

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

IN RE:  
MEDNAX SERVICES, INC.,  
CUSTOMER DATA SECURITY  
BREACH LITIGATION

Case No.: 21-MD-02994-RAR

This Document Relates To: All Actions

**PLAINTIFFS' UNOPPOSED MOTION FOR FINAL  
APPROVAL OF CLASS ACTION SETTLEMENT  
AND INCORPORATED MEMORANDUM OF LAW IN SUPPORT**

## **TABLE OF CONTENTS**

I. INTRODUCTION.....	1
II. FACTUAL AND PROCEDURAL BACKGROUND.....	2
III. THE SETTLEMENT TERMS .....	4
A. Definition of the Settlement Class .....	5
B. Benefits to the Settlement Class .....	5
i. Reimbursement For Out-of-Pocket Expenses.....	5
ii. Reimbursement for Attested Time Spent .....	5
iii. Reimbursement for Documented Time Spent .....	6
iv. Medical Monitoring and Medical Fraud Protection.....	6
C. Claims, Opt-Outs, and Exclusions .....	6
i. Claims .....	6
ii. Exclusions .....	7
iii. Objections .....	7
D. Attorneys’ Fees and Expenses .....	8
E. Release .....	8
IV. APPLICABLE LAW .....	8
A. Argument and Authorities .....	9
i. Rule 23(a) Requirements are Met for Settlement Purposes.....	9
ii. Rule 23(b) Requirements Are Met for Purposes of Settlement .....	12
iii. The Rule 23(e) Factors and the <i>Bennett</i> Factors are Satisfied.....	13
iv. Fed. R. Civ. P. 23(e)(2)(A): Plaintiffs and Class Counsel have Adequately Represented the Class. ....	14
v. Fed. R. Civ. P. 23(e)(2)(B): the Settlement was Negotiated at Arm’s Length .....	15

vi.	Fed. R. Civ. P. 23(e)(2)(C)(i) and <i>Bennett</i> Factors 1–4: the Relief Provided is Adequate .....	16
vii.	Fed. R. Civ. P. 23(e)(2)(C)(ii)–(iv) and Fed. R. Civ. P. 23(e)(2)(D): Notice Was Effectively Distributed; The Award of Attorneys’ Fees and Expenses is Reasonable; No Agreements Required to be Identified; and Class Members are Treated Equitably Relative to Each Other.....	17
viii.	<i>Bennet</i> Factor 5: The Substance and Amount of Opposition to the Settlement .....	18
xi.	<i>Bennett</i> Factor 6: The Stage the Settlement was Achieved .....	19
V.	THE NOTICE ADEQUATELY APPRISED SETTLEMENT CLASS MEMBERS .....	19
VI.	CONCLUSION .....	22

**TABLE OF AUTHORITIES**

<b><u>Cases</u></b>	<b><u>Page(s)</u></b>
<i>Amchem Prods. v. Windsor</i> , 521 U.S. 591 (1997) .....	12
<i>Ass'n for Disabled Americans, Inc. v. Motiva Ent., LLC</i> , 1999 WL 35815520 (S.D. Fla. Oct. 19, 1999).....	10
<i>Ault v. Walt Disney World Co.</i> , 692 F.3d 1212 (11th Cir. 2012).....	11
<i>Bennett v. Behring Corp.</i> , 737 F.2d 982 (11th Cir. 1984).....	9, 13, 14
<i>Bostick v. Herbalife Int'l of Am., Inc.</i> , 2015 WL 12731932 (C.D. Cal. May 14, 2015) .....	22
<i>Bouton v. Ocean Prop., Ltd.</i> , 322 F.R.D. 683 (S.D. Fla. 2017).....	11
<i>Carriuolo v. Gen. Motors Co.</i> , 823 F.3d 977 (11th Cir. 2016).....	12
<i>Carter v. Vivendi Ticketing US LLC</i> , 2023 WL 8153712 (C.D. Cal. Oct. 30, 2023).....	22
<i>Ferron v. Kraft Heinz Foods Co.</i> , 2021 WL 2940240 (S.D. Fla. July 13, 2021).....	14
<i>Fox v. Iowa Health Sys.</i> , 2021 WL 826741 (W.D. Wis. Mar. 4, 2021).....	16
<i>Fulton-Green v. Accolade, Inc.</i> , 2019 WL 4677954 (E.D. Pa. Sept. 24, 2019) .....	16
<i>Griffin v. Dugger</i> , 823 F.2d 1476 (11th Cir. 1987).....	9
<i>Hall v. Bank of America, N.A.</i> , 2014 WL 7184039 (S.D. Fla. Dec. 17, 2014).....	18
<i>Hamilton v. SunTrust Mortg. Inc.</i> , 2014 WL 5419507 (S.D. Fla. Oct. 24, 2014).....	18

<i>Hines v. Widnall</i> , 334 F.3d 1253 (11th Cir. 2003).....	11
<i>Holman v. Student Loan Xpress, Inc.</i> , 2009 WL 4015573 (M.D. Fla. Nov. 19, 2009) .....	11
<i>In re Anthem, Inc. Data Breach Litig.</i> , 327 F.R.D. 299 (N.D. Cal. 2018).....	12
<i>In re Equifax Inc. Customer Data Sec. Breach Litig.</i> , 999 F.3d 1247 (11th Cir. 2021).....	9
<i>In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.</i> , 293 F.R.D. 21 (D. Me. 2013).....	16
<i>In re Takata Airbag Prod. Liability Litig.</i> , 2023 WL 4925368 (S.D. Fla. June 20, 2023).....	12
<i>In re Target Corp. Customer Data Sec. Breach Litig.</i> , 2017 WL 2178306 (D. Minn. May 17, 2017).....	22
<i>Kirkpatrick v. J.C. Bradford &amp; Co.</i> , 827 F.2d 718 (11th Cir. 1987).....	11
<i>Little v. T-Mobile USA, Inc.</i> , 691 F.3d 1302 (11th Cir. 2012).....	10
<i>Mohamed v. American Motor Co., LLC</i> , 320 F.R.D. 301 (S.D. Fla. 2017).....	13
<i>Pierre-Val v. Buccaneers Ltd. P'ship</i> , 2015 WL 3776918 (M.D. Fla. June 17, 2015).....	14
<i>Schneider v. Chipotle Mexican Grill, Inc.</i> , 336 F.R.D. 588 (N.D. Cal. 2020).....	22
<i>Spokeo, Inc. v. Robins</i> , 578 U.S. 330 (2016) .....	10
<i>Vega v. T-Mobile USA, Inc.</i> , 564 F.3d 1256 (11th Cir. 2009).....	10
<i>Wal-Mart Stores, Inc. v. Dukes</i> , 131 S. Ct. 2541 (2011).....	10

**Rules**

Fed. R. Civ. P. 23.....	10, 11, 12, 13, 14, 15, 16, 17, 19, 20
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## I. INTRODUCTION

On April 10, 2024, the Court granted preliminary approval of a class action settlement between Plaintiffs and Defendants Pediatrix Medical Group, Inc. (f/k/a Mednax, Inc.), PMG Services, Inc. (f/k/a Mednax Services, Inc.), and Pediatrix Medical Group of Kansas, P.C. (collectively, “Mednax”), and American Anesthesiology, Inc. (“AA” and together with Mednax, “Defendants”).<sup>1</sup> (ECF No. 320). The Settlement provides a generous non-reversionary cash settlement fund (“Settlement Fund”) of \$6,000,000.00 from which substantial and immediate benefits will be provided to the Settlement Class. This is a long-awaited resolution for Plaintiffs and the Class that merits the Court’s Final Approval.

The Settlement makes the following relief available to all Settlement Class Members: (i) reimbursement of Out-of-Pocket Losses up to \$5,000.00 for expenses incurred as a result of the Data Incident (SA ¶ 7.1.1.); (ii) reimbursement for up to four (4) hours of Attested Time spent responding to the Data Incident at a rate of \$30.00 an hour (*id.* ¶ 7.1.4.); (iii) reimbursement for up to ten (10) additional hours of Documented Time spent responding to the Data Incident at a rate of \$30.00 per hour (*id.* ¶ 7.1.5.); and (iv) all Settlement Class Members are eligible to receive three (3) years of medical monitoring and medical fraud protection services (*id.* ¶ 7.1.6.). The Parties reached this Settlement providing meaningful benefits for the Settlement Class after extensive investigation, hard-fought litigation, and arm’s-length negotiations with the active involvement of the Court appointed Special Mediator Hon. Eduardo C. Robreno (Ret.). Although Plaintiffs and Class Counsel believe in the merits of their claims, Defendants deny each claim, including all allegations of wrongdoing or liability. The claims involve the intricacies of data security litigation

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<sup>1</sup> Unless otherwise stated, all capitalized terms shall have the definitions set forth in the Settlement Agreement attached as Exhibit 1 to the Declaration of William B. Federman in Support of Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement (ECF No. 317-1). Citations to the Settlement Agreement will be abbreviated as “SA, ¶ \_\_\_\_.”

(a fast-developing area in the law), and Plaintiffs would face considerable risk at each stage of litigation. Against these risks, Class Counsel and Plaintiffs believe that the Settlement reached is for the benefit of the Settlement Class.

After this Court granted preliminary approval, KCC Class Action Services, the Notice and Settlement Administrator—with the help of the Parties—disseminated Notice to the Settlement Class. *See* Declaration of Omar Silva of KCC (“Notice Decl.”), ¶ 1 (attached hereto as **Exhibit 1**). Further, the Settlement has been very well-received by the Settlement Class as no Settlement Class Member objected to the Settlement. *Id.* ¶ 14. The deadline to object or opt-out of the Settlement was August 9, 2024. *Id.* The deadline to submit a claim was September 9, 2024. *Id.*

Plaintiffs now move the Court for final approval of the proposed Settlement. The Settlement meets all the criteria for final approval and Plaintiffs’ Motion should be GRANTED.

## **II. FACTUAL AND PROCEDURAL BACKGROUND**

Defendants are national healthcare services partners providing “newborn, anesthesia, maternal-fetal, radiology and teleradiology, pediatric cardiology, and other pediatric subspecialty care services in 39 states and Puerto Rico.” *See* Second Amended Class Action Complaint (“Compl.”), ¶ 4. (ECF No. 115). Defendants also provide consulting services, including administrative solutions to hospitals and healthcare providers. *Id.* ¶ 292. As part of the services Defendants provide, they are entrusted with the PII and PHI of Plaintiffs and the Class. *Id.* ¶ 294.

According to Defendants, on or about June 19, 2020, an unauthorized hacker accessed Microsoft Office 365-hosted business and email accounts through a successful phishing event and compromised the PHI and PII of Plaintiffs and the Class. *Id.* ¶ 384. In or around late December 2020 and January 2021, Defendants issued formal notices of the Data Incident to Plaintiffs and the Class. *Id.* ¶¶ 19, 42, 60, 79, 102, 127, 152, 176, 241, 263.

On August 5, 2021, Plaintiffs filed their first Consolidated Class Action MDL Complaint



against Defendants, alleging Defendants failed to adequately protect Plaintiffs’ and the Class’s PII and PHI from unauthorized access. *See* MDL Amended Complaint, ECF No. 53. Plaintiffs filed their First Amended Consolidated Class Action Complaint on October 20, 2023. *See* First Amended Complaint, ECF No. 71. Subsequently, on June 10, 2022, Plaintiffs filed their Second Amended Class Action Complaint asserting multiple common law and statutory claims for relief. *See* Second Amended Complaint, ECF No. 115. In response, Defendants filed a Motion to Dismiss (ECF No. 123), which Plaintiffs opposed (ECF No. 126).

Prior to engaging in mediation sessions with Judge Robreno, and reaching a settlement, the parties conducted extensive discovery. Decl. of William B. Federman in Support of Pls.’ Mot. for Final Approval of Class Action Settlement (“Federman Decl.”), ¶ 4 (attached hereto as **Exhibit 2**). Beginning in May of 2022 through September of 2023, Plaintiffs’ and Defendants’ discovery efforts included: (i) serving multiple sets of discovery requests, including written interrogatories, requests for production, and requests for admission; (ii) producing tens of thousands of pages of documents; (iii) taking and defending over twenty (20) fact and expert witness depositions; (iv) exchanging expert reports; (v) exchanging multiple deficiency letters; (vi) negotiating an ESI protocol, protective order, and search terms; and (vii) drafting and defending *Daubert* motions. *Id.* After participating in extensive discovery, Plaintiffs and Defendants also fully briefed a Motion for Class Certification (ECF No. 232), Motions for Summary Judgment (ECF No. 254, 260), and Motions to Exclude Expert Testimony (ECF No. 252, 258). *Id.*

Prior to engaging with Judge Robreno, the parties conducted a full day mediation with the Honorable Judge John Thornton (Ret.) of JAMS, which did not result in a settlement. *Id.* ¶ 5. Further, additional follow-up discussions with Judge Thornton were also unsuccessful. *Id.* On October 26, 2023, the Court appointed Judge Eduardo C. Robreno (Ret.) as Special Mediator in the case (the “Special Mediator”). *Id.* The parties conducted multiple conversations with Judge

Robreno, both jointly with all parties, and individually, as well as preparing and responding to various position memorandums submitted to Judge Robreno at his direction. On January 16 and 17, 2024, Plaintiffs and Defendants participated in two full days of mediation with the Special Mediator. While considerable progress was made, the mediation did not result in an agreement. *Id.* Over the next several weeks, Plaintiffs and Defendants continued settlement discussions facilitated by the Special Mediator including additional discussions with Judge Robreno and submitting additional information to him. *Id.* These additional efforts resulted in a verbal agreement that was eventually the basis of a term sheet memorializing the essential terms of the settlement on February 9, 2024. *Id.* The terms of the settlement are now memorialized in the Settlement Agreement, which was negotiated at arm's-length, in good faith and without collusion, by capable and experienced counsel, with full knowledge of the facts, the law, and the inherent risks in the Litigation, and with the active involvement of the Plaintiffs, the Defendants, and Judge Robreno. *Id.*

The Court granted preliminary approval of this Settlement on April 10, 2024. (ECF No. 320). Notice was subsequently issued to the Settlement Class Members. No objections have been filed. Plaintiffs now seek final approval of the Settlement Agreement.

### **III. THE SETTLEMENT TERMS**

The Settlement negotiated on behalf of the Settlement Class establishes a \$6,000,000.00 non-reversionary Settlement Fund, which will be used to pay for Administration and Notice Costs; Attorneys' Fees approved by the Court<sup>2</sup>; Expenses approved by the Court; and all approved Claims. S.A. ¶ 3.2. Specifically, the Settlement provides for the following relief for Settlement Class Members: (1) reimbursement for Out-of-Pocket Expenses up to \$5,000.00 per Settlement Class Member; (2) reimbursement for Attested Time Spent in an amount of \$30.00 per hour up to

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<sup>2</sup> Plaintiffs submitted their Unopposed Motion for Approval of Attorneys' Fees, Costs, and Expenses on July 26, 2024.

four (4) hours; (3) reimbursement for Documented Time Spent in an amount of \$30.00 per hour for up to ten (10) hours; and (4) three (3) years of Medical Monitoring and Medical Fraud Protection Services. S.A. ¶ 7.1.

**A. Definition of the Settlement Class**

The Court preliminarily certified, for settlement purposes only, a nationwide class defined as follows:

[A]ll persons residing in the United States who were notified in or around December 2020 and January 2021, via either written or substitute notice, that their PHI and PII may have been involved in the Incident.

SA, ¶ 2.39; ECF No. 320. The Settlement Class specifically excludes: (i) Defendants, any Entity in which Defendants have a controlling interest, and Defendants' officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over the Action and the members of their immediate families and judicial staff; and (iii) any individual who timely and validly opts out of the Settlement. *Id.*

**B. Benefits to the Settlement Class**

**i. Reimbursement For Out-of-Pocket Expenses**

Settlement Class Members may submit a claim for reimbursement of documented Out-of-Pocket Expenses, not to exceed \$5,000.00 per Settlement Class Member. *Id.* ¶ 7.1.1. To receive reimbursement for Out-of-Pocket Expenses, Settlement Class Members needed to provide the Settlement Administrator: (i) the Settlement Class Member's name and current address; (ii) documentation supporting the Settlement Claim; and (iii) a brief description of the documentation describing the nature of the loss, if the nature of the loss is not apparent from the documentation alone. *Id.* ¶ 7.1.2.

**ii. Reimbursement for Attested Time Spent**

Settlement Class Members may submit a claim for reimbursement for Attested Time Spent

researching or remedying issues related to the Data Incident or for any actions that were taken in response to receiving a Notice of Security Incident from Defendants in an amount of \$30.00 per hour up to four (4) hours (for a total of up to \$120.00 for Attested Time Spent). *Id.* ¶ 7.1.4.

### **iii. Reimbursement for Documented Time Spent**

Additionally, all Settlement Class Members who spent more than four (4) hours researching or remedying issues related to the Data Incident or for any actions that were taken in response to receiving a Notice of Security Incident from Defendants may submit a claim for reimbursement of Documented Time Spent in an amount of \$30.00 per hour for up to ten (10) additional hours. *Id.* ¶ 7.1.5.

### **iv. Medical Monitoring and Medical Fraud Protection**

Settlement Class Members may elect to receive three (3) years of medical monitoring and medical fraud protection services. S.A. ¶ 7.1.6. To receive this benefit, Settlement Class Members need only make this election on their Settlement Claim Form. *Id.*

## **C. Claims, Opt-Outs, and Exclusions**

The timing of the claims process was structured to ensure that all Settlement Class Members had adequate time to review the terms of the Settlement Agreement, make a claim, or decide whether they would like to opt-out or object.

### **i. Claims**

Settlement Class Members had until September 9, 2024 to complete and submit a claim to the Settlement Administrator. *See* ECF No. 320. Settlement Class Members making a claim were required to complete and submit a written Claim Form to the Settlement Administrator, postmarked (or, if submitted electronically in accordance with the requirements for electronic submission of a Claim Form, the date of such submission) on or before the Claims Deadline. S.A.

¶ 7.2. To date, a total of *at least* 33,562 claims were received, which is a 1.24% claims rate. *See* Notice Decl. ¶ 13.

## **ii. Exclusions**

Settlement Class Members had until August 9, 2024 to opt-out of the Settlement Agreement. *See* ECF No. 320. To be considered valid, the request to opt-out was required to: (i) identify the case name of the Action; (ii) identify the name and address of the individual seeking exclusion from the Settlement; (iii) be personally signed by the individual seeking exclusion; (iv) include a statement clearly indicating the individual's intent to be excluded from the Settlement; and (v) request exclusion only for that one individual whose personal signature appears on the request (or, in the case of a minor, the personal signature of the minor's parent or legal guardian appears on the request). S.A. ¶ 16.2. If submitted online, the opt-out request must be submitted no later than the Opt-Out Deadline using the link sent to the individual who submitted the request for exclusion. *Id.* ¶ 16.3. A total of only 144 exclusions were submitted, which is less than 1% of the total number of Settlement Class Members. *See* Notice Decl. ¶ 14.

## **iii. Objections**

Settlement Class Members had until August 9, 2024 to object to the Settlement. *See* ECF No. 320. Any Settlement Class Member who wished to object to the Settlement was required to timely file a written objection to the Court on or before the Objection Deadline. S.A. ¶ 17.1. The written objection was required to include: (i) the case name and number of the Action; (ii) the name, address, and telephone number of the objecting Settlement Class Member and, if represented by counsel, of his or her counsel; (iii) a statement of whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (iv) a statement of the number of times in which the objector has objected to a class action settlement within three years preceding the date that the objector filed the objection, along with the caption of each case in which the objector has

made such an objection; (v) a statement of the specific grounds for the objection; and (vi) a statement of whether the objecting Settlement Class Member intends to appear at the Final Approval Hearing, and if so, whether personally or through counsel. *Id.* ¶ 17.2. No objections were submitted in this case. *See* Notice Decl. ¶ 15.

#### **D. Attorneys' Fees and Expenses**

As compensation for the substantial benefit conferred upon the Settlement Class Members, Class Counsel filed a Motion for Approval of Attorneys' Fees, Costs, and Expenses (*see* ECF No. 324), requesting \$1,800,000 in attorneys' fees and \$746,322.11 in expenses. The Parties did not discuss the amount of Attorneys' Fees and Expenses, as provided for in paragraph 18 of the Settlement Agreement, until after the substantive terms of the Settlement had been agreed upon. S.A. ¶ 18; Federman Decl. ¶ 9.

#### **E. Release**

The Settlement Class Members, who did not timely and validly opt out of the Settlement, release and discharge the Released Parties with respect to any and all Released Claims between and/or among them, known or unknown, arising out of or related in any way to the Data Incident, except for claims relating to the enforcement of the Settlement or this Agreement. *Id.* ¶ 14.1. Within ten (10) days after the Effective Date of the Settlement, Class Counsel and the Settlement Class Representatives shall dismiss with prejudice all claims, Actions, or proceedings that are released pursuant to this Agreement, to the extent any such claims, Actions, or proceedings remain pending after the Court issues the Final Approval Order and Judgment. *Id.* ¶ 14.4.

### **IV. APPLICABLE LAW**

Under Federal Rule of Civil Procedure ("Rule") 23(e)(2), in order to grant final approval of a class action settlement, the Court must first determine whether the proposed settlement is "fair,

reasonable, and adequate after considering whether: (A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided for the class is adequate...; and (D) the proposal treats class members equitably relative to each other.” Fed. R. Civ. P. 23(e)(2)(A)-(D). In determining whether the relief provided is adequate, Courts must also consider: “(i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney’s fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3).” Fed. R. Civ. P. 23(e)(2)(C)(i)–(iv).

Furthermore, the Eleventh Circuit “instruct[s] district courts to consider several additional factors.” *In re Equifax Inc. Customer Data Sec. Breach Litig.*, 999 F.3d 1247, 1273 (11th Cir. 2021) (citing *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984)). These additional factors are:

(1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which a settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of litigation; (5) the substance and amount of opposition to the settlement; and (6) the stage of proceedings at which the settlement was achieved.

*Bennett*, 737 F.2d at 986 (the “*Bennett factors*”).

This Court made a preliminary finding on April 10, 2024 (ECF No. 320), that the Settlement met the required prerequisites. Now, the Court should find that these prerequisites have been fully satisfied for the reasons set forth below.

#### **A. Argument and Authorities**

##### **i. Rule 23(a) Requirements are Met for Settlement Purposes.**

***Standing.*** [A]ny analysis of class certification must begin with the issue of standing.” *Griffin v. Dugger*, 823 F.2d 1476, 1482 (11th Cir. 1987). To satisfy Article III standing, a plaintiff

must “(1) suffer[] an injury in fact, (2) that is fairly traceable to the challenged conduct of defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). Plaintiffs extensively argued they had Article III standing in their Opposition to Defendants’ Motion to Dismiss. *See* ECF No. 92. For the reasons stated therein, the standing requirement is met.

**Numerosity.** The next prerequisite is that the “class is so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). This requirement is “a generally low hurdle” and, as a general rule, “less than twenty-one is inadequate ... [and] more than forty is adequate...” *Vega v. T-Mobile USA, Inc.*, 564 F.3d 1256, 1267 (11th Cir. 2009) (internal quotations and citation omitted). The Settlement Class here includes approximately 2,712,790 individuals, satisfying the numerosity requirement.

**Ascertainability.** A class must be “adequately defined and clearly ascertainable.” *Little v. T-Mobile USA, Inc.*, 691 F.3d 1302, 1304 (11th Cir. 2012). Identifying Settlement Class Members here was simple and objective: Defendants provided a list of all individuals to whom it sent notice that their information was compromised in the Data Incident. As such, ascertainability is satisfied.

**Commonality.** Next, there must be “questions of law or fact common to the class.” Fed. R. Civ. P. 23 (a)(2). Commonality may be shown when the claims of all class members “depend upon a common contention,” with “even a single common question” sufficing. *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2545, 2557 (2011). Therefore, “in order to satisfy the commonality element under Rule 23(a), the question is whether [p]laintiff has shown that the alleged issues require generalized proof, applicable to the proposed class in its entirety.” *Ass’n for Disabled Americans, Inc. v. Motiva Ent., LLC*, No. 99-0580, 1999 WL 35815520, at \*2 (S.D. Fla. Oct. 19, 1999). Here, Plaintiffs’ claims turn on the adequacy of Defendants’ data security in protecting Plaintiffs’ and Class’s PHI/PII. Evidence to resolve that claim does not vary among class members,



and so can be fairly resolved, at least for purposes of settlement, for all Settlement Class Members at once. Thus, commonality is met.

**Typicality.** A class representative's claims must also be typical of the putative class they seek to represent. Fed. R. Civ. P. 23(a)(3). This requirement "measures whether a sufficient nexus exists between the claims of the named representative and those of the class at large." *Hines v. Widnall*, 334 F.3d 1253, 1256 (11th Cir. 2003) (citation omitted). Class Members' claims need not be identical to satisfy this requirement. *Ault v. Walt Disney World Co.*, 692 F.3d 1212, 1216 (11th Cir. 2012). Instead, "[t]he claim of a class representative is typical if the claims or defenses of the class and the class representative arise from the same event or pattern of practice and are based on the same legal theory." *Bouton v. Ocean Prop., Ltd.*, 322 F.R.D. 683, 699 (S.D. Fla. 2017) (internal citations omitted). Plaintiffs' interests are aligned with the Settlement Class because they all received a notice letter from Defendants informing them their PHI/PII may have been compromised because of the Data Incident and was therefore impacted by the same allegedly inadequate data security that allegedly harmed the rest of the Settlement Class. Thus, Typicality is met.

**Adequacy.** Finally, Rule 23(a)(4) requires that "the representative parties ... fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). "[C]lass counsel and the class representatives are adequate representatives of the class if: (1) plaintiffs' counsel are qualified, experienced, and generally able to conduct the proposed litigation, and (2) the plaintiffs lack 'interests antagonistic to those of the rest of the class.'" *Holman v. Student Loan Xpress, Inc.*, No. 8:08-cv-305-T-23MAP, 2009 WL 4015573, at \*2 (M.D. Fla. Nov. 19, 2009) (quoting *Kirkpatrick v. J.C. Bradford & Co.*, 827 F.2d 718, 726 (11th Cir. 1987)). The Class Representatives here have no conflicts with the Settlement Class and have demonstrated their adequacy by: (i) having a genuine personal interest in the outcome of the case; (ii) selecting well-

qualified Class Counsel; (iii) producing information and documents to Class Counsel to permit investigation and development of the complaints; (iv) being available as needed throughout the litigation; and (v) monitoring the Litigation. Federman Decl., ¶ 13. Moreover, Class Counsel are adequate because of their vast experience as vigorous data breach class action litigators. *See* ECF No. 317-2; 317-3 (Resumes of Federman & Sherwood and McShane & Brady, LLC).

**ii. Rule 23(b) Requirements Are Met for Purposes of Settlement**

***Common Questions of Law and Fact Predominate.*** A predominance inquiry looks at “the legal or factual questions that qualify each class member's case as a genuine controversy, questions that preexist any settlement.” *Amchem Prods.*, 521 U.S. at 623. “[C]ommon issues of fact and law predominate if they have a direct impact on every class member's effort to establish liability and on every class member's entitlement to injunctive and monetary relief.” *Carriuolo v. Gen. Motors Co.*, 823 F.3d 977, 985 (11th Cir. 2016)). Further, “[i]t is not necessary that all questions of law or fact be common, but only that some questions are common and that they predominate over individual questions.” *In re Takata Airbag Prod. Liability Litig.*, No. 2599, 2023 WL 4925368, at \*6 (S.D. Fla. June 20, 2023).

Here, as in other data breach cases, common questions predominate because all claims arise out of a common course of conduct by Defendants. *See In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 311-16 (N.D. Cal. 2018). The focus on a Defendants’ security measures in a data breach class action “is the precise type of predominant question that makes class-wide adjudication worthwhile.” *Anthem*, 327 F.R.D. at 312. All Class Members had their PHI/PII compromised in the Data Incident and the security practices at issue did not vary from person to person. Thus, because these common questions represent a significant aspect of the case and they can be resolved for all members of the class in a single adjudication, there is a clear justification for handling the dispute on a representative rather than on an individual basis. Thus, the predominance requirement

is readily satisfied.

***Class Action is the Superior Method of Adjudication.*** Moreover, certification of this suit as a class action is superior to other methods to fairly, adequately, and efficiently resolve the claims asserted. To satisfy the superiority requirement of Rule 23(b)(3), a movant must show that “a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). “The focus of the superiority analysis is on the relative advantages of a class action suit over whatever other forms of litigation might be realistically available to plaintiffs.” *Mohamed v. American Motor Co., LLC*, 320 F.R.D. 301, 316 (S.D. Fla. 2017) (internal quotations omitted).

Adjudicating individual actions here is impracticable: the amount in dispute for individual class members is too small, there are millions of Settlement Class Members, the technical issues involved are too complex, and the expert testimony and document review too costly. The individual amounts here are insufficient to allow anyone to file and prosecute an individual lawsuit—at least not with the aid of competent counsel. Rather, individual prosecution of claims would be prohibitively expensive, needlessly delay resolution, and may lead to inconsistent rulings. Thus, the Court should certify the Class for settlement purposes pursuant to Rule 23(b)(3).

**iii. The Rule 23(e) Factors and the *Bennett* Factors are Satisfied.**

Next, the Court must determine whether the Settlement is fair, adequate, and reasonable under Rule 23(e)(2) while also considering the *Bennett* factors. In the end, courts have substantial discretion in approving a settlement agreement. *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984). Further, to approve a settlement, the district court must find that it is fair, adequate, and reasonable and is not the product of collusion between the parties.” *Id.* at 986. In exercising this discretion, courts consider the “strong judicial policy favoring settlement as well as ... the realization that compromise is the essence of settlement.” *Id.* (citation omitted). Courts also “give

weight to the parties' consensual decision to settle class action cases, because they and their counsel are in unique positions to assess the potential risks." *Pierre-Val v. Buccaneers Ltd. P'ship*, No. 8:14-cv-1182, 2015 WL 3776918, at \*1 (M.D. Fla. June 17, 2015) (citations omitted).

In addition, the Eleventh Circuit has directed district courts to consider the *Bennett* factors when considering the fairness and adequacy of settlement terms. *Ferron v. Kraft Heinz Foods Co.*, No. 20-cv-62136, 2021 WL 2940240, at \*7 (S.D. Fla. July 13, 2021) (citing *Bennett*, 737 F.2d at 986). The *Bennett* factors include: (i) the likelihood of success at trial; (ii) the range of possible recovery; (iii) the point on or below the range of possible recovery at which a settlement is fair, adequate, and reasonable; (iv) the complexity, expense, and duration of litigation; (v) the substance and amount of opposition to the settlement; and (vi) the stage of proceedings at which the settlement was achieved. *Id.*

For the foregoing reasons, the Rule 23(e) and *Bennett* factors have been satisfied.

**iv. Fed. R. Civ. P. 23(e)(2)(A): Plaintiffs and Class Counsel have Adequately Represented the Class.**

This Court previously considered Class Counsels' qualifications when appointing William B. Federman and Maureen M. Brady as Class Counsel when preliminarily approving the Settlement. *See* ECF No. 320. Specifically, the Court found that the "Mr. Federman and Ms. Brady are experienced and will adequately protect the interests of the Settlement Class." *Id.* The same still holds true at the final approval stage.

Class Counsel have adequately represented the Class by fully investigating the facts and legal claims; preparing the Complaints; briefing multiple Oppositions to Defendants' Motions to Dismiss and Motions for Summary Judgment; fully briefing a motion for Class Certification; conducting extensive discovery, including responding to written interrogatories and requests for production, producing thousands of pages of documents, taking numerous fact witness depositions,

exchanging expert reports, and taking expert depositions; participating in a full-day mediation session with the Honorable Judge John Thornton and two full days of mediation before Special Mediator Judge Robreno; and negotiating and reaching a Settlement at arm's length, in good faith, and without collusion. Federman Decl. ¶ 7. Additionally, the Settlement Class Representatives have also demonstrated their adequacy by: (i) having a genuine personal interest in the outcome of the case; (ii) selecting well-qualified Class Counsel; (iii) producing information and documents to Class Counsel to permit investigation and development of the complaints; (iv) being available as needed throughout the litigation; and (v) monitoring the Litigation. Federman Decl. ¶ 13. Therefore, this factor weighs heavily in favor of granting final approval.

**v. Fed. R. Civ. P. 23(e)(2)(B): the Settlement was Negotiated at Arm's Length**

The Settlement is the result of intensive, arm's-length negotiations through neutral third-party mediators, and between experienced attorneys who are familiar with data breach class action litigation and with the legal and factual issues in these cases. Federman Decl., ¶ 5. Before discussing potential settlement, the Parties completed an engaged in significant meaningful discovery that lasted over a year. *Id.* ¶ 4. This allowed the Parties to fully understand the claims, defenses, and risks of continued litigation. *Id.* ¶ 8. The Settlement is the result of prolonged and serious arms' length negotiations through multiple mediation sessions between counsel for the Parties, who fought hard for the interests of their respective clients. *Id.* ¶ 5. As part of the mediation process, the Parties exchanged and provided the mediators with detailed mediation statements outlining the strengths and weaknesses of their claims and defenses and engaged in meaningful discovery. *Id.* The fact that the Settlement was achieved through well-informed, and arm's-length neutrally supervised negotiations weighs in favor of granting final approval under Rule 23(e)(2)(B).

**vi. Fed. R. Civ. P. 23(e)(2)(C)(i) and *Bennett* Factors 1–4: the Relief Provided is Adequate.**

When considering the likelihood of success at trial, the complexity, expense, and duration of the litigation, the relief provided is exceptionally reasonable. Simply stated, this case has taken years to litigate with the briefing and arguing of dispositive motions, including Defendants’ Motions to Dismiss and Motions for Summary Judgment and Plaintiffs’ Motion for Class Certification; engaging in voluminous discovery; and participating in multiple mediation sessions and months of settlement negotiations. *Id.* ¶ 3, 7. Given the complexity of the claims and arguments here, a lengthy trial would follow. Litigation has been extraordinarily complex, and, since the filing of these cases began in January of 2021, several years will have passed before the Class is able to receive any recovery. Thus, the extensive and prolonged litigation conducted here favors final approval.

While Plaintiffs are confident in their claims, there is risk as data breach class actions are notoriously risky cases. For example, historically, data breach cases face substantial hurdles in surviving the class certification stage. *See, e.g., In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.*, 293 F.R.D. 21 (D. Me. 2013); *Fulton-Green v. Accolade, Inc.*, No. 18-274, 2019 WL 4677954, at \*8 (E.D. Pa. Sept. 24, 2019) (noting that data breach class actions are “a risky field of litigation because [they] are uncertain and class certification is rare.”). As another court observed in finally approving a settlement with similar class relief, “[d]ata breach litigation is evolving; there is no guarantee of the ultimate result . . . [they] are particularly risky, expensive, and complex.” *Fox v. Iowa Health Sys.*, No. 3:18-cv-00327, 2021 WL 826741, at \*5 (W.D. Wis. Mar. 4, 2021). Further, maintaining class certification through trial is another over-arching risk emphasizing what is true in all class actions – class certification through trial is never a settled issue, and is always a risk for the Plaintiffs. Thus, the costs, risks, and delay of continued litigation

are great, and weigh heavily in favor of final approval. Thus, given this risk and uncertainty, settlement is the more prudent course when a reasonable one can be reached.

Considering the above, the Settlement achieved is an outstanding result. Federman Decl., ¶ 6. The Settlement includes a non-reversionary Settlement Fund of \$6,000,000.00, reimbursement of out-of-pocket losses, reimbursement of attested time spent, reimbursement of documented time spent, medical monitoring, and medical fraud protection services. S.A. ¶¶ 3, 7. Through the Settlement, Plaintiffs and Settlement Class Members gain significant benefits without having to face further risk of not receiving any relief at all. Thus, this factor also supports final approval of the Settlement.

**vii. Fed. R. Civ. P. 23(e)(2)(C)(ii)–(iv) and Fed. R. Civ. P. 23(e)(2)(D): Notice Was Effectively Distributed; The Award of Attorneys’ Fees and Expenses is Reasonable; No Agreements Required to be Identified; and Class Members are Treated Equitably Relative to Each Other.**

The method of distributing the settlement benefits was equitable and effective. As explained above, all Settlement Class Members were eligible to make a claim for the reimbursement of Out-of-Pocket Losses, Attested Time Spent, Documented Time Spent, Medical Monitoring, and Medical Fraud Protection Services. S.A. ¶ 7.1. The task of validating those claims was delegated to the Settlement Administrator (“KCC”), a neutral party which has significant experience processing these claims in similar cases. The only difference in treatment among Class Members is that those who incurred and submit a claim for reimbursement of Out-of-Pocket Losses, Attested Time Spent, and Documented Time Spent will—appropriately and equitably—receive payments in proportion to the amount of their losses. Additionally, the 90-day claim period was sufficiently long to enable all eligible Class Members to collect any necessary information before submitting their claims. Further, in addition to sending direct mail notice, the Parties and KCC initiated a media notice plan, by purchasing approximately 95,500,000 impressions to be

distributed programmatically via various websites and mobile apps and on Facebook from June 10, 2024, through August 8, 2024. *See* Notice Decl. ¶ 19. Further, the Settlement was independently publicized by several media outlets, such as Fox 40 WICZ, Bloomberg Law, and Business Wire. *Id.* As such, according to KCC, notification of the Settlement reached approximately 71% of the Settlement Class. For these reasons, the plan of distributing notice was both equitable and effective.

As compensation for the substantial benefit conferred upon the Settlement Class, Class Counsel requested no more than 30.00% of the Settlement Fund (\$1,800,000) in attorneys' fees and \$746,322.11 in expenses to be paid from the Settlement Fund. *See* ECF No. 324. The award of attorneys' fees and costs were negotiated after the total amount of the Settlement Fund was established and will be paid from the non-reversionary Settlement Fund. Federman Decl. ¶ 9. Further, these requests are contemplated by the Settlement Agreement and Class Counsel apprised the Court of these requests in their Motion for Preliminary Approval. *See* S.A. ¶ 18.1; ECF No. 316.

**viii. *Bennet* Factor 5: The Substance and Amount of Opposition to the Settlement**

The reaction of the Settlement Class to the Settlement was extremely positive, as no objections were filed and only 144 opt-outs were received, which represents less than 1% of the Settlement Class. *See* Notice Decl. ¶ 14. These are powerful indicators that the Settlement is fair, reasonable, and adequate and worthy of final approval. *See Hall v. Bank of America, N.A.*, No. 1:12-cv-22700, 2014 WL 7184039, at \*5 (S.D. Fla. Dec. 17, 2014) (finding the settlement was reasonable and fair where only nine (9) objections were filed on behalf of seventeen (17) class members, which equated to less than 0.0016% of the class); *Hamilton v. SunTrust Mortg. Inc.*, No. 13-60749, 2014 WL 5419507, at \*4 (S.D. Fla. Oct. 24, 2014) (finding the fact there was only one objection to the settlement, which equated to less than 0.003% of the class, to be "clear evidence



of [the settlement's] reasonableness and fairness). The lack of opposition and objections to the Settlement overwhelmingly support the Court's granting of final approval.

**ix. Bennett Factor 6: The Stage the Settlement was Achieved**

The Parties arrived at a proposed settlement following the briefing on Defendants' Motions to Dismiss and Motions for Summary Judgment, Plaintiffs' Motion for Class Certification, over a year of discovery, several mediation sessions with multiple mediators, and hard-fought settlement negotiations. Federman Decl. ¶ 7. Class Counsel had all the information needed to make an informed decision regarding the appropriateness of settlement. For over a year, prior to negotiating the Settlement, the Parties engaged in extensive discovery, including: (i) serving multiple sets of discovery requests, including written interrogatories, requests for production, and requests for admission; (ii) producing tens of thousands of pages of documents; (iii) taking and defending over twenty (20) fact and expert witness depositions; (iv) exchanging expert reports; (v) exchanging multiple deficiency letters; (vi) negotiating an ESI protocol, protective order, and search terms; and (vii) drafting and defending *Daubert* motions. Federman Decl. ¶ 4. Through the extensive investigation, discovery, and multiple mediation sessions, Class Counsel adequately understood the merits of the case before negotiating, and the Parties were well-positioned to evaluate the strengths and weaknesses of their claims. Federman Decl. ¶ 8. Thus, these efforts equipped the Parties with the information to thoroughly understand the case and negotiate a Settlement providing significant benefits to Plaintiffs and the Class.

**V. THE NOTICE ADEQUATELY APPRISED SETTLEMENT CLASS MEMBERS**

As the Court preliminarily found, the Notice Plan satisfies the requirements of Federal Rule of Civil Procedure 23 and due process. *See* ECF No. 320. The Notice Plan has now been carried out by the Settlement Administrator, and its execution satisfied all the requirements of Rule 23(c).

“The court must direct notice in a reasonable manner to all class members who would be bound by a proposed settlement, voluntary dismissal, or compromise.” Fed. R. Civ. P. 23(e)(1). The Settlement Administrator carried out the Notice Plan pursuant to the Court’s Preliminary Approval Order. *See* Notice Decl. ¶ 1. The direct notice was carried out as follows: on April 30, 2024, Defendants provided the Settlement Administrator with a combined list of 1,731,118 individuals identified as having received direct mail notice from Defendants of the cyberattack that forms the basis of this Litigation (the “Class List”). *Id.* ¶ 5. The list provided to the Settlement Administrator included information on the Settlement Class Members, including their names, addresses, and other miscellaneous data points used during the initial data breach notice. *Id.* Upon receipt of the Settlement Class Member data file, KCC formatted the list for mailing purposes, removed 10,654 duplicate records, and processed the names and addresses through the National Change of Address Database (“NCOA”) to update any addresses on file with the United States Postal Service (“USPS”). *Id.* A total of 274,212 addresses were found and updated via NCOA, and KCC updated its proprietary database with the Class List. *Id.* The final Class List contained 1,731,118 unique records of Settlement Class Members, including 1,720,474 Settlement Class Members with valid physical mailing addresses. *Id.*

On June 10, 2024, the Settlement Administrator mailed the Double-Postcard Notice with the detachable Claim Form to be printed and mailed to the 1,720,474 names and mailing addresses in the Class List. *Id.* ¶ 6. Since mailing the Double-Postcard Notice to the Class Members, KCC has received 8,831 Double-Postcard Notices returned by the USPS with forwarding addresses. *Id.* ¶ 7. KCC immediately caused Double-Postcard Notices to be re-mailed to the forwarding addresses supplied by the USPS. *Id.* Since mailing the Double-Postcard Notice to the Class Members, KCC has received 178,313 Double-Postcard Notices returned by the USPS with undeliverable addresses. *Id.* ¶ 8. Through credit bureau and/or other public source databases, KCC

performed address searches for these undeliverable Double-Postcard Notices and was able to find updated addresses for 19,066 Class Members. *Id.* KCC promptly re-mailed Double-Postcard Notices to the found new addresses. *Id.*

Next, in addition to direct mail notice, the Settlement Administrator also established a Settlement website on June 5, 2024, which allowed Settlement Class Members to submit claims, download important case documents, and answer frequently asked questions. *Id.* ¶ 11. Visitors of the Settlement website could also submit claims and exclusion requests and, if applicable, upload supporting documentation. *Id.* As of September 15, 2024, the website has received 170,025 visits. *Id.* The Settlement Administrator also established (and continues to maintain) a 24/7 toll-free telephone line on June 5, 2024, allowing potential Settlement Class Members to call and obtain information about the Settlement and receive a notice packet. *Id.* ¶ 12.

Finally, the Settlement Administrator initiated a media notice campaign by purchasing approximately 95,500,000 impressions programmatically on various websites and mobile apps targeting adults 18+ via one or more ad exchanges (*e.g.*, Google Display Network) and on Facebook from June 10, 2024, through August 8, 2024. *Id.* ¶ 9. A total of 99,071,112 impressions were delivered to KCC, resulting in 3,571,112 additional impressions at no extra charge. *Id.* The Settlement was also independently publicized by several media outlets, including Fox 40 WICZ, Bloomberg Law, and Business Wire. *Id.* According to KCC's media team, the direct and media notice efforts, when combined, reached approximately 71% of the Settlement Class Members. *Id.* ¶ 10.

The reaction to the Settlement has been overwhelmingly positive. As of September 9, 2024, the Settlement Administrator received 33,562 timely Claim Form submissions, resulting in a

claims rate of 1.24%.<sup>3</sup> *Id.* ¶ 13. However, an additional 8,529 paper Claim Form submissions are pending processing and audit review by KCC. *Id.* The Settlement Administrator expects additional timely-filed claim forms to arrive over the next few weeks, increasing the total number of claims. *Id.* KCC will provide counsel for the parties with a supplemental declaration reflecting the final claim totals prior to the Final Approval Hearing on October 4, 2024. *Id.* The deadline to opt-out or object to the Settlement was August 9, 2024. *Id.* ¶ 14-15. No Settlement Class Member objected to the Settlement, and only 144 Settlement Class Members opted-out of the Settlement, which represents less than 1% of the Settlement Class. *Id.* ¶ 14.

Plaintiffs submit that the Notice Plan issued pursuant to the Settlement meets the requirements of due process and the Federal Rules of Civil Procedure, supporting final approval.

## VI. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter an Order finally approving the Settlement.

Dated: September 20, 2024

Respectfully submitted,

/s/: William B. Federman

William B. Federman (*pro hac vice*)

**FEDERMAN & SHERWOOD**

10205 N. Pennsylvania Avenue

Oklahoma City, OK 73120

T: (405) 235-1560

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<sup>3</sup> The claims rate in this case is in line with other data breach class action settlements that courts have approved. *See Schneider v. Chipotle Mexican Grill, Inc.*, 336 F.R.D. 588, 599 (N.D. Cal. 2020) (“Here, the 0.83% claims rate ... is on par with other consumer cases, and does not otherwise weigh against approval); *In re Target Corp. Customer Data Sec. Breach Litig.*, No. 14-md2522, 2017 WL 2178306, at \*1-2 (D. Minn. May 17, 2017), *aff’d*, 892 F.3d 968 (8th Cir. 2018) (approving settlement with roughly 0.23% claims rate); *Carter v. Vivendi Ticketing US LLC*, No. 8:22-cv-01981, 2023 WL 8153712, at \*9 (C.D. Cal. Oct. 30, 2023) (finding a 1.6% claims rate was in line with claims rates in other data breach class action settlements); *Bostick v. Herbalife Int’l of Am., Inc.*, 2:13-cv-02488, 2015 WL 12731932, at \*27 (C.D. Cal. May 14, 2015) (approving settlement with “response rate of less than 1%”).

[wbf@federmanlaw.com](mailto:wbf@federmanlaw.com)

Maureen M. Brady (*pro hac vice*)  
**MCSHANE & BRADY, LLC**  
1656 Washington Street, Suite 120  
Kansas City, MO 64108  
Telephone: (816) 888-8010  
Facsimile: (816) 332-6295 E-mail:  
[mbrady@mcshanebradylaw.com](mailto:mbrady@mcshanebradylaw.com)

***Co-Lead Counsel for Plaintiffs and the Proposed  
Settlement Class***

**CERTIFICATE OF SERVICE**

I hereby certify that on September 20, 2024, a true and correct copy of the foregoing was electronically filed and served using CM/ECF.

/s/ William B. Federman  
William B. Federman

**CERTIFICATE OF GOOD FAITH CONFERENCE**

Defendants do not oppose the relief sought by this Motion for Final Approval (the “Motion”) and agree that the Court should grant final approval of the settlement. By not opposing this relief, Defendants do not concede the factual basis for any claim and deny liability. The

language in this Motion, including the description of proceedings, as well as legal and factual arguments, are Plaintiffs', and Defendants disagree with certain of those characterizations and descriptions.

/s/ William B. Federman

William B. Federman

# EXHIBIT 1



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

IN RE:  
MEDNAX SERVICES, INC.,  
CUSTOMER DATA SECURITY  
BREACH LITIGATION

Case No. 21-MD-02994-RAR

CLASS ACTION

**DECLARATION OF OMAR SILVA  
REGARDING NOTICE PROCEDURES,  
CLAIMS UPDATE, AND SETTLEMENT  
ADMINISTRATION**

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2  
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4 I, OMAR SILVA, declare and state as follows:

5 1. I am a Senior Project Manager with Verita Global (“Verita”) (f/k/a KCC Class  
6 Action Services, LLC (“KCC”). Pursuant to the ORDER CERTIFYING SETTLEMENT CLASS  
7 AND GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND  
8 NOTICE PROGRAM (the “Preliminary Approval Order”) dated April 10<sup>th</sup>, 2024, the Court  
9 appointed KCC as the Claims and Settlement Administrator in connection with the proposed  
10 Settlement of the above-captioned Action. *See* ECF No. 320. I have personal knowledge of the  
11 matters stated herein and, if called upon, could and would testify thereto.

12 **CAFA NOTIFICATION**

13 2. In compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. Section  
14 1715, Verita compiled a CD-ROM containing the following documents: Plaintiffs’ Consolidated  
15 Complaint, Plaintiffs’ Consolidated Amended Complaint, Plaintiffs’ Consolidated Second  
16 Amended Complaint, Answer to Plaintiffs’ Consolidated Second Amended Complaint (Mednax &  
17 Pediatrix), Answer to Plaintiffs’ Consolidated Second Amended Complaint (American  
18 Anesthesiology), Order Granting Motion for Preliminary Approval, Unopposed Motion for  
19 Preliminary Approval, Proposed Preliminary Approval Order, Declaration of William B Federman  
20 in Support of Plaintiffs’ Motion for Preliminary Approval, Resume of Federman & Sherwood,  
21 Resume of McShane & Brady, LLC, Long Form Notice, Short Form Notice, Claim Form, the  
22 Settlement Agreement with Exhibits, Proposed Final Judgment, and a cover letter (collectively, the  
23 “CAFA Notice Packet”). A copy of the cover letter is attached hereto as Exhibit A.

24 3. On April 15, 2024, Verita caused 58 CAFA Notice Packets to be mailed via Priority  
25 Mail from the U.S. Post Office in Memphis, Tennessee to the parties listed on Exhibit B. *i.e.*, the  
26 U.S. Attorney General, the Commissioners of Banking and Finance Institutions, the Attorneys  
27 General of the various states and the 5 recognized U.S. Territories, as well as parties of interest to  
28 this Action.





1 rate of 1.24%. Approximately, 8,529 paper claim forms are pending processing and audit review  
2 by Verita. Once claim processing and all quality control audits have been completed, Verita will  
3 provide counsel for the parties with a comprehensive analysis of the claims with their respective  
4 determinations (valid, invalid, duplicate, late, and deficient). Verita expects additional timely-filed  
5 claim forms to arrive over the next few weeks. It is possible the total number of claims could  
6 change slightly depending upon the number of timely-postmarked claims and completion of the  
7 paper claims processing. Verita will provide counsel for the parties with a supplemental declaration  
8 reflecting the final claim totals prior to the Final Approval Hearing on October 4, 2024.

9  
10 **REPORT ON EXCLUSION REQUESTS RECEIVED TO DATE**

11 14. The Notice informs Class Members that requests for exclusion from the Class must  
12 be postmarked no later than August 9, 2024. As of the date of this declaration, Verita has received  
13 144 requests for exclusion. Two Class Members submitted an exclusion request and claim. In both  
14 cases, the exclusion request was received after the claim was submitted. It is possible the total  
15 number of Opt-outs could change if requests arrive after completion of paper claims processing. A  
16 list of the Class Members requesting to be excluded is attached hereto as Exhibit E.

17 **OBJECTIONS TO THE SETTLEMENT**

18 15. The postmarked deadline for Class Members to object to the settlement was August  
19 9, 2024. As of the date of this declaration, Verita has received no objections to the settlement.

20 **ADMINISTRATION COSTS**

21 16. Upon completion of the claims process, Verita will generate an updated estimate of  
22 costs through completion of the administration of the settlement utilizing the final claim  
23 determinations and costs incurred to date.

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

26 Executed on September 20, 2024  
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OMAR SILVA

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# **EXHIBIT A**



1 McInnis Parkway  
Suite 250  
San Rafael, CA 94903

April 15, 2024

VIA PRIORITY MAIL

«First» «Last»  
«Company\_1»  
«Company\_2»  
«Address\_2»  
«Address\_1»  
«City», «State» «Zip»

Re: Notice of Proposed Class Action Settlement Pursuant to 28 U.S.C. § 1715

Dear «First» «Last»:

KCC Class Action Services, LLC is the independent third-party Administrator in a class action lawsuit entitled *IN RE: Mednax Services, Inc., Customer Data Security Breach Litigation*, Case No. 21-MD-02994-RAR. Alston & Bird represents Mednax Inc., Mednax Services, Inc., Pediatrix Medical Group,<sup>1</sup> and Pediatrix Medical Group of Kansas, P.C. (collectively, “Mednax”). Maynard Nexsen and Polsinelli represent American Anesthesiology, Inc. (collectively with Mednax, “Defendants”) in that Action. The lawsuit is pending before the Honorable Rodolfo A. Ruiz, II in the United States District Court for the Southern District of Florida. This letter is to advise you that Gregory Baum, Abigail Bean, Chaya Clark, Chelsea Cohen, Jessica Jay, Gerald Lee, Joseph Larsen, Brooke Nielsen, Michael Rumely, and Matias Soto (“Plaintiffs”) filed an Unopposed Motion for Preliminary Approval of Class Action Settlement in connection with this class action lawsuit on April 5, 2024.

**Case Name:** *IN RE: Mednax Services, Inc., Customer Data Security Breach Litigation*

**Case Number:** 21-MD-02994-RAR

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<sup>1</sup> Pediatrix Medical Group was named as a Defendant in several of the individual actions that were consolidated into this proceeding but is not a legal entity.





«First» «Last»  
April 15, 2024  
Page 2

**Jurisdiction:** United States District Court,  
Southern District of Florida

**Date Settlement**  
**Filed with Court:** April 5, 2024

Defendants deny any wrongdoing or liability whatsoever but have decided to settle this action solely in order to eliminate the burden, expense, and uncertainties of further litigation. In compliance with 28 U.S.C. § 1715(b), the documents referenced below are included on the CD that is enclosed with this letter:

1. **28 U.S.C. § 1715(b)(1) – Complaint and Related Materials:** Copies of the *Consolidated Complaint*, *Consolidated Amended Complaint*, *Consolidated Second Amended Complaint*, and the respective *Answer to Consolidated Second Amended Complaint* by Mednax and by American Anesthesiology are included on the enclosed CD.
2. **28 U.S.C. § 1715(b)(2) – Notice of Any Scheduled Judicial Hearing:** The final fairness hearing in this matter is scheduled for October 4, 2024 at 10:00 AM ET. Plaintiff filed an *Unopposed Motion for Preliminary Approval* requesting that the Honorable Rodolfo A. Ruiz, II preliminarily approve the proposed Settlement. Copies of the *Order Granting Motion for Preliminary Approval*, *Unopposed Motion for Preliminary Approval*, *Proposed Preliminary Approval Order*, *Declaration of William B. Federman*, and the respective *Resumes of Federman & Sherwood* and *McShane & Brady* are included on the enclosed CD.
3. **28 U.S.C. § 1715(b)(3) – Notification to Class Members:** Copies of the *Long Form Notice*, *Short Form Notice*, and the *Claim Form* to be provided to the class are included on the enclosed CD.
4. **28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** A copy of the *Settlement Agreement with Exhibits* is included on the enclosed CD.
5. **28 U.S.C. § 1715(b)(5) – Any Settlement or Other Agreement:** As of April 15, 2024, no other settlement or agreement has been entered into between the class members and Defendants, either directly or by and through their respective counsel.



«First» «Last»  
April 15, 2024  
Page 3

6. **28 U.S.C. § 1715(b)(6) – Final Judgment:** No Final Judgment has been reached as of April 15, 2024, nor have any Notices of Dismissal been granted at this time (with the exception of a single named Plaintiff, Kashari Fulks, who voluntarily dismissed her individual claims in 2023). A copy of the *Proposed Final Judgment* is included on the enclosed CD.
7. **28 U.S.C. § 1715(b)(7)(A)-(B) – Names of Class Members/Estimate of Class Members:** A complete list of names of class members as well as each State of residence is not available, and it is not possible to reasonably estimate the number of class members residing in each State or the estimated proportionate share of the claims of such members to the entire settlement. Pursuant to 28 U.S.C. § 1715(b)(7)(B), there are approximately 2,712,790 million individuals in the class.
8. **28 U.S.C. § 1715(b)(8) – Judicial Opinions Related to the Settlement:** On April 10, 2024, the Court granted Plaintiffs' Unopposed Motion for Preliminary Approval. A copy of that Order is included on the enclosed CD. As of April 15, 2024, there have been no other judicial opinions related to the settlement.

If for any reason you believe the enclosed information does not fully comply with 28 U.S.C. § 1715, please contact the undersigned immediately so that Defendants can address any concerns or questions you may have.

Thank you.

Sincerely,

/s/  
Fred Webb,  
Case Coordinator

Enclosure – CD ROM

# **EXHIBIT B**

Last	First	Company 1	Address 1	Address 2	City	State	Zip
Garland	Merrick	Attorney General of the United States	United States Department of Justice	950 Pennsylvania Avenue, NW	Washington	DC	20530-0001
Taylor	Treg	Office of the Alaska Attorney General	1031 W. 4th Avenue, Suite 200		Anchorage	AK	99501-1994
Marshall	Steve	Office of the Alabama Attorney General	501 Washington Avenue	PO Box 300152	Montgomery	AL	36130-0152
Griffin	Tim	Arkansas Attorney General Office	323 Center Street, Suite 200		Little Rock	AR	72201-2610
Mayes	Kris	Office of the Arizona Attorney General	2005 N. Central Avenue		Phoenix	AZ	85004
CAFA Coordinator		Office of the Attorney General	Consumer Law Section	455 Golden Gate Ave., Suite 11000	San Francisco	CA	94102
Weiser	Phil	Office of the Colorado Attorney General	Ralph L. Carr Colorado Judicial Center	1300 Broadway, 10th Floor	Denver	CO	80203
Tong	William	State of Connecticut Attorney General	165 Capitol Avenue		Hartford	CT	06106
Schwalb	Brian	District of Columbia Attorney General	400 6th St., NW		Washington	DC	20001
Jennings	Kathy	Delaware Attorney General	Carvel State Office Building	820 N. French Street	Wilmington	DE	19801
Moody	Ashley	Office of the Attorney General of Florida	The Capitol, PL-01		Tallahassee	FL	32399-1050
Carr	Chris	Office of the Georgia Attorney General	40 Capitol Square, SW		Atlanta	GA	30334-1300
Lopez	Anne E.	Office of the Hawaii Attorney General	425 Queen Street		Honolulu	HI	96813
Bird	Brenna	Iowa Attorney General	Hoover State Office Building	1305 E. Walnut Street	Des Moines	IA	50319
Labrador	Raúl	State of Idaho Attorney General's Office	700 W. Jefferson Street, Suite 210	P.O. Box 83720	Boise	ID	83720-1000
Raoul	Kwame	Illinois Attorney General	James R. Thompson Center	100 W. Randolph Street	Chicago	IL	60601
Rokita	Todd	Indiana Attorney General's Office	Indiana Government Center South	302 West Washington Street, 5th Floor	Indianapolis	IN	46204
Kobach	Kris	Kansas Attorney General	120 S.W. 10th Ave., 2nd Floor		Topeka	KS	66612-1597
Coleman	Russell	Office of the Kentucky Attorney General	700 Capitol Ave	Capitol Building, Suite 118	Frankfort	KY	40601-3449
Murrill	Liz	Office of the Louisiana Attorney General	1885 North Third Street		Baton Rouge	LA	70802
Campbell	Andrea	Attorney General of Massachusetts	1 Ashburton Place	20th Floor	Boston	MA	02108-1698
Brown	Anthony G.	Office of the Maryland Attorney General	200 St. Paul Place		Baltimore	MD	21202-2202
Frey	Aaron	Office of the Maine Attorney General	State House Station 6		Augusta	ME	04333
Nessel	Dana	Office of the Michigan Attorney General	P.O. Box 30212	525 W. Ottawa Street	Lansing	MI	48909-0212
Keith Ellison	Attorney General	Attention: CAFA Coordinator	445 Minnesota Street	Suite 1400	St. Paul	MN	55101-2131
Bailey	Andrew	Missouri Attorney General's Office	Supreme Court Building	207 W. High Street	Jefferson City	MO	65101
Fitch	Lynn	Mississippi Attorney General's Office	Department of Justice	P.O. Box 220	Jackson	MS	39205
Knudsen	Austin	Office of the Montana Attorney General	Justice Bldg.	215 N. Sanders Street	Helena	MT	59620-1401
Stein	Josh	North Carolina Attorney General	Department of Justice	P.O.Box 629	Raleigh	NC	27602-0629
Hilgers	Mike	Office of the Nebraska Attorney General	State Capitol P.O. Box 98920		Lincoln	NE	68509-8920
Ford	Aaron	Nevada Attorney General	Old Supreme Ct. Bldg.	100 North Carson St.	Carson City	NV	89701
Formella	John	New Hampshire Attorney General	Hew Hampshire Department of Justice	33 Capitol St.	Concord	NH	03301-6397
Platkin	Matthew J.	Office of the New Jersey Attorney General	Richard J. Hughes Justice Complex	25 Market St., P.O. Box 080	Trenton	NJ	08625-0080
Torrez	Raul	Office of the New Mexico Attorney General	P.O. Drawer 1508		Santa Fe	NM	87504-1508
James	Letitia	Office of the New York Attorney General	Dept. of Law - The Capitol	2nd Floor	Albany	NY	12224-0341
Wrigley	Drew H.	North Dakota Office of the Attorney General	State Capitol	600 E. Boulevard Ave., Dept. 125	Bismarck	ND	58505-0040
Yost	Dave	Ohio Attorney General	Rhodes State Office Tower	30 E. Broad St., 14th Flr.	Columbus	OH	43215
Drummond	Gentner	Oklahoma Office of the Attorney General	313 NE 21st St.		Oklahoma City	OK	73105
Rosenblum	Ellen F.	Office of the Oregon Attorney General	Justice Building	1162 Court St., NE	Salem	OR	97301-4096
Henry	Michelle A.	Pennsylvania Office of the Attorney General	16th Flr., Strawberry Square		Harrisburg	PA	17120
Neronha	Peter	Rhode Island Office of the Attorney General	150 South Main St.		Providence	RI	02903
Wilson	Alan	South Carolina Attorney General	Rembert C. Dennis Office Bldg.	P.O. Box 11549	Columbia	SC	29211
Jackley	Marty	South Dakota Office of the Attorney General	1302 East Highway 14, Suite 1		Pierre	SD	57501-8501
Skrmetti	Jonathan	Tennessee Attorney General and Reporter	425 5th Avenue North		Nashville	TN	37243
Paxton	Ken	Attorney General of Texas	Capitol Station	P.O. Box 12548	Austin	TX	78711-2548
Reyes	Sean	Utah Office of the Attorney General	P.O. Box 142320		Salt Lake City	UT	84114-2320
Clark	Charity R.	Office of the Attorney General of Vermont	109 State St.		Montpelier	VT	05609-1001
Miyares	Jason	Office of the Virginia Attorney General	202 North Ninth St.		Richmond	VA	23219
Ferguson	Bob	Washington State Attorney General	1125 Washington St. SE	P.O. Box 40100	Olympia	WA	98504-0100
Morrissey	Patrick	West Virginia Attorney General	State Capitol Complex, Bldg. 1, Rm. E-26	1900 Kanawha Blvd. E.	Charleston	WV	25305
Kaul	Josh	Office of the Wisconsin Attorney General	Dept. of Justice, State Capitol	Rm. 114 East, P.O. Box 7857	Madison	WI	53707-7857
Hill	Bridget	Office of the Wyoming Attorney General	109 State Capitol		Cheyenne	WY	82002
Ala'ilima-Utu	Fainu'ulelei Falefatu	American Samoa Gov't	Dept. of Legal Affairs, c/o Attorney General	P.O. Box 7	Utulei	AS	96799
Moylan	Douglas	Office of the Attorney General, ITC Building	590 S. Marine Corps Dr.	Suite 706	Tamuning	Guam	96913
Manibusan	Edward	Northern Mariana Islands Attorney General	Administration Building	P.O. Box 10007	Saipan	MP	96950-8907
Hernández	Domingo Emanuelli	Puerto Rico Attorney General	Torre Chardón, Suite 1201	350 Carlos Chardón Ave.	San Juan	PR	00918
Smith	Ariel M.	Virgin Islands Acting Atty. General, DOJ	3438 Kronprindsens Gade	GERs Complex, 2nd Floor	St. Thomas	VI	00802
Reinke	Gavin	Alston & Bird	1201 West Peachtree Street		Atlanta	GA	30309

# EXHIBIT C

**COURT APPROVED****LEGAL NOTICE**

In re: Mednax Services, Inc. Data  
Security Breach Litigation, Case No.  
21-MD-02994-RAR (S.D. Fla.)

MDX Settlement Administrator  
P.O. Box 35272  
Los Angeles, CA 90030-1172

**If you were notified of a  
cybersecurity incident in or around  
December 2020 or January 2021 by  
Mednax or American Anesthesiology,  
you may be eligible for benefits from  
a class action settlement.**

«Barcode»

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Claim ID: <<Claim8>>

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MDX: ClaimID: «Claim8»-«CkDig»

«FirstName» «LastName»

«Addr2»

«Addr1»

«City», «State»«FProv» «Zip»«FZip»

«FCountry»



VISIT THE  
SETTLEMENT  
WEBSITE BY  
SCANNING  
THE PROVIDED  
QR CODE

**MDX**

**Claim Form**

Class Member ID: <<Claim8>>

To submit a claim for medical fraud monitoring or for attested time spent addressing issues related to the cybersecurity Incident, please complete the **below form**, sign, and mail this portion of the postcard to the Settlement Administrator **postmarked by no later than September 9, 2024**. Please complete the Claim Form for each category of benefits that you would like to claim. **You may select more than one category.** (*Note:* Claims for Reimbursement of Out-of-Pocket Expenses and Documented Time Spent require supporting documentation and, therefore, must be submitted online at [www.MednaxAASettlement.com](http://www.MednaxAASettlement.com) or mailed to the Settlement Administrator with a separate Claim Form.)

**Contact Information** (*Please fill in completely.*)

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Parent or Legal Guardian Full Name (if submitting on behalf of a minor child): \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

Email: \_\_\_\_\_

**Medical Fraud Monitoring:** To receive medical fraud monitoring offered as part of the Settlement, please provide your email address above and select below:

\_\_\_\_\_ I would like to claim three (3) years of medical fraud monitoring at no cost to me.

**Attested Time Spent Responding to the Cybersecurity Incident:** To receive up to **\$120.00** in cash for up to 4 hours of time responding to the cybersecurity Incident at a rate of \$30.00 per hour, provide the following:

I spent a total of \_\_\_\_\_ hours of time in response to or addressing issues related to the cybersecurity Incident (please use half hour increments).

**SIGN AND DATE YOUR CLAIM FORM:** I declare under penalty of perjury that the information supplied in this Claim Form is true and correct to the best of my recollection. I authorize the Settlement Administrator to contact me, using the contact information set forth above, to obtain any necessary supplemental information.

Signature \_\_\_\_\_  
(or Parent/Legal Guardian Signature if submitting on behalf of a minor child)

Date (mm/dd/yyyy) \_\_\_\_\_

The deadline to submit this form is postmarked by **September 9, 2024**

Questions? Visit [www.MednaxAASettlement.com](http://www.MednaxAASettlement.com) or call 1-877-403-0009

**«BARCODE»**



VISIT THE SETTLEMENT WEBSITE BY  
SCANNING THE PROVIDED QR CODE

«Claim8»

An approved Settlement has been reached with Defendant Mednax, Inc., Mednax Services, Inc., Pediatrix Medical Group, Inc., Pediatrix Medical Group of Kansas, P.C., and American Anesthesiology, Inc. related to a cybersecurity incident (the "Incident"). The lawsuit, which is pending in the U.S. District Court for the Southern District of Florida, alleges that Defendants did not adequately protect certain personal information. Defendants deny any wrongdoing. No judgment or determination of wrongdoing has been made.

**Who is Included?** Records indicate you are included in this Settlement as a Class Member. The Class includes the U.S. residents who were notified in or around December 2020 and January 2021, via either written or substitute notice, that their personal information may have been involved in the cybersecurity Incident.

**What does the Settlement Provide?** The Settlement provides compensation for lost time in addressing issues related to the cybersecurity Incident (up to 14 hours at \$30.00 per hour), payment of out-of-pocket expenses related to the cybersecurity Incident (up to \$5,000.00 per person), and three years of medical fraud monitoring; attorneys' fees and expenses; and costs of notice and administration. The aggregate payment by Defendants is \$6,000,000.00. ALL BENEFITS (AND THE AMOUNT PAID TO SETTLEMENT CLASS MEMBERS UNDER THIS SETTLEMENT) MAY BE HIGHER OR LOWER, DEPENDING ON THE TOTAL AMOUNT OF APPROVED CLAIMS.

**How To Get Benefits:** You must submit a Claim Form, including any required documentation. The deadline to file a Claim Form is September 9, 2024. You can easily file a claim online at [www.MednaxAASettlement.com](http://www.MednaxAASettlement.com) or by submitting the Claim Form included with this notice. You can also get a paper Claim Form at the website or by calling toll-free 1-877-403-0009, and file by mail. When filing your claim, use your unique Class Member ID (printed on the front of this postcard).

**Your Other Options:** If you file a Claim Form, object to the Settlement and/or Attorneys' Fees and Expenses, or do nothing, you are choosing to stay in the Settlement Class. You will be legally bound by all orders of the Court and you will not be able to start, continue, or be part of any other lawsuit against Defendants about the Cybersecurity Incident. If you don't want to be legally bound by the Settlement or receive any benefits from it, you must exclude yourself by **August 9, 2024**. If you do not exclude yourself, you may object to the Settlement and/or Attorneys' Fees and Expenses by **August 9, 2024**. The Court has scheduled a hearing in this case for **October 4, 2024**, to consider whether to approve the Settlement and Attorneys' Fees and Expenses, as well as any objections. For complete information about all of your rights and options, as well as Claim Forms, the Long-Form Notice and Settlement Agreement, visit [www.MednaxAASettlement.com](http://www.MednaxAASettlement.com), or call 1-877-403-0009.

**For more information, call toll-free 1-877-403-0009 or visit [www.MednaxAASettlement.com](http://www.MednaxAASettlement.com) and read the detailed Notice.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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**MDX**

MDX SETTLEMENT ADMINISTRATOR  
PO BOX 301172  
LOS ANGELES CA 90030-1172



# EXHIBIT D



# Digital Media PoP

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*In re: Mednax Services, Inc., Customer Data Security Breach Litig.*



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# Atlanta


Were you notified of a cybersecurity incident in or around December 2020 or January 2021 by Mednax or American Anesthesiology? You may be eligible for benefits from a class action settlement. [Learn More](#)

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57 Best Bars in Atlanta  
ATLANTA MAGAZINE - MAY 17, 2024



Celebrating 50 years, Mellow Mushroom co-founder shares the story of the trippy pizza chain's humble beginning  
CARLY COOPER - MAY 21, 2024



Is a craft beer-pocalypse coming for Atlanta?  
RYAN ZICKGRAF - MAY 17, 2024

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You may be eligible for benefits from a class action settlement.

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# PULLED THE TRIGGER



## Hunter Biden juror reveals the damning evidence that lead to conviction at gun trial

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You may be eligible for benefits from a class action settlement.

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### Tampa Bay's 15 hottest new restaurants right now

Our food critic's rundown of the area's buzziest newcomers so far in 2024.



### How close is St. Petersburg to its clean energy promise? It doesn't know.

The city committed to 100% clean energy by 2035, but hasn't received data from Duke Energy on its power sources.



### Pasco students face new school cellphone restrictions

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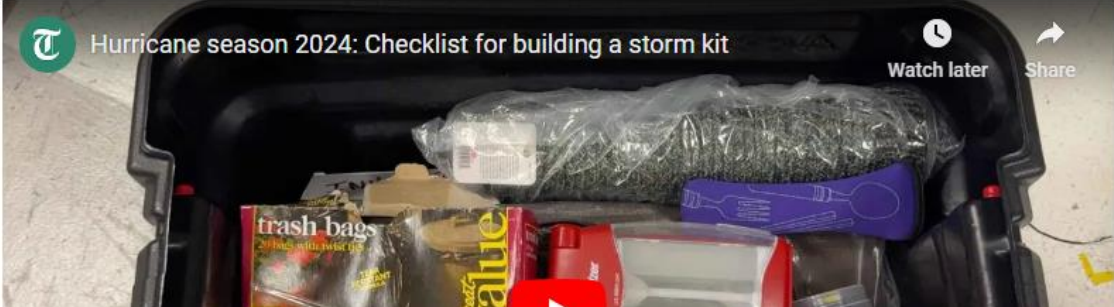
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You may be eligible for benefits from a class action settlement.


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**Were you notified of a cybersecurity incident in or around December 2020 or January 2021 by Mednax or American Anesthesiology?**  
You may be eligible for benefits from a class action settlement. [Learn More](#) [MednaxAASettlement.com](#)





### Hunter Biden convicted of all 3 felony charges in federal gun trial

A jury found him guilty on all counts, making Hunter Biden the first offspring of a sitting U.S. president to be convicted of a crime.  
**His dad has said he would not pardon him »**


**Trending Now** Father's Day 

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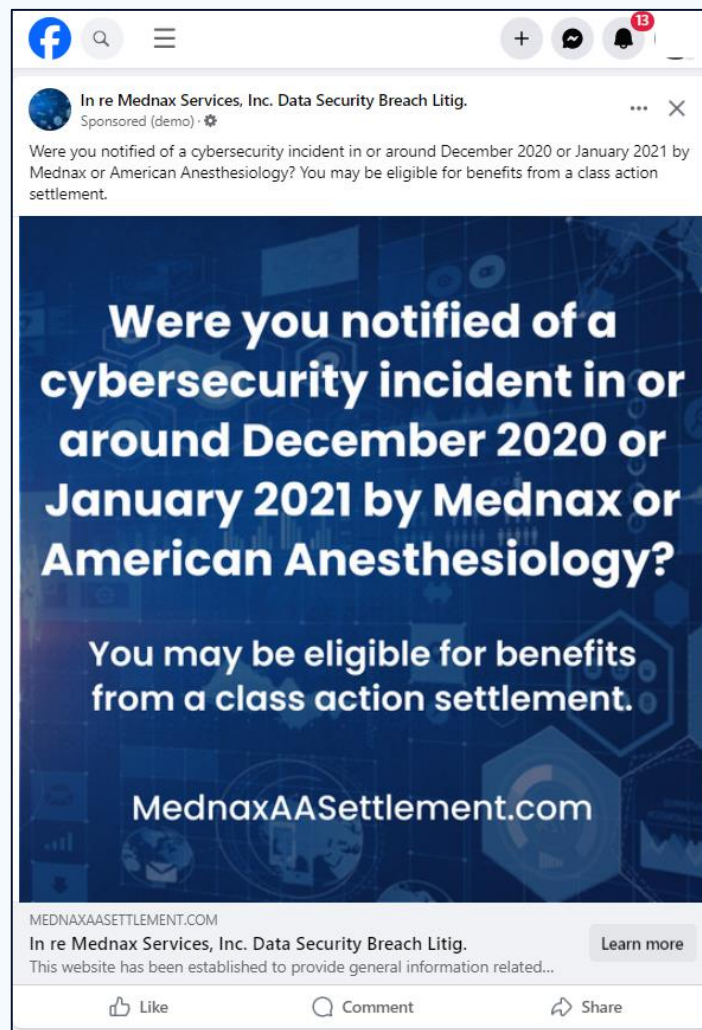


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Why gas prices are falling across the U.S.

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## PRESS RELEASE

# KILL Federman & Sherwood Announces Preliminary Approval of Settlement in MedNax Services, Inc., Customer Data Security Breach Litigation

Friday, June 14th 2024, 4:11 PM EDT

**Updated:** Wednesday, August 14th 2024, 1:44 PM EDT

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--(BUSINESS WIRE)

Federman & Sherwood requests that their press release NewsItemId: 20240614977093 issued June 14, 2024 "Federman & Sherwood Announces Preliminary Approval of Settlement in MedNax Services, Inc., Customer Data Security Breach Litigation" be killed.

The release was issued in error by Federman & Sherwood.

A replacement release will not be issued.

Litigation  
April 11, 2024, 7:37 PM EDT

# Mednax Patients Given First Nod for Data Breach Settlement

By Quinn Wilson

- Each class member to receive up to \$5,000 for expenses
- Could also receive three years of medical fraud protection services

A \$6 million class action settlement benefiting Mednax Inc. patients who were exposed in a data breach received initial court approval, signaling the end to the sprawling litigation over liability related to a 2020 phishing attack.

The agreement is expected to provide each class member up to \$5,000 for expenses incurred because of the data breach and as much as \$420 in reimbursements for attested and documented time responding to the alleged data breach. The class members will also be eligible for three years of medical monitoring and medical fraud protection services, according to the order from Judge Rodolfo A. ...

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## Federman & Sherwood Announces Preliminary Approval of Settlement in MedNax Services, Inc., Customer Data Security Breach Litigation

June 14, 2024 04:02 PM Eastern Daylight Time

OKLAHOMA CITY--(BUSINESS WIRE)--Federman & Sherwood announces that the Court has entered an Order granting preliminary approval to a proposed settlement in the class action against MedNax Services, Inc., styled *In re: MedNax Services, Inc., Customer Data Security Breach Litigation*, United States District Court for the Southern District of Florida, Case No. 0:21-md-02994-RAR. To obtain additional information regarding the settlement and to submit a claim form, please visit: <https://www.mednaxasettlement.com/>.

### Contacts

Tiffany Peintner

FEDERMAN & SHERWOOD

Telephone: (405) 235-1560

Email to: [trp@federmanlaw.com](mailto:trp@federmanlaw.com)

### #Hashtags

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[#identitytheft](#)

[#MedNaxSettlement](#)

[#classaction](#)

[#MedNax](#)

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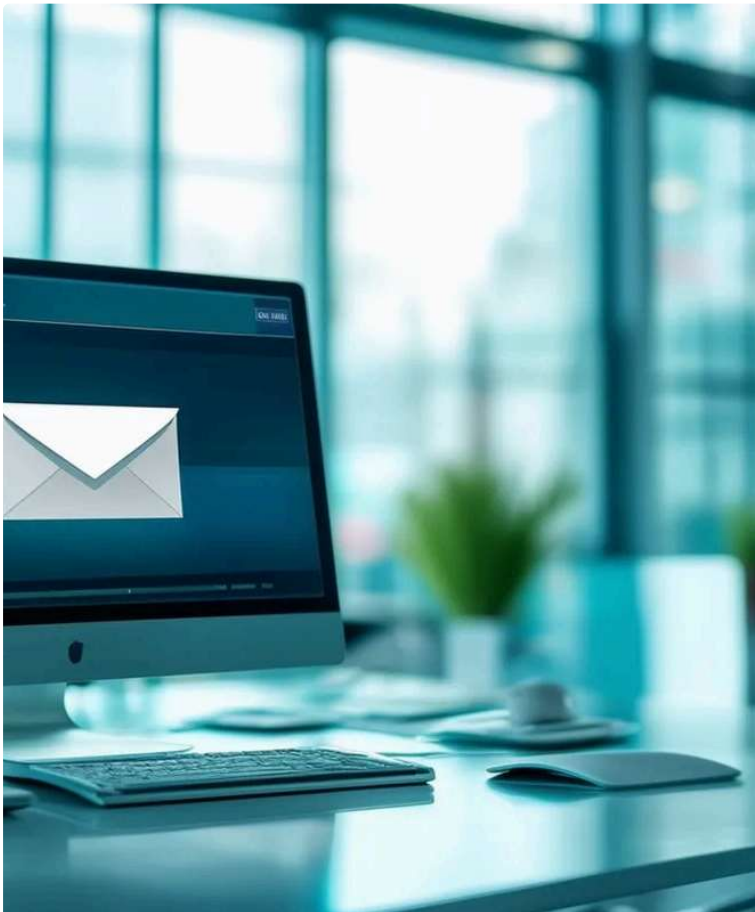
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HOME > SETTLEMENTS > IN RE: MEDNAX SERVICES, INC. DATA SECURITY BREACH LITIGATION

# Mednax \$6,000,000 Data Breach Settlement

[Will Gendron](#) Editor in Chief

Published June 20, 2024 12:26 PM Updated August 14, 2024



Post

Mednax Services, Inc. has agreed to pay \$6,000,000 to settle a class action lawsuit for alleged [cybersecurity breaches](#) involving unauthorized access to certain Mednax Microsoft Office365 email

accounts. This settlement aims to compensate affected individuals for lost time, out-of-pocket expenses, and provide medical monitoring services.

## Can I Claim an Award?

You are a Settlement Class Member if:

- You received written notice from Mednax or American Anesthesiology in or around December 2020 or January 2021.
- You believe your personal information was involved in the cybersecurity incident but did not receive written notice, and you received services from a Mednax-affiliated physician or American Anesthesiology prior to June 17, 2020.

## What Awards Can Class Members Claim?

The settlement provides several types of awards for class members:

Class members can claim compensation for lost time, out-of-pocket expenses, and medical monitoring services. The details are as follows:

- **Compensation for Lost Time:** Class members can claim up to 4 hours of lost time at a rate of \$30.00 per hour. If more than 4 hours were spent, up to 10 additional hours can be claimed with supporting documentation.
- **Compensation for Out-of-Pocket Expenses:** Class members can claim up to \$5,000.00 for documented out-of-pocket expenses incurred as a result of the cybersecurity incident. This includes costs related to identity theft, credit report access, and other related expenses.
- **Medical Monitoring:** Class members can claim three years of medical monitoring and medical fraud protection services.

## Is Proof Required to Claim the Reward?

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### Settlement Summary

#### STATUS

Open for Claims

#### CATEGORY

Data Breach

#### SETTLEMENT AMOUNT

\$6,000,000

#### AWARD

\$30 - \$5,000

#### IS PROOF REQUIRED?

Proof Required

#### DAYS REMAINING TO FILE CLAIM

26

#### CLAIM DEADLINE

September 9, 2024

#### FINAL APPROVAL HEARING

October 4, 2024

#### CASE NUMBER

21-MD-02994-RAR

#### CASE TITLE

In re: Mednax Services, Inc. Data Security Breach Litigation

#### COURT

Southern District of Florida

#### JURISDICTION

U.S. District Court



Yes, proof is required to claim the reward. The required proof varies depending on the type of claim:

- **Lost Time:** Claims for up to 4 hours require a representation that the time spent was due to the cybersecurity incident. Claims for more than 4 hours require non-self-prepared documentation.
- **Out-of-Pocket Expenses:** Claims must include documentation such as credit card statements, bank statements, invoices, telephone records, and receipts.
- **Medical Monitoring:** Claims require non-self-prepared documentation demonstrating that the claimant or their minor child received services from a Mednax-affiliated physician or American Anesthesiology prior to June 17, 2020.

## How to Claim Your Award

To claim your award, you need to submit a claim form. The easiest way is to [submit an online form](#) or you can also download a [paper claim form](#) and mail it to MDX Settlement Administrator.

## How do I Get Paid?

Once your claim is approved, payments will be made after the Court grants final approval of the Settlement and after any appeals are resolved. Payments may be issued via check or other methods as determined by the Settlement Administrator.

## \$6,000,000 Settlement Fund Breakdown

The total settlement amount of \$6,000,000 will cover the compensation for lost time, out-of-pocket expenses, medical monitoring services, the costs of notifying Settlement Class Members, and administering the Settlement. Additionally, it will cover Attorneys' Fees, costs, and expenses as approved by the Court.

### SETTLEMENT WEBSITE

<https://www.mednaxaasettlement.com/>

### CLAIMS ADMINISTRATOR

MDX Settlement Administrator  
P.O. Box 301172  
Los Angeles, CA 90030-1172  
1-877-403-0009  
[info@MednaxAASettlement.com](mailto:info@MednaxAASettlement.com)

### CLASS COUNSEL

McShane & Brady, LLC  
Federman & Sherwood

## Trending Settlements



### SECURITIES

Under Armour Securities  
Litigation settles for \$434 million



### BANKING

USAA Military Fee Lawsuit  
Settlement Guide (\$64.2 million)



### DATA BREACH

Cash App \$15M Data Security  
Settlement: Awards up to \$2,500



### TEXT MESSAGES

Assurance IQ \$21,875,000 TCPA  
Settlement: Award Calculator



### DATA BREACH

MCG Health \$8.8M Data Breach  
Settlement



If the total amount of approved claims exceeds the settlement amount, the claims will be subject to a pro rata reduction to ensure the total amount paid does not exceed \$6,000,000.

## Important Dates

- **Deadline to File a Claim:** September 9, 2024
- **Final Approval Hearing Date:** October 4, 2024

## Why is There a Class Action Settlement?

This class action settlement was reached after a lengthy mediation process overseen by a neutral mediator. The lawsuit involves claims that Defendants are responsible for a cybersecurity incident involving unauthorized access to certain Mednax Microsoft Office365 email accounts. Defendants deny these claims and any wrongdoing.

The settlement avoids the costs and uncertainty of a trial and related appeals, while more quickly providing benefits to members of the settlement class. The Class Representatives and the attorneys for the Settlement Class believe that the settlement is in the best interests of the Settlement Class Members.

### Settlement Open for Claims

Award: \$30 - \$5,000  
Deadline: September 9, 2024

SUBMIT CLAIM

## Comments

**Medicare and Medicaid Cases, In Re Mednax Services Inc. Customer Data Security Breach Litigation, U.S. District Court, S.D. Florida, ¶308,042, (Apr. 10, 2024)**

In Re Mednax Services Inc. Customer Data Security Breach Litigation

¶308,042. U.S. District Court, S.D. Florida, Doc. No. 0:21-md-02994-RAR, April 10, 2024.

**UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 21-MD-02994-RAR**

In re: **MEDNAX SERVICES, INC., CUSTOMER DATA SECURITY BREACH LITIGATION**

This Document Relates to All Actions

***ORDER CERTIFYING SETTLEMENT CLASS AND GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND NOTICE PROGRAM***

**THIS CAUSE** comes before the Court on Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and Incorporated Memorandum of Law in Support ("Motion"), [ECF No. 316]. Plaintiffs request that the Court consider whether the Settlement reached by the Parties should be preliminarily approved, the proposed Settlement Class preliminarily certified, and the proposed plan for notifying the Settlement Class approved. See *generally*, Mot. Having carefully reviewed the proposed Settlement, together with its exhibits, all relevant filings, and the record, the Court finds that the proposed Settlement satisfies the criteria for preliminary approval, the proposed Settlement Class should be preliminarily certified, and the proposed notice plan approved. <sup>[1]</sup> Accordingly, it is hereby

**ORDERED AND ADJUDGED** that the Motion is **GRANTED** as set forth herein.

***BACKGROUND***

On August 5, 2021, Plaintiffs filed their initial Consolidated Class Action MDL Complaint against Defendants, alleging Defendants failed to adequately protect Plaintiffs' and the Class's Protected Health Information ("PHI") and Personally Identifiable Information ("PII") from unauthorized access and asserting multiple common law and statutory claims for relief. [ECF No. 53]. Defendants filed a Motion to Dismiss on September 20, 2021, [ECF No. 61], and Plaintiffs filed their First Amended Consolidated Class Action Complaint on October 20, 2021, [ECF No. 71]. Defendants proceeded to file another Motion to Dismiss, [ECF No. 84], which Plaintiffs opposed, [ECF No. 92], and the Court entered an Order Granting in Part Defendants' Motion, [ECF No. 104]. Plaintiffs filed their Second Amended Consolidated Class Action Complaint, [ECF No. 115], Defendants filed a Partial Motion to Dismiss, [ECF No. 123], which Plaintiffs opposed, [ECF Nos. 126, 129], and on August 18, 2022, the Court entered an Order Granting in Part Defendants' Partial Motion to Dismiss, [ECF No. 131]. The Second Amended Consolidated Class Action Complaint ("Complaint") remains the operative complaint in this matter.

Defendants are national healthcare services partners providing "newborn, anesthesia, maternal-fetal, radiology and teleradiology, pediatric cardiology, and other pediatric subspecialty care services in 39 states and Puerto Rico." Complaint ¶292. Defendants also provide consulting services, including administrative solutions to hospitals and healthcare providers. Compl. ¶293. As part of the services Defendants provide, they are entrusted with PII and PHI of Plaintiffs and the Class. See Compl. ¶295. On or about June 19, 2020, an unauthorized hacker accessed Microsoft

Office 365-hosted business and email accounts through a successful phishing event and compromised the PHI and PII of Plaintiffs and the Class. See Compl. ¶¶385. In or around late December 2020 and January 2021, Defendants issued formal notices of the Data Incident to Plaintiffs and the Class. Compl. ¶¶19, 42, 60, 79, 102, 127, 152, 177, 242, 264.

Prior to engaging in mediation and reaching a settlement, the Parties conducted meaningful discovery. Decl. of William B. Federman in Support of Pls.' Mot. for Preliminary Approval of Class Action Settlement ("Federman Decl."), [ECF No. 317], ¶4. Beginning in May of 2022 through September of 2023, Plaintiffs and Defendants conducted extensive discovery, including responding to written interrogatories and requests for production, producing thousands of pages of documents, taking numerous fact witness depositions, exchanging expert reports, and taking expert depositions. *Id.* On April 17, 2023, the Parties engaged in a full-day mediation session with the Honorable Judge John Thornton (Ret.) of JAMS, which did not result in a settlement. *Id.* ¶5. Although the Parties were participating in good faith, additional follow-up discussions with Judge Thornton were also unsuccessful. *Id.* The Parties then proceeded to engage in extensive motion practice. Plaintiffs filed a Motion for Class Certification on October 16, 2023, [ECF No. 232], Defendants filed Motions for Summary Judgment, [ECF Nos. 254, 260], on November 29 and December 1, 2023, and both sides also filed Motions to Exclude Expert Testimony, [ECF Nos. 252, 258] on November 29 and November 30, 2023.

On October 26, 2023, the Court appointed Judge Eduardo C. Robreno (Ret.) as Special Mediator in the case ("Special Mediator"). [ECF No. 235]. On January 16 and 17, 2024, Plaintiffs and Defendants participated in two full days of mediation before the Special Mediator and, while considerable progress was made, the mediation did not result in an agreement. Federman Decl. ¶5. Over the next several weeks, Plaintiffs and Defendants continued settlement discussions facilitated by the Special Mediator, which resulted in the execution of a term sheet memorializing the essential terms of the settlement on February 9, 2024. *Id.* The terms of the settlement reached are memorialized in the Settlement Agreement, which was negotiated at arm's length, in good faith and without collusion, by capable and experienced counsel, with full knowledge of the facts, the law, and the inherent risks in the Litigation, and with the active involvement of the Plaintiffs and Defendants. *Id.* Plaintiffs now seek preliminary approval of the Settlement Agreement, [ECF No. 317-1]. Defendants do not oppose the relief sought in the Motion and agree that the Court should grant preliminary approval of the settlement and allow notice to issue to the Settlement Class.

Specifically, the Settlement provides monetary relief that includes a non-reversionary Settlement Fund of six million Dollars (\$6,000,000). Settlement Agreement ¶3.1. Relief to be paid out of the Settlement Fund includes: (i) reimbursement of Out-of-Pocket Losses up to \$5,000.00 for expenses incurred as a result of the Data Incident ( *id.* ¶7.1.1.); (ii) reimbursement for up to four (4) hours of Attested Time spent responding to the Data Incident at a rate of \$30.00 an hour ( *id.* ¶7.1.4.); and (iii) reimbursement for up to ten (10) additional hours of Documented Time spent responding to the Data Incident at a rate of \$30.00 an hour ( *id.* ¶7.1.5.). In addition, all Settlement Class Members are eligible to receive three (3) years of medical monitoring and medical fraud protection services to be paid out of the Settlement Fund. *Id.* ¶7.1.6. For the avoidance of doubt, in no event shall Defendants' collective liability or obligation under this Settlement Agreement exceed the Settlement Fund. As further discussed below, the Settlement falls within the range of judicial approval and includes a comprehensive notice plan. As such, preliminary approval of the proposed class action settlement is warranted.

## LEGAL STANDARD

It is well established that "[a] class may be certified solely for purposes of settlement [if] a settlement is reached before a litigated determination of the class certification issue." *Borcea v. Carnival Corp.*, 238 F.R.D. 664, 671 (S.D. Fla. 2006) (cleaned up). "There is a strong judicial policy in favor of settlement, in order to conserve scarce resources that would otherwise be devoted to protracted litigation." *Id.* In deciding whether to provisionally certify a settlement

class, a court must consider the same factors that it would consider in connection with a proposed litigation class—i.e., all Rule 23(a) factors and at least one subsection of Rule 23(b) must be satisfied—except that the Court need not consider the manageability of a potential trial, since the settlement, if approved, would obviate the need for a trial. See *id.* at 671–672.; see also *Diakos v. HSS Sys., LLC*, 137 F. Supp. 3d 1300, 1306 (S.D. Fla. 2015) (explaining a court evaluates whether certification of a settlement class is appropriate under Federal Rule of Civil Procedure 23(a) and (b)); *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

Rule 23(a) requires: (1) numerosity, (2) commonality, (3) typicality, and (4) adequacy of representation. See FFED. R. CIV. P. 23(a)(1)–(4). Rule 23(b)(3) requires that (1) “the questions of law or fact common to class members predominate over any questions affecting only individual members” and (2) “a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” FFED. R. CIV. P. 23(b)(3). The Eleventh Circuit also requires that the class representatives have standing to sue and that the proposed class is adequately defined and clearly ascertainable. See *Prado-Steiman ex rel Prado v. Bush*, 221 F.3d 1266, 1279 (11th Cir. 2000); see also *Little v. T-Mobile USA, Inc.*, 691 F.3d 1302, 1304 (11th Cir. 2012).

If certification of a settlement class is appropriate, a court then determines if the proposal is “fair, reasonable, and adequate.” FFED. R. CIV. P. 23(e)(2). To do so, the Court considers whether:

(A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney's fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other.

*Id.* Furthermore, the Eleventh Circuit “instruct[s] district courts to consider several additional factors called the *Bennett* factors.” *In re Equifax Inc. Customer Data Sec. Breach Litig.*, 999 F.3d 1247, 1273 (11th Cir. 2021) (citing *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984)). These additional factors are:

there was no fraud or collusion in arriving at the settlement and ... the settlement was fair, adequate and reasonable, considering (1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which a settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of litigation; (5) the substance and amount of opposition to the settlement; and (6) the stage of proceedings at which the settlement was achieved.

*Bennett*, 737 F.2d at 986 (“*Bennett* factors”). “Preliminary approval is appropriate where the proposed settlement is the result of the parties' good faith negotiations, there are no obvious deficiencies, and the settlement falls within the range of reason.” *Smith v. Wm. Wrigley Jr. Co.*, No. 09-60646, 2010 WL 2401149, at \*2 (S.D. Fla. June 15, 2010) (cleaned up).

## ANALYSIS

The Court finds, for settlement purposes only, that the Rule 23 factors are present, and that certification of the

proposed Settlement Class is appropriate under Rule 23. The Court therefore provisionally certifies the following Settlement Class:

All persons residing in the United States who were notified in or around December 2020 and January 2021, via either written or substitute notice, that their PHI and PII may have been involved in the Incident. The Settlement Class specifically excludes: (i) Defendants, any Entity in which Defendants have a controlling interest, and Defendants' officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over the Action and the members of their immediate families and judicial staff; and (iii) any individual who timely and validly opts out of the settlement.

The Court finds, for settlement purposes only and conditioned on final certification of the proposed class and on the entry of a Final Approval Order, that the Settlement Class satisfies the requirements of Rule 23(a), 23(b)(3), and 23(e), as well as the *Bennett* factors. <sup>[2]</sup> The Court will address each factor in turn.

#### A. The Rule 23(a) Factors Are Satisfied.

##### (1) Numerosity

Rule 23(a)(1) requires that the “class is so numerous that joinder of all members is impracticable.” FFED. R. CIV. P. 23(a)(1). The numerosity requirement is “generally a low hurdle” and, as a general rule, “less than twenty-one is inadequate ... [and] more than forty is adequate[.]” *Vega v. T-Mobile USA, Inc.*, 564 F.3d 1256, 1267 (11th Cir. 2009) (cleaned up). Here, the numerosity requirement of Rule 23(a)(1) is satisfied because the Settlement Class includes approximately 2,712,790 individuals. *Id.*; see also *Cox v. Am. Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir. 1986) (numerosity generally satisfied where there are more than 40 class members).

##### (2) Commonality

Rule 23(a)(2) requires that there must be “questions of law or fact common to the class.” FFED. R. CIV. P. 23(a)(2). “[C]ommonality requires the plaintiff to demonstrate that the class members have suffered the same injury,” and the plaintiff’s common contention “must be of such a nature that it is capable of class wide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349–50 (2011) (cleaned up). The commonality requirement is a “low hurdle.” See *Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1356 (11th Cir. 2009). Here, Plaintiffs’ claims turn on the adequacy of Defendants’ data security in protecting Plaintiffs’ and the Class’s PHI/PII. These issues are common to the Settlement Class, are alleged to have injured all Settlement Class Members in the same way and would generate common answers central to the viability of all claims were this case to proceed to trial. In other words, evidence to resolve said claims does not vary among Settlement Class Members and can therefore be fairly resolved, for purposes of settlement, for all Settlement Class Members at once. Thus, commonality is satisfied.

##### (3) Typicality

Under Rule 23(a)(3), a class representative’s claims must also be typical of the putative class they seek to represent. See FFED. R. CIV. P. 23(a)(3). Typicality under Rule 23(a)(3) “measures whether a significant nexus exists between

the claims of the named representative and those of the class at large.” *Hines v. Widnall*, 334 F.3d 1253, 1256 (11th Cir. 2003); *see also Kornberg v. Carnival Cruise Lines, Inc.*, 741 F.2d 1332, 1337 (11th Cir. 1984) (typicality satisfied where claims “arise from the same event or pattern or practice and are based on the same legal theory”). To be typical, a class representative must have “the same interest and suffer the same injury as the class members.” *Id.* But “[n]either the typicality nor the commonality requirement mandates that all putative class members share identical claims, and [] factual differences among the claims of the putative members do not defeat certification.” *Cooper v. S. Co.*, 390 F.3d 695, 714 (11th Cir. 2004) (cleaned up); *see also Ault v. Walt Disney World Co.*, 692 F.3d 1212, 1216 (11th Cir. 2012). When the same course of conduct is directed at both the named plaintiff and the members of the proposed class, the typicality requirement is met. *See Kennedy v. Tallant*, 710 F.2d 711, 717 (11th Cir. 1983). Here, the typicality requirement is satisfied because Plaintiffs’ interests are aligned with the Settlement Class in that they all received a notice letter from Defendants informing them their PHI/PII may have been compromised as a result of the Data Incident and was therefore impacted by the same purportedly inadequate data security that allegedly harmed the rest of the Settlement Class. Thus, typicality is met here. *See Hines*, 334 F.3d at 1256.

#### **(4) Adequacy**

Adequacy under Rule 23(a)(4) requires that “the representative parties ... fairly and adequately protect the interests of the class.” FFED. R. CIV. P. 23(a)(4). Adequacy relates to: (1) whether the proposed class representative has interests antagonistic to the class; and (2) whether the proposed class counsel has the competence to undertake this litigation. *Fabricant v. Sears Roebuck*, 202 F.R.D. 310, 314–15 (S.D. Fla. 2001). The determinative factor “is the forthrightness and vigor with which the representative party can be expected to assert and defend the interests of the members of the class.” *Lyons v. Georgia-Pacific Corp. Salaried Emp’s Ret. Plan*, 221 F.3d 1235, 1253 (11th Cir. 2000) (cleaned up). Here, the Class Representatives have no conflicts with the Settlement Class and have demonstrated their adequacy by: (i) having a genuine personal interest in the outcome of the case; (ii) selecting well-qualified Class Counsel; (iii) producing information and documents to Class Counsel to permit investigation and development of the complaints; (iv) being available as needed throughout the litigation; and (v) monitoring the Litigation. Federman Decl. ¶13. Moreover, Class Counsel are adequate because of their vast experience as vigorous data breach class action litigators. *See generally* [ECF Nos. 317–2–317–3].

### **B. The Rule 23(b) Factors Are Satisfied.**

Having found that all Rule 23(a) factors are satisfied, the Court proceeds to address at least one subsection of Rule 23(b)—namely, Rule 23(b)(3)—to ascertain whether “questions of law or fact common to class members predominate over any questions affecting only individual members,” and to ensure “that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” FFED. R. CIV. P. 23(b)(3).

#### **(1) Predominance and Superiority**

The predominance inquiry looks at “the legal or factual questions that qualify each class member’s case as a genuine controversy, questions that preexist any settlement.” *Amchem*, 521 U.S. at 623. “[C]ommon issues of fact and law predominate if they have a direct impact on every class member’s effort to establish liability and on every class member’s entitlement to injunctive and monetary relief.” *Carriuolo v. Gen. Motors Co.*, 823 F.3d 977, 985 (11th Cir. 2016). Further, “[i]t is not necessary that all questions of law or fact be common, but only that some questions are common and that they predominate over individual questions.” *In re Takata Airbag Prod. Liability Litig.*, No. 2599, 2023 WL 4925368, at \*6 (S.D. Fla. June 20, 2023). Here, as in other data breach cases, common questions predominate because all claims arise out of a common course of conduct by Defendant. *See In re Anthem, Inc. Data*



*Breach Litig.*, 327 F.R.D. 299, 311–16 (N.D. Cal. 2018). The focus on a Defendants' security measures in a data breach class action "is the precise type of predominant question that makes class-wide adjudication worthwhile." *Id.* at 312. All Class Members had their PHI/PII compromised in the Data Incident and the security practices at issue did not vary from person to person. Thus, because these common questions represent a significant aspect of the case and they can be resolved for all members of the class in a single adjudication, there is a clear justification for handling the dispute on a representative rather than on an individual basis. Thus, the predominance requirement is readily satisfied.

## **(2) Class Action is the Superior Method of Adjudication**

Certification of this suit as a class action is superior to other methods to fairly, adequately, and efficiently resolve the claims asserted. To satisfy the superiority requirement of Rule 23(b)(3), a movant must show that "a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." FED. R. CIV. P. 23(b)(3). "The focus of the superiority analysis is on the relative advantages of a class action suit over whatever other forms of litigation might be realistically available to plaintiffs." *Mohamed v. American Motor Co., LLC*, 320 F.R.D. 301, 316 (S.D. Fla. 2017) (cleaned up). Here, adjudicating individual actions would be impractical. The amount in dispute for individual class members is too small, the technical issues involved are too complex, and the expert testimony and document review is too costly. Further, individual prosecution of claims would be prohibitively expensive, needlessly delay resolution, and may lead to inconsistent rulings. Accordingly, a class action is the superior method of adjudicating this dispute.

## **C. The Rule 23(e) Factors and the *Bennett* Factors are Satisfied.**

Next, the Court must preliminarily determine whether the Settlement is fair, adequate, and reasonable under Rule 23(e)(2) while also considering the *Bennett* factors. At this juncture, "the court's primary objective ... is to establish whether to direct notice of the proposed settlement to the class, invite the class's reaction, and schedule a final fairness hearing." *Morris v. US Foods, Inc.*, No. 8:20-cv-105, 2021 WL 2954741, at \*7 (M.D. Fla. May 17, 2021) (quoting William B. Rubenstein, 4 *Newberg on Class Actions* §13:10 (5th ed. Supp. 2020)). "Preliminary approval is appropriate where the proposed settlement is the result of the parties' good faith negotiations, there are no obvious deficiencies, and the settlement falls within the range of reason." *Smith v. Wm. Wrigley Jr. Co.*, No. 09-60646, 2010 WL 2401149, at \*2 (S.D. Fla. Jun. 15, 2010). Courts have substantial discretion in approving a settlement agreement, *Bennett*, 737 F.2d at 986, and settlement negotiations that involve arm's-length, informed bargaining with the aid of experienced counsel support a preliminary finding of fairness, see *Manual for Compl. Lit.*, Third, §30.42 (West 1995) ("A presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm's-length negotiations between experienced, capable counsel after meaningful discovery." (cleaned up)). For the foregoing reasons, the Rule 23(e) and *Bennett* factors have been satisfied.

## **(1) Rule 23(e)(2)(A) – Plaintiffs and Class Counsel Adequately Represented the Class**

The first factor heavily weighs in favor of granting preliminary approval because both Class Counsel and the Class Representative have adequately represented the Class. Class Counsel have adequately represented the Class by fully investigating the facts and legal claims; preparing the Complaints; briefing multiple Oppositions to Defendants' Motions to Dismiss and Motions for Summary Judgment; fully briefing a motion for Class Certification; conducting extensive discovery, including responding to written interrogatories and requests for production, reviewing thousands of pages of documents, taking numerous fact witness depositions, exchanging expert reports, and taking expert depositions; participating in a full-day mediation session with the Honorable Judge John Thornton and two full days of

mediation before Special Mediator Judge Eduardo C. Robreno; and negotiating and reaching a Settlement at arm's length, in good faith, and without collusion. Federman Decl. ¶7. Additionally, the Settlement Class Representatives have also demonstrated their adequacy by: (i) having a genuine personal interest in the outcome of the case; (ii) selecting well-qualified Class Counsel; (iii) producing information and documents to Class Counsel to permit investigation and development of the complaints; (iv) being available as needed throughout the litigation, including for depositions; and (v) monitoring the Litigation. *Id.* ¶13.

### ***(2) Rule 23(e)(2)(B) – The Settlement was Negotiated at Arm's Length***

The Settlement is the result of intensive, arm's-length negotiations through a neutral third-party mediator, and between experienced attorneys who are familiar with data breach class action litigation and with the legal and factual issues in these cases. *Id.* ¶5. Before discussing a potential settlement, the Parties completed an engaged in significant meaningful discovery that lasted over a year. *Id.* ¶4. This allowed the Parties to fully understand the claims, defenses, and risks of continued litigation. *Id.* ¶8. The Settlement is the result of prolonged and serious arm's-length negotiations through multiple mediation sessions between counsel for the Parties, who fought hard for the interests of their respective clients. *See id.* ¶5. As part of the mediation process, the Parties exchanged and provided the mediators with detailed mediation statements outlining the strengths and weaknesses of their claims and defenses and engaged in meaningful discovery. *Id.* The fact that the Settlement was achieved through well-informed, arm's-length, and neutrally supervised negotiations weighs in favor of granting preliminary approval under Rule 23(e)(2)(B).

### ***(3) Rule 23(e)(2)(C)(i) and Bennett Factors 1-4 – the Relief Provided is Adequate***

When considering the likelihood of success at trial, the complexity, expense, and duration of the litigation, the relief provided is exceptionally reasonable. This multi-district litigation has taken years to litigate with the Parties briefing and arguing several dispositive motions, including Defendants' Motions to Dismiss and Motions for Summary Judgment and Plaintiffs' Motion for Class Certification; engaging in voluminous discovery; and participating in multiple mediation sessions and months of settlement negotiations. *Id.* ¶¶3, 7. Given the complexity of the claims and arguments here, a lengthy trial would follow. Since the filing of these cases began in January of 2021, several years will have passed before the Class would be able to receive any recovery. Thus, the extensive and prolonged litigation conducted here favors preliminary approval. Further, while Plaintiffs are confident in their claims, data breach class actions are risky cases. *See Fulton-Green v. Accolade, Inc.*, No. 18-274, 2019 WL 4677954, at \*8 (E.D. Pa. Sept. 24, 2019) (noting that data breach class actions are “a risky field of litigation because [they] are uncertain and class certification is rare.”). As another court observed in approving a settlement with similar class relief, “[d]ata breach litigation is evolving; there is no guarantee of the ultimate result ... [they] are particularly risky, expensive, and complex.” *Fox v. Iowa Health Sys.*, No. 3:18-cv-00327, 2021 WL 826741, at \*5 (W.D. Wis. Mar. 4, 2021). And maintaining class certification through trial is another over-arching risk. Thus, the costs, risks, and delay of continued litigation are great, and weigh heavily in favor of preliminary approval. Here, the Settlement includes a non-reversionary Settlement Fund of \$6,000,000.00, reimbursement of out-of-pocket losses, reimbursement of attested time spent, reimbursement of documented time spent, and medical monitoring services. Settlement Agreement ¶¶3, 7. Thus, through the Settlement, Plaintiffs and Settlement Class Members gain significant benefits without having to face further risk of not receiving any relief at all.

### ***(4) Rule 23(e)(2)(C)(ii)-(iv) and Rule 23(e)(2)(D) – Notice Will Be Effectively Distributed; the Award of Attorneys' Fees and Expenses is Reasonable; No Agreements Required to be Identified; and Class Members are Treated Equitably Related to Each Other***



The method of distributing the settlement benefits will be equitable and effective. As explained above, all Class Members are eligible to make a claim for the reimbursement of Out-of-Pocket Losses, Attested Time Spent, Documented Time Spent, Medical Monitoring, and Medical Fraud Protection Services. Settlement Agreement ¶7.1. The task of validating those claims will be delegated to the Settlement Administrator, a neutral party with significant experience processing these claims in similar cases. The only difference in treatment among Class Members is that those who incurred and submit a claim for reimbursement of Out-of-Pocket Losses, Attested Time Spent, and Documented Time Spent will—appropriately and equitably—receive payments in proportion to the amount of their losses. Additionally, the 90-day claim period is sufficiently long to enable all eligible Class Members to collect any necessary information before submitting their claims. For these reasons, the plan of distribution is both equitable and effective. Class Counsel will request no more than 30.00% of the Settlement Fund in attorneys' fees and up to \$800,000.00 in expenses to be paid from the Settlement Fund, which are both subject to Court approval. Settlement Agreement ¶18.2. This award of attorneys' fees and costs was negotiated after the total amount of the Settlement Fund was established and will be paid from the non-reversionary Settlement Fund. *Id.* Federman Decl. ¶¶6, 9.

#### **(5) Bennett Factor 5 – Substance and Amount of Opposition to the Settlement**

This *Bennett* factor cannot be discerned at this time because Notice has not yet been given to the Class.

#### **(6) Bennett Factor 6 – The Stage the Settlement was Achieved**

The Parties arrived at the proposed settlement following briefing on Defendants' Motions to Dismiss and Motions for Summary Judgment, Plaintiffs' Motion for Class Certification, over a year of discovery, several mediation sessions with multiple mediators, and hard-fought settlement negotiations. *Id.* ¶7. Class Counsel had all the information needed to make an informed decision regarding the appropriateness of settlement. Through extensive investigation, discovery, and multiple mediation sessions, Class Counsel adequately understood the merits of the case before negotiating, and the Parties were well-positioned to evaluate the strengths and weaknesses of their claims. *Id.* ¶8. Thus, these efforts equipped the Parties with sufficient information to thoroughly understand the case and negotiate a Settlement, thereby providing significant benefits to Plaintiffs and the Class.

### **PRELIMINARY APPROVAL OF THE PROPOSED SETTLEMENT**

In sum, upon preliminary review, the Court finds the proposed Settlement is fair, reasonable, and adequate; otherwise meets the criteria for approval; and warrants issuance of notice to the Settlement Class. Accordingly, the proposed Settlement is preliminarily approved.

#### **A. Appointment of Class Representatives and Class Counsel**

Gregory Baum, as legal guardian of a minor child whose initials are A.B.; Abigail Bean, as legal guardian of a minor child whose initials are C.B.; Chaya Clark; Chelsea Cohen, as parent and legal guardian of A.H.; Jessica Jay, as legal guardian of a minor child whose initials are B.J.; Gerald Lee; Joseph Larsen, as parent and legal guardian of a minor child whose initials are A.L.; Brooke Nielsen; Michael Rumely, as legal guardian of minor children whose initials are H.R. and M.R.; Matias Soto, as legal guardian of a minor child whose initials are M.S.; and A.W. by and through her Next Friend, B.W., are designated and appointed as the Settlement Class Representatives.

William B. Federman of Federman & Sherwood and Maureen M. Brady of McShane & Brady, LLC, who were previously appointed by the Court as interim Co-Lead Class Counsel, are designated as Class Counsel pursuant to FFED. R. CIV. P. 23(g). The Court finds that Mr. Federman and Ms. Brady are experienced and will adequately protect

the interests of the Settlement Class.

### **B. Final Approval Hearing**

A Final Approval Hearing shall take place before the Court on **Friday, October 4, 2024 at 10:00 A.M. in Courtroom 11-2, Wilkie D. Ferguson Jr. United States Courthouse, 400 N. Miami Avenue, Miami, FL 33128**, to determine, among other things, whether: (a) the proposed Settlement Class should be finally certified for settlement purposes pursuant to Federal Rule of Civil Procedure 23; (b) the Settlement should be finally approved as fair, reasonable and adequate and, in accordance with the Settlement's terms, all claims in the Amended Complaint and Action should be dismissed with prejudice; (c) Settlement Class Members should be bound by the releases set forth in the Settlement; (d) the proposed Final Approval Order and Judgment should be entered; and (e) the application of Class Counsel for an award of attorneys' fees, costs, and expenses should be approved. Any other matters the Court deems necessary and appropriate will also be addressed at the hearing.

Class Counsel shall submit their application for Attorneys' Fees and Expenses no later than **fourteen (14) days** before the Objection Deadline.

Any Settlement Class Member(s) who have not timely and properly excluded themselves from the Settlement in the manner described below, may appear at the Final Approval Hearing in person or by counsel and be heard, to the extent allowed by the Court, regarding the proposed Settlement; provided, however, that no Settlement Class Member who has elected to exclude his or herself from the Settlement shall be entitled to object or otherwise appear, and, further provided, that no Settlement Class Member shall be heard in opposition to the Settlement unless the Settlement Class Member complies with the requirements of this Order pertaining to objections, which are described below.

### **C. Appointment of Claims Administrator**

As agreed by the Parties, Kurtzman Carson Consultants LLC ("KCC") is hereby appointed the Claims and Settlement Administrator, with responsibility for reviewing, determining the validity of, and processing all claims submitted by Settlement Class Member, and all other obligations of the Settlement Administrator as set forth in the Settlement. All Administration and Notice Costs incurred by the Settlement Administrator will be paid out of the Settlement Fund, as provided in the Settlement.

### **D. Approval of Class Notice**

The Notice Plan, along with the Short Notice, Long Notice, and Claim Form attached to the Settlement as Exhibits A through D satisfy the requirements of Federal Rule of Civil Procedure 23 and due process and are thus approved. Non-material modifications to these exhibits may be made without further order of the Court. The Settlement Administrator is directed to carry out the Notice Plan and to perform all other tasks that the Settlement requires.

The Court finds that the form, content, and method of giving notice to the Settlement Class as described in the Notice Plan, Short Notice, Long Notice, and Claim Form: (a) constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the action, the terms of the proposed Settlement, and their rights under the proposed Settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to those persons entitled to receive notice; and (d) satisfy the requirements of Federal Rule of Civil Procedure 23, the constitutional requirement of due process, and any other legal requirements. The Court further finds that the notice is written in plain language, uses simple terminology, and is designed to be readily understandable by Settlement Class Members.

### E. Exclusions from the Class

Any individual who wishes to be excluded from the Settlement must mail a written notification of such intent by United States mail to the designated address established by the Settlement Administrator (or submit online via the settlement website), postmarked or submitted no later than 60 days after the Notice Date (the "Opt-Out Deadline"). The written notification must include the name of this Action ( *In Re: Mednax Services, Inc., Customer Data Security Breach Litigation*, Case No. 21-md-02994-RAR (S.D. Fla.)); the full name and address of the individual seeking exclusion from the Settlement; be personally signed by the individual seeking exclusion; include a statement in the body of the document clearly indicating the individual's intent to be excluded from the Settlement; and request exclusion only for the individual whose personal signature appears on the request. Any individual who does not submit a valid and timely request for exclusion in the manner described herein shall be bound by the Settlement, including all releases and covenants therein, as well as all subsequent proceedings, orders, and judgments applicable to the Settlement Class.

All individuals who submit valid and timely requests for exclusion from the Settlement shall not: (i) be bound by any orders or judgments entered in connection with the Settlement; (ii) be entitled to any relief under, or be affected by, the Settlement; (iii) gain any rights by virtue of the Settlement; or (iv) be entitled to object to any aspect of the Settlement..

The Settlement Administrator shall provide the Parties with copies of all requests for exclusion promptly upon receipt, a weekly report which includes a summary of the number of requests for exclusion, and, within five (5) Business Days after the Opt-Out Deadline, a final list of all individuals that have timely and validly excluded themselves from the Settlement Class in accordance with the terms of the Settlement and herein. Prior to the Final Approval Hearing, the Settlement Administrator shall also prepare and execute a declaration identifying each individual who timely and validly requested exclusion from the Settlement.

### F. Objections to the Settlement

A Settlement Class Member who complies with the requirements of this Order may object to the Settlement.

No Settlement Class Member shall be heard, and no papers, briefs, pleadings, or other documents submitted by any Settlement Class Member shall be received and considered by the Court, unless a written objection is submitted to the Court on or before the Objection Deadline, which shall be 60 days after the Notice Date. To be considered by the Court, a written objection must include:

- a. the case name and number of the Action ( *In Re: Mednax Services, Inc., Customer Data Security Breach Litigation*, Case No. 21-md-02994-RAR (S.D. Fla.));
- b. the name, address, and telephone number of the objecting Settlement Class Member and, if represented by counsel, of his/her counsel;
- c. a statement of whether the objection applies only to the objector, to a specific subset of the class, or to the entire class;
- d. a statement of the number of times in which the objector (and, where applicable, objector's counsel) has objected to a class action settlement within the three years preceding the date that the objector files the objection, along with the caption of each case in which the objector has made such objection;
- e. a statement of the specific grounds for the objection; and

- f. a statement identifying whether the objecting Settlement Class Member intends to appear at the Final Approval Hearing, and if so, whether personally or through counsel.

In addition to the foregoing requirements, if an objecting Settlement Class Member intends to speak at the Final Approval Hearing (whether *pro se* or through an attorney), the written objection must include a detailed description of any evidence the objecting Settlement Class Member may offer at the Final Approval Hearing, as well as copies of any exhibits the objecting Settlement Class Member may introduce at the Final Approval Hearing.

A written notice of objection may be either electronically filed in the Action's electronic docket on or before the Objection Deadline; or sent via first class, postage-prepaid United States Mail, postmarked no later than the Objection Deadline to (a) the Clerk of Court, (b) Lead Class Counsel; and (c) Defendants' Counsel at the addresses below.

CCOURT	DDEFENDANTS' COUNSEL	LLEAD CLASS COUNSEL
Clerk of Court Wilkie D. Ferguson, Jr. United States Courthouse 400 N. Miami Avenue Miami, FL 33128	Kristine M. Brown Gavin Reinke ALSTON & BIRD LLP 1201 West Peachtree Street NW Atlanta, GA 30309-3424 and to: Thomas J. Butler MAYNARD NEXSEN P.C. 1901 Sixth Ave. N., Suite 1700 Birmingham, AL 35203 and to: J.T. Malatesta POL SINELLI P.C. 2100 Southbridge Pkwy., Suite 650 Birmingham, AL 35209	William B. Federman FEDERMAN & SHERWOOD 10205 N. Pennsylvania Oklahoma City, OK 73120 and to: Maureen M. Brady MCSHANE & BRADY, LLC 1656 Washington Street, Suite 120 Kansas City, MO 64108

Any Settlement Class Member who fails to object to the Settlement in the manner described herein shall be deemed to have waived any such objection, shall not be permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and shall be precluded from seeking any review of the Settlement or the terms of this Agreement by appeal or any other means.

G. Claims Process and Distribution Plan

The Settlement establishes a process for assessing and determining the validity and value of claims and a methodology for paying Settlement Class Members who submit a timely and valid Claim Form. The Court preliminarily approves this process.

Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the Settlement, including the Claim Form. If the Settlement is finally approved, all Settlement Class Members who qualify for any benefit under the Settlement, but who fail to submit a claim in accordance with the requirements and procedures specified in the Settlement, including the Claim Form, shall

be forever barred from receiving any such benefit. Such Class Members, however, will in all other respects be subject to and bound by the provisions of the Settlement, including the releases included in the Settlement, and the Final Approval Order and Judgment.

#### **H. Termination of the Settlement and Use of this Order**

This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of which shall be restored to their respective positions existing immediately before this Court entered this Order, if the Settlement is not finally approved by the Court or is terminated in accordance with the terms of the Settlement. In such event, the Settlement shall become null and void and be of no further force and effect, and neither the Settlement (including any Settlement-related filings) nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

If the Settlement is not finally approved or there is no Effective Date under the terms of the Settlement, then this Order shall be of no force or effect; shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability; shall not be construed or used as an admission, concession, or declaration by or against any Settlement Class Representative or any other Settlement Class Member that his or her claims lack merit or that the relief requested is inappropriate, improper, unavailable; and shall not constitute a waiver by any party of any defense (including without limitation any defense to class certification) or claims he or she may have in this Action or in any other lawsuit.

#### **I. Stay of Proceedings**

Except as necessary to effectuate this Order, this matter and any deadlines set by the Court in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Final Approval Order and Judgment, or until further order of this Court.

#### **J. Continuance of Final Approval Hearing**

The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the website maintained by the Settlement Administrator.

#### **K. Actions By Settlement Class Members**

The Court stays and enjoins, pending Final Approval of the Settlement, any actions, lawsuits, or other proceedings brought by Settlement Class Members against Defendants related to the Incident.

#### **L. Summary of Deadlines**

The Settlement, as preliminarily approved in this Order, shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement and this Order include but are not limited to the following:

<b>ACTION</b>	<b>DEADLINE</b>
Deadline for Defendants to provide the Settlement	Friday, May 10, 2024

Administrator with a list of individuals to whom it sent direct mail notice of the Incident, as reflected in Defendants' records.

Notice Date	Monday, June 10, 2024
Motion for Attorneys' Fees and Expenses	Friday, July 26, 2024
Opt-Out I Exclusion Deadline	Friday, August 9, 2024
Objection Deadline	Friday, August 9, 2024
Claims Deadline	Monday, September 9, 2024
Final Approval Brief and Response to Objections Due	Friday, September 20, 2024
Final Approval Hearing	Friday, October 4, 2024 at 10:00 A.M.

**DONE AND ORDERED** in Miami, Florida, this 10th day of April, 2024.

**RODOLFO A. RUIZ II**  
**UNITED STATES DISTRICT JUDGE**

## Footnotes

- <sup>1</sup> Unless otherwise indicated, capitalized terms used herein have the same meaning as in the Settlement Agreement.
- <sup>2</sup> To be clear, before any of the factors under Rule 23 can be addressed, a Court must ensure that standing under Article III is met. *See Griffin v. Dugger*, 823 F.2d 1476, 1482 (11th Cir. 1987) ( "[A]ny analysis of class certification must begin with the issue of standing ...."). To satisfy Article III standing, a plaintiff must "(1) suffer[] an injury in fact, (2) that is fairly traceable to the challenged conduct of defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). This Court addressed the issue of standing extensively in its Order Granting in Part Defendants' Motion to Dismiss, [ECF No. 104] at 10–23, and found that the standing requirement is met here. *Cf. Green-Cooper v. Brinker Int'l, Inc.*, 73 F.4th 883 (11th Cir. 2023).



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# EXHIBIT E



ClaimID	FirstName	LastName	OptOut	Claim Filled
MDX-109251563	PRINCETON	GREGORY	8/6/2024	6/15/2024
MDX-115871179	MADELINE	CHAVIS	7/25/2024	6/23/2024
MDX-116244240	SAMSON	HICKS	6/13/2024	
MDX-104796294	LINDA	BROWN	6/18/2024	
MDX-104008377	MARY	SCHREIBER	6/18/2024	
MDX-109892984	CORD	CHRISTIAN	6/18/2024	
MDX-113911653	NORA	NATALIE	6/18/2024	
MDX-116660317	CHRISTOPHER	GEISLER	6/18/2024	
MDX-114060711	SHAILESH	PATEL	6/19/2024	
MDX-104466499	MAXWELL	KOLODIY	6/19/2024	
MDX-110816420	LARSEN	MYERS	6/19/2024	
MDX-115155716	THOMAS	LAUGHMAN	6/19/2024	
MDX-113810008	NGOC	TRAN	6/19/2024	
MDX-102202575	GEORGETTE	FERRERA	6/19/2024	
MDX-113383533	LOGAN	SYLVESTER	6/19/2024	
MDX-117018481	DEBORAH	HABERSAT	6/20/2024	
MDX-113132719	SCOUT	SUMRAK	6/20/2024	
MDX-104823410	MARTHA	JAMES	6/20/2024	
MDX-105655457	ALANA	PHILLIPS	6/20/2024	
MDX-112231918	KELSEY	INGLESE	6/20/2024	
MDX-111006988	JOSH	MEYER	6/20/2024	
MDX-112404472	VIOLET	LARA MOCTEZUMA	6/20/2024	
MDX-101280181	JOSEPH	YERMOLA	6/20/2024	
MDX-114600635	SANDRA	DUERKSEN	6/21/2024	
MDX-107764733	LEIGHTON	CUNNINGHAM	6/21/2024	
MDX-100612563	LUCAS	ZIA	6/21/2024	
MDX-106682180	MAUREEN	TABATA	6/22/2024	
MDX-102293139	LAURA	WEMPLE	6/22/2024	
MDX-113022670	HUDSON	VARGAS	6/23/2024	
MDX-104736429	REMI	WORTHINGTON	6/23/2024	
MDX-111667194	MILENNA	QUILES	6/23/2024	
MDX-116297786	WILLIAM	TIPTON	6/23/2024	
MDX-114370915	SANDELLA RACHEL	REED	6/24/2024	
MDX-107578506	CYRUS	ABENROTH	6/24/2024	
MDX-101682832	JANET	GUARENTE	6/24/2024	
MDX-106874934	ROSE	HOCUTT	6/24/2024	
MDX-116098368	SAMIKSHA	MADARAPU	6/24/2024	
MDX-111733529	ARTHUR	WEST	6/24/2024	
MDX-100598820	BARBARA	BYLILLY	6/25/2024	
MDX-101068557	EDWARD	PULSE	6/25/2024	
MDX-104502924	MARY	FRONCZAK	6/25/2024	
MDX-115773843	ANDRE	HARRIS	6/25/2024	
MDX-116720506	DAVID	FISHER	6/25/2024	
MDX-117119148	CECELIA	BATTAGLINO	6/25/2024	
MDX-113560052	SAAYA	SHAH	6/25/2024	
MDX-113503652	BROCK	SMITH	6/25/2024	
MDX-103122192	HUIYAN	YOU	6/25/2024	
MDX-104538937	NEIL	ADAMS	6/26/2024	
MDX-113398859	BANKS	WALLACE HOYT	6/26/2024	

MDX-111075165	VINCENT	TOBIO	6/26/2024	
MDX-110165500	RHYAN	BELL	6/26/2024	
MDX-110613244	ZOEY	SMITH	6/26/2024	
MDX-114626774	JOHN	JOHNSON	6/27/2024	
MDX-110389000	MALINA	BUKHRYAKOVA	6/27/2024	
MDX-113246366	AFRANUR	WAHEB	6/28/2024	
MDX-114325405	ALICIA	FAIRLEY	6/28/2024	
MDX-116407727	YUSUF	WACHIRA	6/28/2024	
MDX-113695098	KRISTEN	GILLEAN	6/28/2024	
MDX-109091582	COLE	HIESTER	6/30/2024	
MDX-100271545	AMY	PFEIFFER	6/30/2024	
MDX-100120148	COURTNEY	ADAMS	6/30/2024	
MDX-112664555	MAISIE	TAYLOR	7/1/2024	
MDX-110798872	ROZINA	MARKU	7/2/2024	
MDX-109657519	TALLULAH	ADAMS	7/2/2024	
MDX-104625325	MARISSA	WORKMAN	7/2/2024	
MDX-100686915	MIA	BREEDEN	7/2/2024	
MDX-105615960	DON	POTTER	7/2/2024	
MDX-105615994	BELINDA	POTTER	7/2/2024	
MDX-105610593	TYLER	POTTER	7/2/2024	
MDX-109735099	AIDAN	BURRIS	7/2/2024	
MDX-109685016	YVAN	KECHAICHE	7/3/2024	
MDX-102205345	EVELYN	GIBBNER	7/4/2024	
MDX-100047661	BRIANNA	HEDWOOD	7/6/2024	
MDX-111967740	RORY	MCCORMICK	7/7/2024	
MDX-102082995	ISABEL	MURPHY	7/8/2024	
MDX-108730719	PAISLEY	ARTHUR	7/8/2024	
MDX-113093373	CORA	THOMAS	7/8/2024	
MDX-100769926	CAROLYN	DACH	7/9/2024	
MDX-107608570	JAMES	ALTOBELLI	7/9/2024	
MDX-109667867	EMILY	BATINIC	7/10/2024	
MDX-105749273	TONYA	PERRY WEEKS	7/10/2024	
MDX-110613511	NATHANIEL	KOEHN	7/11/2024	
MDX-108252639	ALLAN	FLEMING	7/11/2024	
MDX-113978480	PAYAL	THOMAS	7/11/2024	
MDX-115385401	ANGELA	MADUKO	7/12/2024	
MDX-100317405	BEVERLY	BUDD	7/13/2024	
MDX-109094700	ISAAC	GARCIA	7/13/2024	
MDX-101824777	JACOB	JACKSON	7/13/2024	
MDX-105401293	DIANA	MORENO	7/15/2024	
MDX-115850449	ALEXANDRA	PASTERNAK	7/16/2024	
MDX-107190818	CARMINE	ZINGARO	7/17/2024	
MDX-111754437	RUTH	LANGILLE	7/17/2024	
MDX-113772165	OLIVIA	MIZE	7/18/2024	
MDX-114104484	THOMAS	BUDD	7/19/2024	
MDX-116370548	THOMAS	SMITH	7/19/2024	
MDX-115782460	WILLIAM	DEMASO	7/19/2024	
MDX-112990517	NGUN	THANG	7/19/2024	
MDX-106789279	CAROL	HAMILTON	7/20/2024	
MDX-114931615	JOSEPH	MANDWI	7/21/2024	

MDX-114270848	PHILIP	DIANGELO	7/22/2024	
MDX-105305944	THOMAS	BATSON	7/25/2024	
MDX-110436652	HAYDEN	MCALLISTER	7/28/2024	
MDX-101197799	DIANA	NASH	7/30/2024	
MDX-109059190	BENJAMIN	ISAACSON	8/2/2024	
MDX-110102622	MORIAH	AHOUDE	8/3/2024	
MDX-113433409	GRAHAM	SETO	8/4/2024	
MDX-100077684	CAROL	BROWN	8/5/2024	
MDX-103230866	LINDA DIANE	TATE	8/5/2024	
MDX-109571746	DAHLIA	AXUME	8/5/2024	
MDX-116390360	THOMAS	CZERWINSKI	8/5/2024	
MDX-101456557	HALA	MERHI	8/6/2024	
MDX-106112902	RONALD	DAVID	8/6/2024	
MDX-110734866	KOA	PARKS	8/6/2024	
MDX-112342698	DAVID	SCHAWARTZ	8/6/2024	
MDX-116734221	BEVERLYE	EARLEY	8/6/2024	
MDX-101906404	HEIDI	ALLEN	8/7/2024	
MDX-109005635	LEO	ANDERSON	8/7/2024	
MDX-109831420	LOGAN	BROWN	8/7/2024	
MDX-111703115	BRIANA	GARCIA	8/7/2024	
MDX-114083304	ZELDA	KONDERLA	8/7/2024	
MDX-115374760	TONI PATRICIA	STRICKLAN	8/7/2024	
MDX-109489373	LINCOLN	MEYER	8/8/2024	
MDX-109506715	ROWAN	CHANDLER	8/8/2024	
MDX-114299960	MELODY	POWE	8/8/2024	
MDX-115156747	NORA	MEYER	8/8/2024	
MDX-116450029	AJANDRA	BUTLER	8/8/2024	
MDX-109581490	ETHAN	BASHA	8/9/2024	
MDX-109581520	WILLIAM	BASHA	8/9/2024	
MDX-110076516	MOHID	KHAN	8/9/2024	
MDX-110723414	GLENDA	WESTBROOKS	8/9/2024	
MDX-114757011	VICTOR	VELAZQUEZ	8/9/2024	
MDX-115426680	SILVIA	JIMENEZ VELAZQUEZ	8/9/2024	
MDX-116006277	ALLISON	SONG	8/9/2024	
MDX-116255323	YVETTE	WALTON HUNTER	8/9/2024	
MDX-100897835	GERALDINE	HODGE	8/8/2024	
MDX-101096372	DEBRA	THUEME	7/27/2024	
MDX-102421005	JAMES	JIACOBONE	8/3/2024	
MDX-103787283	LUCINDA	ADAMS	7/19/2024	
MDX-103895272	MARY	PERRY	6/27/2024	
MDX-104377046	JAMIE	CARLYLE	6/26/2024	
MDX-104525231	MICHAEL	GRIFFIN	6/14/2024	
MDX-105474304	PHYLLIS	KISER	7/5/2024	
MDX-107017075	LENORA	KALISH	7/2/2024	
MDX-115320644	BRUCE	COX	6/26/2024	

# **EXHIBIT 2**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

IN RE:  
MEDNAX SERVICES, INC.,  
CUSTOMER DATA SECURITY  
BREACH LITIGATION

Case No.: 21-MD-02994-RAR

This Document Relates To: All Actions

**DECLARATION OF WILLIAM B. FEDERMAN  
IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT AND INCORPORATED MEMORANDUM OF LAW  
IN SUPPORT**

I, **William B. Federman**, declare under penalty of perjury as follows:

1. I am an attorney duly admitted to the bars of the states of Texas, Oklahoma, and New York. I am a founder and managing member of the law firm Federman & Sherwood and am Co-Lead Class Counsel for Plaintiffs and the Settlement Class ("Class Counsel")<sup>1</sup> in the above referenced action (the "Action"). I submit this declaration in support of Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Incorporated Memorandum of Law in Support, filed contemporaneously herewith.

2. Plaintiffs, on behalf of themselves and on behalf of all other members of the putative class, and Defendants Pediatrix Medical Group, Inc. (f/k/a Mednax, Inc.), PMG Services, Inc. (f/k/a Mednax Services, Inc.), and Pediatrix Medical Group of Kansas, P.C. (collectively, "Mednax"), and American Anesthesiology, Inc. ("AA" and together with Mednax, "Defendants")

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<sup>1</sup> "Class Counsel" collectively refers to William B. Federman of Federman & Sherwood and Maureen Brady of McShane & Brady, LLC.

have reached an agreement to settle this Action pursuant to the terms of the Settlement Agreement. *See* ECF No. 317-1.

3. Beginning in January of 2021, multiple lawsuits were filed against Defendants in response to an unauthorized compromise of Plaintiffs and Class Members' PHI and PII. On August 5, 2021, Plaintiffs filed their first Consolidated Class Action MDL Complaint against Defendants, alleging Defendants failed to adequately protect Plaintiffs' and the Class's PII and PHI from unauthorized access. *See* MDL Amended Complaint, ECF No. 53. Plaintiffs filed their First Amended Consolidated Class Action Complaint on October 20, 2023. *See* First Amended Complaint, ECF No. 71. Subsequently, on June 10, 2022, Plaintiffs filed their Second Amended Class Action Complaint asserting multiple common law and statutory claims for relief. *See* Second Amended Complaint, ECF No. 115. In response, Defendants filed a Motion to Dismiss (ECF No. 123), which Plaintiffs opposed (ECF No. 126).

4. Prior to engaging in mediation and reaching a settlement, Plaintiffs and Defendants conducted extensive discovery. Beginning in May of 2022 through September of 2023, Plaintiffs' and Defendants' discovery efforts included: (i) serving multiple sets of discovery requests, including written interrogatories, requests for production, and requests for admission; (ii) producing tens of thousands of pages of documents; (iii) taking and defending over twenty (20) fact and expert witness depositions; (iv) exchanging expert reports; (v) exchanging multiple deficiency letters; (vi) negotiating an ESI protocol, protective order, and search terms; and (vii) drafting and defending *Daubert* motions. After participating in extensive discovery, Plaintiffs and Defendants also fully briefed a Motion for Class Certification (ECF No. 232), Motions for Summary Judgment (ECF No. 254, 260), and Motions to Exclude Expert Testimony (ECF No. 252, 258).

5. Prior to engaging with Judge Robreno, the parties conducted a full day mediation with the Honorable Judge John Thornton (Ret.) of JAMS, which did not result in a settlement. Further, additional follow-up discussions with Judge Thornton were also unsuccessful. On October 26, 2023, the Court appointed Judge Eduardo C. Robreno (Ret.) as Special Mediator in the case (the “Special Mediator”). The parties conducted multiple conversations with Judge Robreno, both jointly with all parties, and individually, as well as preparing and responding to various position memorandums submitted to Judge Robreno at his direction. On January 16 and 17, 2024, Plaintiffs and Defendants participated in two full days of mediation with the Special Mediator. While considerable progress was made, the mediation did not result in an agreement. Over the next several weeks, Plaintiffs and Defendants continued settlement discussions facilitated by the Special Mediator including additional discussions with Judge Robreno and submitting additional information to him. These additional efforts resulted in a verbal agreement that was eventually the basis of a term sheet memorializing the essential terms of the settlement on February 9, 2024. The terms of the settlement are now memorialized in the Settlement Agreement, which was negotiated at arm’s-length, in good faith and without collusion, by capable and experienced counsel, with full knowledge of the facts, the law, and the inherent risks in the Litigation, and with the active involvement of the Plaintiffs, the Defendants, and Judge Robreno.

6. The Settlement negotiated on behalf of the Settlement Class provides significant benefits to the Settlement Class Members. The Settlement establishes a \$6,000,000.00 non-reversionary Settlement Fund, which will be used to pay for Administration and Notice Costs; Attorneys’ Fees approved by the Court; Expenses approved by the Court; and all approved Claims. Specifically, the Settlement provides for the following relief for Settlement Class Members: (1) reimbursement for Out-of-Pocket Expenses up to \$5,000.00 per Settlement Class Member; (2)

reimbursement for Attested Time Spent in an amount of \$30.00 per hour up to four (4) hours; (3) reimbursement for Documented Time Spent in an amount of \$30.00 per hour for up to ten (10) hours; and (4) three (3) years of Medical Monitoring and Medical Fraud Protection Services.

7. Before settlement negotiations, and as alluded to above, Class Counsel adequately represented the Class by fully investigating the facts and legal claims; preparing the Complaints; briefing multiple Oppositions to Defendants' Motions to Dismiss and Motions for Summary Judgment; fully briefing a motion for Class Certification; conducting extensive discovery, including responding to written interrogatories and requests for production, producing thousands of pages of documents, taking numerous fact witness depositions, exchanging expert reports, and taking expert depositions; participating in a full-day mediation session with the Honorable Judge John Thornton and two full days of mediation before Special Mediator Judge Eduardo C. Robreno; and negotiating and reaching a Settlement at arm's length, in good faith, and without collusion.

8. By the time the Settlement in principle was reached, Plaintiffs and Class Counsel fully understood the claims, defenses, and were well informed of the strengths and weaknesses of the case to competently assess the risks of continued litigation.

9. Plaintiffs and Class Counsel did not discuss the award of Attorneys' Fees and Expenses with Defendants until after the substantive terms of the Settlement had been agreed upon.

10. After the Settlement was reached, Class Counsel undertook a competitive bidding process to achieve an excellent Settlement Administrator for the Class—Kurtzman Carson Consultants LLC ("KCC"). This included soliciting cost proposals from different settlement administrators. KCC is a well-known firm with a history of successfully administering many class action settlements, including other data breach settlements. The Parties selected KCC after



considering bids from multiple administration firms, and KCC was able to meet the obligations imposed under the settlement for a reasonable cost.

11. It is Class Counsel's opinion that the Settlement is fair, reasonable, and adequate considering the significant benefits to the Settlement Class as well as the risks and delays attendant to further protracted litigation. This view is informed by Class Counsel's decades of work litigating complex actions, including data breach class actions. Federman & Sherwood and McShane & Brady, LLC have extensive experience in successfully litigating data breach class actions. *See* ECF No. 317-2; 317-3 (Resumes of Federman & Sherwood and McShane & Brady, LLC).

12. Class Counsel represents that there are no agreements related to the settlement other than those reflected in the Settlement Agreement itself and an agreement with KCC to perform notice and settlement administration services.

13. The Settlement Class Representatives have demonstrated their adequacy by: (i) having a genuine personal interest in the outcome of the case; (ii) selecting well-qualified Class Counsel; (iii) producing information and documents to Class Counsel to permit investigation and development of the complaints; (iv) being available as needed throughout the litigation; and (v) monitoring the litigation.

14. It is my opinion that the proposed class action settlement is fair, reasonable, and adequate and is an outstanding result for the Settlement Class Members.

15. The Settlement has been positively received by the Settlement Class Members. The deadline for Settlement Class Members to request exclusion from the Settlement or to object to the Settlement expired on August 9, 2024. No Settlement Class Member objected to any aspect of the Settlement. Moreover, only 144 Settlement Class Members sought exclusion from the

Settlement, which is less than 1% of the Settlement Class. Overall, the response from the Settlement Class has been extremely positive, which demonstrates Settlement Class Members' approval of the Settlement.

16. As of September 9, 2024, the Settlement Administrator has received 33,562 timely Claim Form submissions. The current claims rate is 1.24% based on the total notice population.

17. In my professional opinion, the Settlement represents an excellent result for the Settlement Class and merits final approval.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 20, 2024

Respectfully submitted,

/s/: William B. Federman

William B. Federman (*pro hac vice*)

Co-Lead Counsel

**FEDERMAN & SHERWOOD**

10205 N. Pennsylvania Avenue

Oklahoma City, OK 73120

T: (405) 235-1560

wbf@federmanlaw.com

***Co-Lead Counsel for Plaintiffs and the Proposed  
Settlement Class***

### **CERTIFICATE OF SERVICE**

This is to certify that on September 20, 2024, a true and correct copy of the foregoing document was served by CM/ECF to the parties registered to the Court's CM/ECF system.

/s/: William B. Federman

William B. Federman