, a spike analysis is provided for any timeframe that received 2 standard deviations more claims than the average claim submission rate for the case.

21. In addition to the real-time dashboard, the result of each individual claim is reported in real-time via a webhook to the administrator. This result includes the score the claim received,

the recommended determination (approved, pending or rejected) and the deduction codes associated with the claim. To ensure data consistency, any mid-case adjustments to the scoring (when applicable) are retroactively applied to the previously submitted claims and the updated results are resent immediately.

22. Upon the conclusion of the claims period, the administrator will have complete results for each individual claim. This back-up data may be referenced if the determination of any individual or an aggregation of claims is in question. Additionally, by cohorting groups of claims by score and deduction codes, patterns of fraud are easily identifiable where those claims would otherwise be disbursed throughout the entire pool of claim submissions and would not be identifiable as a pattern.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: June 24, 2024

By: 
Bryan Heller