

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TIMOTHY THOME, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

NOVATIME TECHNOLOGY, INC.,

Defendant.

Case No. 1:19-cv-06256

Hon. Matthew F. Kennelly

PRELIMINARY APPROVAL ORDER

This matter having come before the Court on Plaintiff's Unopposed Motion for and Memorandum in Support of Preliminary Approval of Class Action Settlement (the "Motion"), the Court having reviewed in detail and considered the Motion, the Settlement Agreement ("Settlement Agreement") between Plaintiff Timothy Thome, individually and on behalf of all others similarly situated, as Assignee of NOVAtime Technology, Inc., Ascentis Corporation, and Ascentis Holdings, LP, and AXIS Insurance Company (together, the "Parties"), and all other papers that have been filed with the Court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Capitalized terms used in this Order that are not otherwise defined herein have the same meaning assigned to them as in the Settlement Agreement.

2. The terms of the Settlement Agreement are preliminarily approved as fair, reasonable, and adequate. There is good cause to find that the Settlement Agreement was

negotiated at arms-length and in good faith between the Parties, who were represented by experienced counsel familiar with the legal and factual issues of this case and was reached with the assistance of the Honorable Mary Anne Mason (Ret.) of JAMS Chicago.

3. Based on this preliminary evaluation, the Court finds that the Settlement Agreement meets all applicable requirements of Rule 23 of the Federal Rules of Civil Procedure for settlement purposes only, including that the Settlement Class (referred to as the “Thome Class” in the Settlement Agreement) is sufficiently numerous, that there are questions of law and fact common to members of the Settlement Class that predominate, that the proposed Class Representative will fairly and adequately protect the interests of the Settlement Class, and that class treatment is an appropriate method for the fair and efficient adjudication of the Action.

4. The Court hereby preliminarily approves the Settlement Agreement in the total amount of Four Million Two Hundred Thousand Dollars (\$4,200,000.00), including preliminary approval of attorneys’ fees in the amount of \$1,399,860.00, consistent and pursuant to the terms and conditions of the Settlement Agreement, as fully described in the Settlement Agreement.

5. The Court hereby preliminarily certifies, pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of settlement only, the following Settlement Class consisting of:

All individuals who were enrolled in a NOVAtime biometric timekeeping system and subsequently used a NOVAtime timeclock that utilized a fingerprint, hand-geometry, or other biometric verification method in the State of Illinois from August 14, 2014, and October 19, 2020.

Excluded from the Settlement Class are: (1) any Judge or Magistrate presiding over this action and members of their families, (2) the defendant, defendant’s subsidiaries, parent companies, successors, predecessors, and any entity in which the defendant or its parents have a controlling interest, (3) persons who previously properly executed and filed a timely request for exclusion from the Settlement Class, and (4) the legal representatives, successors or assigns of any such excluded persons.

6. For settlement purposes only, Plaintiff Timothy Thome is appointed as Class Representative.

7. For settlement purposes only, the following counsel are hereby appointed as Class Counsel:

Ryan F. Stephan
James B. Zouras
Andrew C. Ficzkowski
STEPHAN ZOURAS, LLP
222 W. Adams Street, Suite 2020
Chicago, Illinois 60606
Tel: 312-233-1550
rstephan@stephanzouras.com
jzouras@stephanzouras.com
aficzkowski@stephanzouras.com

Brandon M. Wise
Peiffer Wolf Carr Kane
Conway & Wise, LLP
One US Bank Plaza, Suite 1950
St. Louis, Missouri 63101
Tel: 314-833-4827
bwise@peifferwolf.com

8. The Court recognizes that, pursuant to the Settlement Agreement, Defendant retains all rights to object to the propriety of class certification in the Action in all other contexts and for all other purposes should the Settlement Agreement not be finally approved. Therefore, as more fully set forth below, if the Settlement Agreement is not finally approved, and the Action resumes, this Court's preliminary findings regarding the propriety of class certification shall be of no further force or effect whatsoever, and this Order will be vacated in its entirety.

9. The Court approves the proposed plan for giving Notice to the Settlement Class as fully described in the Settlement Agreement. The plan for giving Notice, in form, method, and content, fully complies with the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process and is due and sufficient notice to all persons in the Settlement Class. In addition,

the Court finds that no notice other than that specifically identified in the Settlement Agreement is necessary in this Action.

10. JND Legal Administration is hereby appointed Settlement Administrator to supervise and administer the notice process, as well as to oversee the administration of the Settlement Agreement, as fully set forth in the Settlement Agreement. The Settlement Administrator may proceed with the distribution of the Notice as set forth in the Settlement Agreement.

11. Settlement Class Members who wish to receive benefits under the Settlement Agreement must complete and submit a valid Claim Form in accordance with the instructions provided in the Notice on or before May 30, 2024. Only those Settlement Class Members who have not previously submitted a Claim Form are required to submit a Claim Form to be entitled to a Settlement Payment. All Settlement Class Members who previously submitted an Approved Claim will automatically receive a *pro rata* share of the Settlement Fund. The Court hereby approves, as to form and content, the Claim Form attached to the Settlement Agreement as Exhibit A.

12. All Claim Forms must be either mailed via U.S. Mail to the address specified in the Claim Form or be electronically submitted to the Settlement Administrator via the Settlement Website no later than May 30, 2024. Settlement Class Members, excluding those who previously submitted an Approved Claim, who do not timely submit a Claim Form deemed to be valid in accordance with the Settlement Agreement, shall not be entitled to receive any portion of the Settlement Fund.

13. Addresses for Class Counsel, AXIS's Counsel, the Settlement Administrator, and the Clerk of Court are as follows:

<p>Class Counsel:</p> <p>Ryan F. Stephan James B. Zouras Andrew C. Ficzko Stephan Zouras LLP 222 W. Adams Street, Suite 2020 Chicago, IL 60606 rstephan@stephanzouras.com jzouras@stephanzouras.com aficzko@stephanzouras.com</p> <p>Brandon M. Wise Peiffer Wolf Carr Kane Conway & Wise, LLP One US Bank Plaza, Suite 1950 St. Louis, MO 63101 bwise@peifferwolf.com</p>	<p>AXIS's Counsel:</p> <p>Brian C. Bassett Traub Lieberman 71 S. Wacker Dr., Suite 2110 Chicago, IL 60606 bbassett@tlsslaw.com</p>
<p>Settlement Administrator:</p> <p>JND Legal Administration 1100 2nd Ave., Suite 300 Seattle, WA 98101</p>	<p>Clerk of Court:</p> <p>U.S. District Court for the Northern District of Illinois, Eastern Division 219 S. Dearborn Street Chicago, IL 60604</p>

14. Class Counsel may file any motion seeking an award of attorneys' fees, costs and expenses, as well as an incentive award for the Class Representative, in accordance with the terms of the Settlement Agreement, no later than June 12, 2024.

15. All papers in support of final approval of the Settlement Agreement shall be filed no later than ten (10) days before the Final Approval Hearing.

16. A hearing (the "Final Approval Hearing") shall be held before the Court on **June 26, 2024, at 8:50 a.m.** via remote telephonic conference (or at such other time or location as the Court may without further notice direct) using the call-in number of **(650) 479-3207** and access code **980-39433** for the following purposes:

(a) to finally determine whether the applicable prerequisites for settlement under Rule

23 of the Federal Rules of Civil Procedure have been met;

- (b) to determine whether the Settlement Agreement is fair, reasonable, adequate, and made in good faith, and should be approved by the Court;
- (c) to determine whether the Final Approval Order as provided under the Settlement Agreement should be entered, including an order prohibiting Settlement Class Members from further pursuing released claims as set forth in the Settlement Agreement;
- (d) to consider the application for a Fee Award to Class Counsel;
- (e) to consider the application for an Incentive Award to the Class Representative;
- (f) to consider the distribution of the Settlement Fund pursuant to the Settlement Agreement; and
- (g) to rule upon such other matters as the Court may deem appropriate.

17. The Final Approval Hearing may be postponed, adjourned, transferred, or continued by order of the Court without further notice to the Settlement Class. At or following the Final Approval Hearing, the Court may enter a judgment approving the Settlement Agreement and a Final Approval Order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

18. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

19. The Settlement Agreement and the proceedings and statements made pursuant to the Settlement Agreement or papers filed relating to the Settlement Agreement or this Order, are not and shall not in any event be described or construed as, and/or used, offered, or received against the released parties as evidence of and/or deemed to be evidence of any presumption, concession, or admission by any released party of the truth of any fact alleged by Plaintiff; the validity of any

released claim; the deficiency of any defense that has been or could have been asserted in the matter or in any litigation; or any liability, negligence, fault, or wrongdoing of any of the released parties. Defendant and AXIS have denied and continue to deny the claims asserted by Plaintiff. Notwithstanding, nothing contained herein shall be construed to prevent a Party from offering the Settlement Agreement into evidence for the purpose of enforcing the Settlement Agreement.


20. The Court hereby authorizes the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications, and expansions of the Settlement Agreement and its implementing documents (including all exhibits to the Settlement Agreement) that shall be consistent in all material respects with the terms of the Final Approval Order and do not limit or impair the rights of the Settlement Class.

21. For clarity, the deadlines set forth above and in the Settlement Agreement are as follows:

Notice to be completed by:	March 28, 2024
Claims Deadline:	May 30, 2024
Fee Award Application:	June 12, 2024
Final Approval Submission:	June 12, 2024
Final Approval Hearing:	June 26, 2024, at 8:50 a.m.

IT IS SO ORDERED.

ENTERED: 3/15/2024



Hon. Matthew F. Kennelly
U.S. District Court Judge
Northern District of Illinois