



Miami-Dade Circuit Judge Alan Fine. (Credit: Courtesy photo)

NEWS Miami Judge Gives Preliminary Approval to Cryptocurrency Class Action—With a Caveat

Now, Miami-Dade Circuit Judge Alan Fine scheduled a final approval hearing on Oct. 27 to consider the proposed settlement over the Empires-X Corp. platform scam.

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4 minute read

Litigation



Michael A. Mora

What You Need to Know

- Miami-Dade Circuit Judge Alan Fine appointed Moskowitz Law Firm and Meyer & Nuñez as lead class counsel in the Empires X class action.
- One of the defendants, who does not have any financial resources, agreed to provide information about the whereabouts of his deep pocket co-founders.
- Fine set a final approval hearing on Oct. 27.

Good news for victims of a cryptocurrency Ponzi scheme.

A judge who sits on the Miami-Dade Circuit Court bench granted an unopposed motion for preliminary approval of a class action settlement for those scammed out of more than **\$100 million** in connection with the Empires X Corp. platform.



Adam Moskowitz of the Moskowitz Law Firm in Coral Gables

However, Adam M. Moskowitz—an adjunct professor at the University of Miami School of Law whose law firm, the Moskowitz Law Firm in Coral Gables, the court-appointed co-lead class counsel—warned that the victims in the nationwide class would not see a cent ... yet.

"All of the lawyers that investigated these claims for the past few months concluded that there was nothing to collect, and therefore they all passed on helping any of these victims," Moskowitz said. "But we heard many stories about some of them losing their life savings, so we simply had to act and the best device to use is the class action. Sometimes when do the right thing in life, karma works out in the end."

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One defendant, Joshua David Nicholas, 28, who said he does not have any financial resources, turned himself in with the understanding he would testify against the remaining two defendants, Emerson Pires, 33, and Flavio Goncalves, 33. Pires and Goncalves are allegedly "on the run" in Brazil and Dubai with ill-gotten cash, according to court documents.

Jack Scarola, a partner at Searcy Denney Scarola Barnhart & Shipley who represents Nicholas, said his client has willingly cooperated in this investigation with law enforcement and private counsel to do all he can for the victims of this Ponzi scheme.

"This is a young man who fell victim to a scheme with a scope and nature of which he did not fully appreciate," Scarola said. "But as soon as he became aware of what was going on, he has accepted responsibility and is engaged in doing everything he can to undo the consequences of this scheme."



Jack Scarola of Searcy Denney Scarola Barnhart & Shipley. (Credit: Melanie Bell)

Now, Miami-Dade Circuit Judge Alan Fine scheduled a final approval hearing on Oct. 27 to consider the proposed settlement's fairness, reasonableness and adequacy, and determine whether he should approve the settlement.

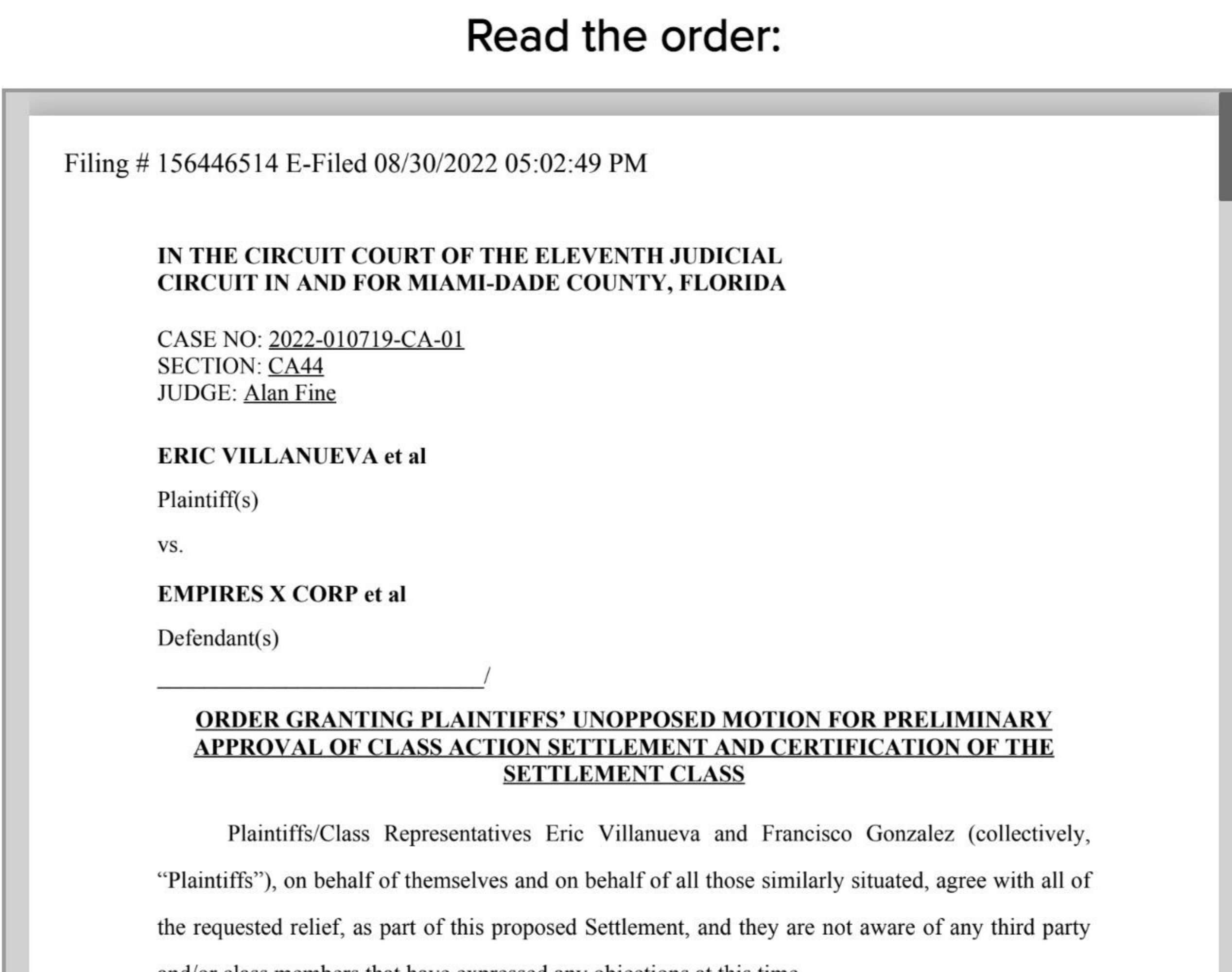
These terms include setting plaintiffs Eric Villanueva and Francisco Gonzalez as class representatives, according to the [state court order](#).

The settlement class will be all people from June 10, 2018, to Aug. 30, 2022, who invested in the Empires X investment platform, which Moskowitz estimated is in the thousands. And Fine appointed the Moskowitz Law Firm and the law firm Meyer & Nuñez in Coral Gables as lead class counsel.

The U.S. Securities and Exchange Commission announced fraud charges in June against the Empires X founders, the defendants, for a scheme in which they allegedly raised money by luring investors with false claims of 1% daily profits. But rather than deliver their clients the promised profits, they instead misappropriated large sums of investors' money for their personal use, [per the government](#)

[complaint](#).

Read the order:



After more than a month of "arms-length mediation," Moskowitz said the parties reached a settlement agreement with Nicholas to fully cooperate with class counsel as part of his plea agreement with the U.S. Department of Justice, according to the [unopposed motion for preliminary approval](#) of the class action settlement.

Nicholas will aid in the investigation and prosecution of claims against the two other founders to recover all assets that the non-settling defendants have in their possession, per the order. And while the settlement is an accomplishment, Moskowitz said there would be hard work ahead to leverage this insight into locating the remaining defendants.

"In the criminal court, Nicholas has a federal public defender because he's signed affidavits saying he's broke," Moskowitz said. "I mean, less than broke. He's going to owe the government money. Even though he's going to, he's going to try to help all the victims and do the right thing, which is pretty amazing because he has some incredibly valuable information."

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