

Records Indicate You May Be Entitled to a Payment from a Class Action Settlement Because You Subscribed or Signed Up for Access to FloSports

Claims Must be Submitted no later than December 22, 2023

A court 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 against FloSports, Inc. (“FloSports”). The class action lawsuit alleges FloSports disclosed its subscribers’ personally identifiable information (“PII”) to Facebook via the Facebook Tracking Pixel, without its subscribers’ consent, in violation of the Video Privacy Protection Act (“VPPA”). The VPPA defines PII to include information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider. FloSports denies that it violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.
- You are included in the Settlement Class if you are an individual residing in the United States who, from September 13, 2020, to and through August 23, 2023: (1) is or was a Facebook user; (2) subscribed or otherwise signed up for access to FloSports’ services; and (3) requested or obtained any prerecorded (including on-demand replay) videos available on any FloSports website.
- Individuals included in the Settlement will be eligible to receive cash payment *pro rata* (meaning equal) portion of the Net Settlement Fund. The Settlement also requires Defendant to suspend operation of the Facebook Tracking Pixel on any pages on its website that both include video content and have a URL that identifies the video content viewed, unless and until the VPPA were to be: (a) amended to expressly permit (and not prohibit) the Released Claims, (b) repealed, or (c) invalidated by a judicial decision on the use of website pixel technology by the United States Supreme Court or the First Circuit Court of Appeals, or until FloSports obtains VPPA-compliant consent for the disclosure to Facebook of the video content viewed.
- Read this notice carefully. Your legal rights are affected whether you act, or do not act.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A CLAIM FORM BY DECEMBER 22, 2023	This is the only way to receive a cash payment. A Claim Form is available at www.FloSportsVPPASettlement.com . As a Settlement Class Member, you will give up your rights to sue FloSports in the future regarding the claims in this case.
EXCLUDE YOURSELF BY NOVEMBER 21, 2023	You will receive no benefits, but you will retain any rights you currently have to sue FloSports regarding the claims in this case.
OBJECT BY NOVEMBER 21, 2023	Write to the Court explaining why you don’t like the Settlement.
GO TO THE HEARING ON JANUARY 5, 2024	Ask to speak in Court about your opinion of the Settlement.
DO NOTHING	You won’t get a share of the Settlement benefits and will give up your rights to sue FloSports regarding the claims in this case.

Your rights and options—and the deadlines to exercise them—are explained in this Notice.

Questions? Visit www.FloSportsVPPASettlement.com or call 1-877-619-4778

BASIC INFORMATION

1. Why was this Notice issued?

A Court authorized this notice because you have a right to know about a proposed Settlement of this class action lawsuit and about all your options, before the Court decides whether to give final approval to the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

The Honorable Angel Kelley, of the U.S. District Court for the District of Massachusetts, is overseeing this case. The case is called *Fiorentino v. FloSports, Inc.*, Case No. 1:22-cv-11502-AK. The person who has sued is called the Plaintiff. The entity being sued, FloSports, is called the Defendant.

2. What is a class action?

In a class action, one or more people called the class representatives (in this case, Plaintiff Christopher J. Fiorentino) sue on behalf of a group or a “class” of people who have similar claims. In a class action, the court resolves the issues for all class members, except for those who exclude themselves from the class.

3. What is this lawsuit about?

This lawsuit claims that FloSports violated the Video Privacy Protection Act, 18 U.S.C. § 2710, *et seq.* (“VPPA”) by disclosing its subscribers’ personally identifiable information (“PII”) to Facebook via the Facebook Tracking Pixel without consent. The VPPA defines PII to include information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider. FloSports denies that it violated any law. The Court has not determined who is right. Rather, the parties have agreed to settle the lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.

4. Why is there a Settlement?

The Court has not decided whether the Plaintiff or FloSports should win this case. Instead, both sides agreed to a Settlement. That way, they avoid the uncertainties and expenses associated with ongoing litigation, and Settlement Class Members will get compensation.

WHO’S INCLUDED IN THE SETTLEMENT?

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

The Settlement Class is defined as:

All individuals residing in the United States who, from September 13, 2020, to and through August 23, 2023: (1) are or have been Facebook users; (2) subscribed or otherwise signed up for access to FloSports’ services; and (3) requested or obtained any prerecorded (including on-demand replay) videos available on any FloSports website.

THE SETTLEMENT BENEFITS

6. What does the Settlement provide?

Monetary Relief: FloSports will pay \$2,625,000.00 to create a Settlement Fund.

Prospective Changes: In addition to this monetary relief, the Settlement also requires FloSports to suspend operation of the Facebook Tracking Pixel on any pages on its website that both include video content and have a URL that identifies the video content viewed, unless and until the VPPA were to be: (a) amended to expressly permit (and not prohibit) the Released Claims, (b) repealed, or (c) invalidated by a judicial decision on the use of website pixel technology by the United States Supreme Court or the First Circuit Court of Appeals, or until FloSports obtains VPPA-compliant consent for the disclosure to Facebook of the video content viewed.

A detailed description of the settlement benefits can be found in the Settlement Agreement available at www.FloSportsVPPASettlement.com.

7. How much will my payment be?

After deducting any Court-approved attorneys' fees and expenses, service award for the class representative, and costs of settlement administration (including payment of any associated taxes), the Settlement Fund will be distributed to Settlement Class Members as a cash payment on a *pro rata* basis (meaning equal share). This means each Settlement Class Member who submits a valid claim will be paid an equal share from the Net Settlement Fund. The amount of the payments to individual Settlement Class Members will depend on the number of valid claims that are filed. Because the final payment amount cannot be calculated before all claims are received and verified, it will not be possible to provide an accurate estimate of the payment amount before the deadline to file claims.

8. When will I get my payment?

The Court will hold a hearing to consider the fairness of the settlement on January 5, 2024. If the Court approves the settlement, eligible Settlement Class Members whose claims were approved by the Settlement Administrator will receive their payment within 90 days after the Settlement has been finally approved and/or any appeals process is complete. In submitting their claims, Settlement Class Members can choose whether to receive their payment via PayPal, Venmo, or paper check. All checks will expire and become void unless cashed within 180 days after the date of issuance.

HOW TO GET BENEFITS

9. How do I get a payment?

If you are a Settlement Class Member and you want to receive a payment, you **must** complete and submit a Claim Form postmarked by **December 22, 2023**. Claim Forms can be found and submitted at www.FloSportsVPPASettlement.com, or by printing and mailing a paper Claim Form, copies of which are available for download at www.FloSportsVPPASettlement.com.

Settlement Class Members are encouraged to submit claims online. Not only is it easier and more secure, but it is completely free and takes only minutes!

Questions? Visit www.FloSportsVPPASettlement.com or call 1-877-619-4778

REMAINING IN THE SETTLEMENT

10. What am I giving up if I stay in the Settlement Class?

If the Settlement becomes final, you will give up (or “release”) your rights to sue FloSports and certain of its affiliates (Released Parties) regarding the Released Claims, which are described and defined in Paragraphs 1.25 and 1.26 of the Settlement Agreement. Unless you exclude yourself (*see* Question 14), you will release the Released Claims, regardless of whether you submit a claim or not. You may access the Settlement Agreement through the “court documents” link on the website.

The Settlement Agreement describes the Released Claims with specific descriptions, so read it carefully. If you have any questions you may speak to the lawyers listed in Question 12 for free or you may, of course, speak to your own lawyer.

11. What happens if I do nothing at all?

If you do nothing, you will not receive any monetary benefit (cash payment) from this Settlement. Further, if you do not exclude yourself, you will be unable to start a lawsuit or be part of any other lawsuit brought against FloSports regarding the Released Claims.

THE LAWYERS REPRESENTING YOU

12. Do I have a lawyer in the case?

The Court has appointed Rachel Geman (Lief Cabraser Heimann & Bernstein LLP), and Hank Bates (Carney Bates & Pulliam PLLC) to be the attorneys representing the Settlement Class. They are called “Class Counsel.” After conducting an extensive investigation, they believe that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your own expense.

13. How will the lawyers be paid?

Class Counsel’s attorneys’ fees, costs, and expenses will be paid from the Settlement Fund in an amount determined and awarded by the Court. Class Counsel will ask for no more than one-third of the \$2.625 million Settlement Fund, but the Court may award less than this amount.

Class Counsel may also seek a Service Award of up to \$2,000.00 for the Class Representative for his service in helping to bring and settle the case. The Service Award will be paid out of the Settlement Fund, but the Court may award less than this amount.

EXCLUDING YOURSELF FROM THE SETTLEMENT

14. How do I get out of the Settlement?

To exclude yourself from the Class, you must mail or otherwise deliver a letter stating that you want to be excluded. Your letter must include:

- a. The name and number of this case, *Fiorentino v. FloSports, Inc.*, Case No. 1:22-cv-11502-AK;
- b. Your full name and mailing address;
- c. A statement that you wish to be excluded; and
- d. Your handwritten or electronically imaged written signature.

Questions? Visit www.FloSportsVPPASettlement.com or call 1-877-619-4778

You must mail or deliver your exclusion letter, postmarked no later than **November 21, 2023** to:

FloSports VPPA Settlement Administrator Exclusions
P.O. Box 2138
Portland, OR 97208-2138

No “mass” or “class” opt-outs will be allowed.

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

No. Unless you exclude yourself, you give up any right to sue FloSports for the Released Claims being resolved by this Settlement.

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

No. If you exclude yourself, you may not submit a Claim Form to receive a monetary benefit (cash payment).

OBJECTING TO THE SETTLEMENT

17. How do I object to the Settlement?

If you’re a Settlement Class Member, you may ask the Court to deny approval by filing an objection. You may object to any aspect of the Settlement, Class Counsel’s request for attorneys’ fees and expenses, or the request for a Service Award. You can give reasons why you think the Court should not give its approval. The Court will consider your views.

If you choose to make an objection, you must mail or file with the Court a letter or brief stating that you object to the Settlement. Your letter or brief must include:

The name and number of this case, *Fiorentino v. FloSports, Inc.*, Case No. 1:22-cv-11502-AK;

- a. Your full name and mailing address;
- b. An explanation of the basis upon which you claim to be a Settlement Class Member, including information sufficient to identify your current Facebook page or a screenshot showing that you were a Facebook member during the class period;
- c. An explanation of any and all your reasons for your objections, including citations to legal authority and supporting evidence, and attaching any materials you rely on for your objections;
- d. The name and contact information of any and all lawyers representing, advising, or in any way assisting you in connection with your objection;
- e. A statement indicating whether you or your lawyer(s) intends to appear at the Final Approval Hearing;
- f. Your handwritten or electronically imaged written signature; and
- g. If a Settlement Class Member or any of the Objecting lawyers have objected to any class action settlement where the objector or the Objecting lawyer asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection must include a statement identifying each such case by full case caption and amount of payment received. Any challenge to the Settlement Agreement or the Final Judgment shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

Questions? Visit www.FloSportsVPPASettlement.com or call 1-877-619-4778

You must mail or deliver your written objection, postmarked no later than **November 21, 2023** to:

Clerk of the Court
United States District Court for the District of Massachusetts
1 Courthouse Way, Suite 2300
Boston, MA 02210

You must also mail or otherwise deliver a copy of your written objection to Class Counsel and FloSports' counsel at the following addresses:

Class Counsel	Defendant's Counsel
Hank Bates Carney Bates & Pulliam, PLLC 519 W. 7th Street Little Rock, AR 72201 Email: hbates@cbplaw.com	Christopher M. Iaquinto Holland & Knight LLP 10 St. James Ave., 11th Fl. Boston, MA 02116 christopher.iaquinto@hklaw.com
Rachel J. Geman Lieff Cabraser Heimann & Bernstein LLP 250 Hudson Street, 8th Floor New York, NY 10013 Email: rgeman@lchb.com	Mark S. Melodia Holland & Knight LLP 31 West 52nd Street, 12th Fl. New York, NY 10019 mark.melodia@hklaw.com

No "mass" or "class" objections will be allowed.

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 right to object or file a Claim Form because the case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

19. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at **2:30 p.m.** on **January 5, 2024** in Courtroom 8 at the John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, MA 02210. The purpose of the hearing will be for the Court to determine whether to approve the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the Class Counsel's request for attorneys' fees and expenses; and to consider the request for a Service Award to the Class Representative. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement.

The hearing may be postponed to a different date or time without notice, so it is a good idea to check www.FloSportsVPPASettlement.com or call 1-888-551-9944 or 1-800-541-7358. If, however, you timely objected to the Settlement and advised the Court that you intend to appear and speak at the Final Approval Hearing, you will receive notice of any change in the date of such Final Approval Hearing.

Questions? Visit www.FloSportsVPPASettlement.com or call 1-877-619-4778

20. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you send an objection or comment, you don't have to attend the hearing to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also retain your own lawyer (at your own expense) to attend, but it's not required.

21. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must include in your letter or brief objecting to the Settlement a statement saying that you or your lawyer intends to appear at the Final Approval Hearing.

GETTING MORE INFORMATION

22. Where do I get more information?

This Notice summarizes the Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at www.FloSportsVPPASettlement.com. You may also write with questions to FloSports VPPA Privacy Settlement, P.O. Box 2138, Portland, OR 97208-2138. You can call the Settlement Administrator at 1-877-619-4778 or Class Counsel at 1-888-551-9944 or 1-800-541-7358, if you have any questions. Before doing so, however, please read this full Notice carefully. You may also find additional information elsewhere on the case website.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT'S CLERK OFFICE
REGARDING THIS NOTICE.**