

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF DELAWARE

Hoyle v. Harrington Raceway, Inc.
Case No. 1:23-cv-00420-MN

If You Are Receiving this Notice a Class Action Settlement May Affect Your Rights.

The United States District Court for the District of Delaware authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.

- A Settlement has been reached in a class action lawsuit concerning Harrington Raceway, Inc. ("Defendant" or "Harrington") and a data incident (the "Data Incident") that occurred in December 2022, when one or more unauthorized individuals accessed information on a database belonging to Harrington, including names and Social Security numbers ("Private Information").
- The lawsuit is called *Hoyle v. Harrington Raceway, Inc.*, Case No. 1:23-00420-MN (D. Del.). The lawsuit asserts claims related to the Data Incident. The Defendant in the lawsuit is Harrington Raceway, Inc. Harrington Raceway denies it is or can be held liable for the claims made in the lawsuit. The Settlement does not establish who is correct, but rather is a compromise to end the lawsuit.
- Members of the Class are all individuals to whom Harrington sent notice of the Data Incident that occurred in December 2022. The Class specifically excludes: (i) all Persons who timely and validly request exclusion from the Class; (ii) the Judge assigned to evaluate the fairness of this settlement (including any members of the Court's staff assigned to this case); (iii) Defendant's officers and directors, and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads nolo contendere to any such charge.
- Class Members are eligible to receive the following relief: (1) up to \$1,000.00 in reimbursement for Out-of-Pocket Losses consisting of actual documented losses or expenses resulting from the Data Incident, and (2) a \$50.00 cash payment that will be *pro rata* reduced or increased based on the money remaining in the Settlement Fund after the payment of attorneys' fees and expenses, Settlement Administration expenses, Class Representative Service Award, and valid claims for Out-of-Pocket Losses. Valid Claims for Out-of-Pocket Losses and *pro rata* cash payments may be combined. The Settlement Administrator will post additional information about the payment amount on www.HarringtonDataSettlement.com. For complete details, please see the Settlement Agreement, whose terms control, available at www.HarringtonDataSettlement.com.
- Your legal rights are affected regardless of whether you act or do not 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 **March 4, 2024**.

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. See Question 14 of this Notice for more information on how to exclude yourself. The deadline to exclude yourself from the Settlement is **February 19, 2024**.

OBJECT TO THE SETTLEMENT	Write to the Court explaining why you do not agree with the Settlement. The deadline to object is February 19, 2024 .
ATTEND THE FINAL APPROVAL HEARING	You may ask the Court for permission for you or your attorney to speak about your objection at the Final Approval Hearing. The Final Approval Hearing will be held on April 25, 2024 at 10:00 a.m.
DO NOTHING	You get no payment and you give up rights.

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice. For complete details, please see the Settlement Agreement, whose terms control, available at www.HarringtonDataSettlement.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 Cami 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 Defendant. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. You may be eligible to receive a cash payment as part of the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

Judge Maryellen Noreika of the United States District Court for the District of Delaware is overseeing this class action. The case is called *Hoyle v. Harrington Raceway, Inc.*, Case No. 1:23-cv-00420 (D. Del.) (the "Action").

Jaysin Hoyle is the Plaintiff. The company he sued, Harrington Raceway, Inc., is the Defendant.

2. WHAT IS A CLASS ACTION LAWSUIT?

A class action is a lawsuit in which one or more plaintiffs – in this case, Jaysin Hoyle, sues 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. After the Parties reached an agreement to settle this case, the Court granted preliminary approval of the Settlement and recognized it as a case that should be treated as a class action for settlement purposes.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. WHAT IS THIS LAWSUIT ABOUT?

The Plaintiff claims that Defendant failed to implement and maintain reasonable security measures necessary to protect Private Information that it maintained on its database. Defendant denies that it is or can be held liable for the claims made in the lawsuit. More information about the allegations in the lawsuit and Defendant's responses can be found in the "Court Documents" section of the Settlement Website at www.HarringtonDataSettlement.com.

4. WHY IS THERE A SETTLEMENT?

The Court has not decided whether the Plaintiff 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 Class Members will get compensation now rather than years later-if ever. The Class Representative and Class Counsel, attorneys for the Class Members, agree the Settlement is in the best interests of the Class Members. The Settlement is not an admission of wrongdoing by Defendant.

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 Class Member if Harrington sent you a notice indicating that your Private Information may have been compromised in the Data Incident, which occurred in December 2022 but was not publicly announced until April 2023. The Class specifically excludes: (i) all Persons who timely and validly request exclusion from the Class; (ii) the Judge assigned to evaluate the fairness of this settlement (including any members of the Court's staff assigned to this case); (iii) Defendant's officers and directors, and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge. Eligible Class Members will have been mailed notice of their eligibility by the Settlement Administrator, and Class membership will be verified against that mailed list. If you are still not sure whether you are included, you can contact the Settlement Administrator by calling toll-free at 866-719-3551 or by visiting the Settlement Website at www.HarringtonDataSettlement.com.

THE SETTLEMENT BENEFITS

6. WHAT DOES THE SETTLEMENT PROVIDE?

This Settlement provides eligible Class Members with (1) up to \$1,000.00 in reimbursement for Out-of-Pocket Losses consisting of actual documented out-of-pocket losses or expenses that are fairly traceable to the Data Incident, and (2) a cash payment of approximately \$50.00 that will be *pro rata* increased or reduced based on the money remaining in the Settlement Fund after the payment of attorneys' fees and costs, Settlement Administration costs, Class Representative Service Award, and valid claims for Out-of-Pocket Losses. Valid Claims for Out-of-Pocket Losses and *pro rata* cash payments may be combined.

6.A. Who May Recover for Out-of-Pocket Losses and for How Much?

- If you are a Class Member and you incurred documented out of pocket losses fairly traceable to the Data Incident and/or documented unreimbursed expenses incurred after December 12, 2022, that are related to the Data Incident, you may be eligible to receive reimbursement of your losses and expenses up to a total of \$1,000.00 per Class Member. Eligible losses or expenses include, without limitation: (1) unreimbursed costs, expenses, losses or charges incurred a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of a Settlement Class Member's Social Security number; (2) unreimbursed costs incurred on or after April 10, 2023 associated with accessing or freezing/unfreezing credit reports with any credit reporting agency; (3) other unreimbursed miscellaneous expenses incurred related to any Out-of-Pocket Expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges; (4) other mitigative costs fairly traceable to the Data Incident that were incurred on or after April 10, 2023 through the date of the Settlement Class Member's claim submission; and (5) unpaid time off work to address issues fairly traceable to the Data Incident at the actual hourly rate of that Settlement Class Member.
- Settlement Class Members who elect to submit a claim for reimbursement of Out-of-Pocket Losses must provide to the Claims Administrator information required to evaluate the claim, including: (1) the Settlement Class Member's name and current address; (2) documentation reasonably supporting their claim; and (3) a brief

description of the nature of the loss, if the nature of the loss is not apparent from the documentation alone. Documentation supporting Out-of-Pocket Losses can include receipts or other documentation not "self-prepared" by the Settlement Class Member concerning the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to clarify or support other submitted documentation. For complete details, please see the Settlement Agreement, whose terms control, available at www.HarringtonDataSettlement.com. The Settlement Administrator will post additional information about the payment amount on www.HarringtonDataSettlement.com, if necessary.

6.B. Who May Receive a separate *Pro Rata* Cash Payment and for How Much?

- All Class Members may make a Claim to receive a cash payment of approximately \$50.00 that will be adjusted up or down to account for the money remaining in the Settlement Fund after the payment of attorneys' fees and costs, Settlement Administration costs, Class Representative Service Award, and valid claims for Out-of-Pocket Losses. Class Members do not need to suffer Out-of-Pocket Losses for eligibility to file a claim for a *pro rata* cash payment.

Maximum Settlement Contribution: Under this Settlement, the maximum total amount Defendant may be required to pay is \$400,000.00. This maximum includes reimbursements for Out-of-Pocket Losses up to \$1,000 and *pro rata* cash payments of approximately \$50.00, attorneys' fees, costs, and expenses awarded by the Court to Class Counsel, any awarded class representative service awards, and notice and administrative costs for the Settlement. In no event shall Defendant's total financial obligation under the Settlement exceed \$400,000.00.

HOW TO GET BENEFITS

7. HOW DO I MAKE A CLAIM?

By submitting a valid claim form by on or before the claim deadline of **March 4, 2024**. If you received the April 2023 data breach notification letter, you can make a claim by filling out and submitting the claim form available at www.HarringtonDataSettlement.com. You can also contact the Settlement Administrator to request a paper claim form by telephone at 866-719-3551, by email to info@HarringtonDataSettlement.com, or by writing to Hoyle v. Harrington Raceway Data Settlement, P.O. Box 25225, Santa Ana, CA 92799.

Claims will be subject to a verification process. You will need the Unique ID provided on the front of your postcard Notice to fill out a Claim Form. If you do not know your Unique ID, please contact the Settlement Administrator.

8. WHEN WILL I GET MY PAYMENT?

The hearing to consider the fairness of the Settlement is scheduled for **April 25, 2024 at 10:00 a.m.** 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. Eligible claims will be paid to Class Members via paper check unless a Class Member chooses to receive payment electronically. All checks will expire and become void 180 days after they are issued.

THE LAWYERS REPRESENTING YOU

9. DO I HAVE A LAWYER IN THIS CASE?

Yes, the Court has appointed Philip J. Krzeski and Bryan L. Bleichner of Chestnut Cambronne PA and Joseph M. Lyon of The Lyon Firm as "Class Counsel."

Should I get my own lawyer?

- You don't need to hire your own lawyer because Class Counsel are working on your behalf. These lawyers and their firms are experienced in handling similar cases. You will not be charged for these lawyers. You can ask your own lawyer to appear in Comi for you, at your own cost, if you want someone other than Class Counsel to represent you.

10. HOW WILL THE LAWYERS BE PAID?

Class Counsel will ask the Court for attorneys' fees, costs, and expenses that will be paid from the Settlement Fund. Class Counsel will not seek more than \$133,333.33 in attorneys' fees and litigation costs and expenses. Class Counsel will also request a Service Award of up to \$5,000.00 for the Class Representative. 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 award to the Class Representative. The Court may award less than the amounts requested.

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 the Defendant about the issues in this case, 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. You can read the Settlement Agreement at www.HarringtonDataSettlement.com. 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.

"Released Claims" means any and all past, present, and future claims and causes of action related to the Data Incident, including but not limited to, any causes of action arising under or premised upon any statute, constitution, law, ordinance, treaty, regulation, or common law of any country, state, province, county, city, or municipality, including 15 U.S.C. § 45, et seq., and all similar statutes in effect in any states in the United States as defined below; state consumer-protection statutes; negligence; negligence per se; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; fraud; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief or judgment, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, and/or the appointment of a receiver, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or contingent, direct or derivative, and any other form of legal or equitable relief that either has been asserted, was asserted, or could have been asserted, by any Class Member against any of the Released Persons based on, relating to, concerning or arising out of the alleged Data Incident or the allegations, transactions, occurrences, facts, or circumstances alleged in or otherwise described in the Litigation.

The Settlement Agreement in Subsections 1.26, 1.28, 1.38, 6.1, and 9.3 describe the Release, Released Claims, and untimely Valid Claims in necessary legal terminology, so please read these sections carefully. The Settlement Agreement is available at www.HarringtonDataSettlement.com or in the public court records on file in this lawsuit.

The Released Claims do not include any claims arising from or relating to any conduct by Defendant after the date the Agreement is executed. The Released Claims shall also not include the right of Plaintiff, any Class Member, or any Releasing Party to enforce the terms of the Settlement Agreement.

12. WHAT HAPPENS IF I DO NOTHING AT ALL?

If you do nothing, you will receive no payment under the Settlement for any losses incurred as a result of the Data Incident. You will be in the 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 Section 11 above. Unless you exclude yourself, you won't be able to file a lawsuit or be part of any other lawsuit against Defendant for the claims or legal issues resolved in this Settlement.

13. WHAT HAPPENS IF I ASK TO BE EXCLUDED?

If you opt-out of the Settlement, you will not have any rights as a member of the Class under the Settlement terms; you will not receive any payment as part of the Settlement; you will not be bound by any further orders or judgments in this case; and you will keep the right, if any, to sue on the claims alleged in this lawsuit at your own expense.

14. HOW DO I ASK TO BE EXCLUDED?

You can ask to be excluded from the Settlement. To do so, you must mail a letter or exclusion form stating: (1) the name of the proceeding, *Hoyle v. Harrington Raceway, Inc.*, Case No. 1:23-cv-00420-MN (D. Del.); (2) your full name; (3) your current address; (4) your personal signature; and (5) a clear statement of your intent to opt-out of or exclude yourself from the settlement. You must mail your exclusion request, postmarked no later than **February 19, 2024**, to the following address:

Hoyle v. Harrington Raceway Data Settlement
P.O. Box 25225
Santa Ana, CA 92799

You cannot exclude yourself by phone or email. Each 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 DEFENDANT FOR THE SAME THING LATER?

No. Unless you exclude yourself, you give up any right to sue Defendant for the claims being resolved by 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 a payment.

17. HOW DO I OBJECT TO THE SETTLEMENT?

If you did not exclude yourself from the Class and think that the Court should not approve the settlement, you can object to the Settlement and provide reasons why you think the settlement should not be approved. Such notice must state: (i) your full name and address; (ii) the case name and docket number, *Hoyle v. Harrington Raceway, Inc.*, Case No. 1:23-cv-00420-MN (D. Del.); (iii) information identifying yourself as a Class Member, including proof that you are a member of the Class (e.g., copy of your settlement notice, copy of original notice of the Data Incident, or a statement explaining why you believe you are a Class Member); (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection that you believe is applicable; (v) the identity of any and all counsel representing you in connection with your objection; (vi) a statement whether you and/or your counsel will appear at the Final Fairness Hearing; and (vii) your signature or the signature of your duly authorized attorney or other duly authorized representative (if any) representing you in connection with the objection.

To be timely, written notice of an objection in the appropriate form must be mailed, with a postmark date no later than February 19, 2024, to the Settlement Administrator at Hoyle v. Harrington Raceway Data Settlement, P.O. Box 25225, Santa Ana, CA 92799. You or your counsel shall also file any Objection with the Court through the Court's ECF system or by submitting your objection to the Clerk of Court, which is located at United States District Court for the District of Delaware, 844 N King St, Wilmington, DE 19801.

For all objections mailed to the Settlement Administrator, Class Counsel will file them with the Court with the Motion for Final Approval of the Settlement, unless the Objection(s) were previously filed on the docket.

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 Class. Excluding yourself from the Class is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS 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 **April 25, 2024 at 10:00 a.m.** at the **United States District Court for the District of Delaware, 844 N King St, Wilmington, DE 19801**. 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 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 Award Payment to the Class Representative.

Note: The date and time of the Final Approval Hearing are subject to change by Court Order. Any changes will be posted at the Settlement Website, www.HarringtonDataSettlement.com, or through the Court's publicly available docket. You should check the Settlement Website to confirm the date and time have not been changed.

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. As long as your written objection was filed or mailed on time and meets the other criteria described in the Settlement Agreement, the Court will consider it. You may also pay a lawyer to attend on your behalf at your own expense, but you don't have to.

21. MAY I SPEAK AT THE HEARING?

Yes. If you do not exclude yourself from the Class, you may ask the Court for permission to 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, which is available at www.HarringtonDataSettlement.com.

YOU MAY CONTACT THE SETTLEMENT ADMINISTRATOR ONLINE AT www.HarringtonDataSettlement.com, BY CALLING TOLL-FREE AT 866-719-3551, BY EMAIL TO info@HarringtonDataSettlement.com, OR WRITING TO:

Hoyle v. Harrington Raceway Data Settlement
P.O. Box 25225
Santa Ana, CA 92799

PLEASE DO NOT CALL THE COURT, THE CLERK OF THE COURT, THE JUDGE, OR THE DEFENDANT WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.